

What you need to know about Meta v Ofcom

Judicial review of the Online Safety Act's enforcement regime

All parts of this document are for background information only. Please only directly quote the below statement from 5Rights' Executive Director

Preface

This document highlights the basic information to know and key issues to watch as the High Court hears Meta's challenge to Ofcom's regulations governing the Online Safety Act (OSA). 5Rights Foundation is the only organisation that has been granted permission to intervene in support of Ofcom's position.

If you have further questions relating to this or require a reaction to this story as it develops, please don't hesitate to get in touch.

Niall McGourty, Senior PR Advisor / niall@5rightsfoundation.com / +447540100933

At a glance

What: Meta Platforms, Inc. v Ofcom - Judicial review of Ofcom's Qualifying Worldwide Revenue Regulations

Where: High Court of Justice, London

When: 13–14 October 2026

What is Meta challenging: Three aspects of Ofcom's approach to calculating QWR, which affects the maximum penalty for breaches of the OSA.

Providing evidence in support of Ofcom's position: Ofcom, 5Rights Foundation

Providing evidence in support of Meta's position: Meta, Epic Games, CCIA

Providing legal representation for 5Rights: Tom Smith, Geradin Partners Ltd

When will judgment be given: No date has been announced

What this isn't: This case is not about an alleged breach of the Online Safety Act by Meta, or any specific enforcement action taken against Meta.

5Rights' Statement

Executive Director of 5Rights Foundation Leanda Barrington Leach said,

"This is bigger than any individual penalty. Intentional or not, repeated challenges by companies with enormous resources will make enforcement slower, more complicated and ultimately less effective, and it establishes a playbook for how other regulations can be undermined around the world.

"The Online Safety Act cannot be a paper tiger. Parliament intended it to provide a strong deterrent. Effective enforcement is what turns regulation into meaningful change. Without it, the promise of safer technology for children will remain unfulfilled."

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The Big Question: How much enforcement power will Ofcom have?

The dispute centres on Qualifying Worldwide Revenue (QWR). Ofcom's regulations establish how a provider's QWR is calculated. This matters because this figure affects **the maximum penalty for breaches of the OSA**, as well as regulatory fees.

 **Meta's position:** Ofcom's approach gives the regulator powers to impose unprecedented penalties in circumstances where Parliament did not intend it to do so, and that the resulting penalties would be disproportionate. Meta also argues that Ofcom acted irrationally and contrary to the spirit of the Online Safety Act.

 **Ofcom's position:** The regulations reflect a plain reading of the legislation, fall within the powers Parliament gave it and are consistent with Parliament's intention.

 **5Rights' position:** Parliament intended the Online Safety Act to provide for substantial fines based on worldwide revenue, and that strong financial penalties are necessary to provide an effective deterrent to the largest tech companies. Many large tech companies deploy manipulative design features designed to exploit children in the interests of profit, and which can be potentially harmful to them.

What is at stake?

The fundamental issue is whether the Online Safety Act has meaningful enforcement powers capable of changing the behaviour of the companies whose services children use every day. The Act was introduced in response to serious online harms suffered by children. 5Rights' intervention argues that effective deterrence is therefore not an optional extra: it is central to whether the legislation can achieve its purpose. More broadly, this is just one challenge to Ofcom's regulations relating to the OSA. They are facing several more. In our view, widespread and global legal challenges undermine protections for children.

The three things Meta is challenging

Following the passing of the OSA, Ofcom issued Online Safety Act 2023 (Qualifying Worldwide Revenue) Regulations 2025. Of these regulations Meta is challenging:

 **Worldwide revenue:** Regulation 4(5), QWR means revenue generated by a provider in connection with providing a regulated service anywhere in the world, rather than limiting the calculation to revenue generated in the UK. **Why it matters:** For a global technology company, the difference between UK revenue and worldwide revenue can be substantial.

 **Multiple services:** Under Regulation 7, Ofcom aggregates QWR from multiple services where a provider operates more than one regulated service, rather than treating the services separately. This is then used for fees and for calculating the

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penalty cap. **Why it matters:** Using Meta as a hypothetical example, if a breach occurred on Facebook, a penalty based only on the QWR of Facebook could be substantially lower than one based on the QWR of all Meta's services, which include Instagram and Facebook.

 **Multiple Entities:** Regulation 10 establishes that where Ofcom has found joint and several liability within a group, the regulations define QWR as the total revenue of the provider and its group undertakings, whether or not that revenue refers to a regulated service. **Why it matters:** This applies to the specific circumstance where two or more entities are found jointly and severally liable – i.e. where each entity can be held responsible for the full penalty, rather than only a share of it. This helps drive compliance across corporate groups, reflecting the seriousness of breaches and enhancing deterrence. Again, using Meta as an example, its corporate structure includes entities such as Instagram LLC and WhatsApp LLC.

Why 5Rights is intervening

Originally based in the UK, 5rights is a global organisation founded to ensure children's rights apply in the digital world as they do in the real world. We were deeply involved in and supportive of the passage of the OSA which in our view, could be undermined by this challenge. We work with children around the world impacted by unregulated tech and we have seen the harm it causes. While Ofcom is the regulator and will rightly focus on the letter of the law and its regulations, it is important that the reasons why these regulations were required is not forgotten. We argue three central points:

 **The Online Safety Act was a response to serious harms:** Many of those harms are suffered by children, and online platforms and other service providers had not remedied them through voluntary action.

 **Effective enforcement requires meaningful consequences:** A robust enforcement system, including potentially very severe fines, is necessary to remedy these harms and deter the largest technology companies from allowing them to continue. If penalties are limited to national revenue, they would represent only a small fraction of the global earnings of the largest tech companies and therefore provide little or no deterrent to practices that manipulate or harm children.

 **This was Parliament's intention:** This intention can be seen in statements made by parliamentarians during the passage of the legislation.

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What to look out for at the hearing

- ☐ What arguments are made about deterrence and the need for effective enforcement?
- ☐ What arguments are made about Parliament's intention
- ☐ What does the court ask about Qualifying Worldwide Revenue?
- ☐ When will judgment be handed down?

What to look out for in the judgement

- ☐ Does it uphold or reject Ofcom's approach?
- ☐ How does the court interpret Qualifying Worldwide Revenue?
- ☐ How does the court approach aggregation across multiple services?
- ☐ What does the court say about the principle of deterrence and the need for effective enforcement?
- ☐ What does the court say about joint and several liability?
- ☐ What remedy is ordered, if any?
- ☐ Is permission to appeal sought?