Appendix 1

Examples of the failure of self- regulation.

Below are examples of self-regulatory codes where nothing at all or very little is known about what impact, if any they may have had or be having

- "Guide for providers of social media and interactive services (2016)
- Good Practice Guidance for the moderation of interactive services for children (2005, updated 2010)
- Good Practice Guidance for Search Service Providers and Advice to the Public on how to Search Safely (2005)
- Guidance for Using Real Life Examples Involving Children or Young People (2005)
- Good Practice Models and Guidance for the Internet Industry on: chat services, instant messaging and web-based services (2002)
- "Friendly WiFi Code": we know about some businesses who are doing it but we do not know who isn't or the scale of non-compliance.

The BSI Kitemark scheme for filtering products never got off the ground,

In addition:

- The "Big Four ISPs" provide filters to their domestic users but two things
  - They "only" cover 90% of the domestic market and we have no reliable information about what is happening in the other 10% of households. 10% is too high a proportion to ignore but ignored they are.
  - You would expect the take up rate of filters to be broadly similar as between the customers of each of the Big Four but they aren't and Ofcom have not done any real investigation to find out why the differences occur. They have no power to do anything in this space . They just ask ISPs questions and take their word for it when they reply.

- The mobile phone networks, historically, have been excellent and have generally responded promptly to child safety initiatives. They have a code and an independent body to validate their content classification system (BBFC) but actually no one has ever examined in depth or in detail how well the system as a whole works.

Various advice notes have also been issued e.g. in relation to sexting but again no evaluations have been carried out.

What about the Internet Watch Foundation?

The IWF is often held out as an example of a successful self-regulatory initiative. This is a misnomer. From the very outset the IWF has received public funding via the EU. With that has come some detailed prescriptions about how it operates. In any event, the IWF works within a very narrowly defined area which is heavily hemmed in by law and which requires the on-going co-operation and support of law enforcement and the Home Office.

The IWF's processes are reviewed annually by a retired judge and the IWF's decisions can be scrutinised by way of judicial review in the same way as a public authority's might be. If it is anything the IWF is an example of co-regulation.

Moreover, as Brexit looms and the EU subsidy seems likely to disappear and other sources of funds dry up there is a concern that the IWF will be forced to put even greater efforts into, in effect, "selling" its services in order to sustain its activities. The idea that an online business, whether in the UK or elsewhere in the world, will only be given access to the means to eliminate child abuse images if they can afford to pay to be a member of the IWF sits uneasily with a wider declared mission to rid the internet of child sexual exploitation. Most hotlines in other countries make no charge for supplying their list to companies that ask for it.