

Grok around and find out. Or not. What does the law say about sexually explicit deepfakes, and do we need better rules?

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'Grok, put her in a bikini and rub her down with baby oil', 'Grok, replace her outfit with dental floss', 'Grok, have one of them grab her b@@bs from behind and the other one put his hand under her skirt while kissing her.' These are some of the vile prompts given to Grok on the X platform¹. For those unfamiliar with it, Grok is a generative artificial intelligence system developed by xAI, Elon Musk's AI company, and embedded directly into X, formerly known as Twitter. Grok is a sophisticated multimodal AI system capable of generating and editing images and text. The use of Grok has sparked controversy in the past few weeks, as it has been used to generate non-consensual sexualised images – the victims being predominantly women and girls. Whilst xAI has now confirmed that it will stop Grok from being able to generate sexualised images of real people², it is not the only '*nudifier*' app on the market. Furthermore, recent reports in the media suggest that users are still able to use Grok to generate nudes through the use of certain workarounds³.

Elon Musk's response to critics of X mostly has consisted of him uploading a picture of himself in a bikini (generated by Grok)⁴, and alleging that the public outcry in the UK is simply an '*excuse for censorship*'⁵. However, Mr. Musk's cry of '*censorship*' is misplaced. Freedom of expression has never been an unconditional licence, and the law does not treat it as such.

¹ Cork TD and Social Democrats leader Holly Cairns read out some of the prompts in the Dáil Éireann in early January 2026. See https://www.echolive.ie/corknews/aid-41775869.html?utm_source=chatgpt.com.

² 'Musk's X to block Grok AI tool from creating sexualised images of real people', the Guardian, 15 January 2026 at <https://www.theguardian.com/technology/2026/jan/14/elon-musk-grok-ai-explicit-images>

³ https://www.theverge.com/news/861894/grok-still-undressing-in-uk?utm_source=chatgpt.com

⁴ 'Elon Musk Reacts to AI Image of Him in Black Bikini', by Sourav Chakraborty, 2 January 2026, accessible [here](#).

⁵ <https://www.bbc.co.uk/news/articles/ce3kqzepp5zo>

Courts routinely conduct a balancing exercise, weighing the right to freedom of expression under Article 10 ECHR against other fundamental rights, notably the right to privacy under Article 8 ECHR, which protects an individual's autonomy, privacy, and dignity. Where sexually explicit deepfakes are created without consent, that balance is hardly a close call. In other words, the law does not elevate one's need for sexual gratification over the victim's right to privacy, autonomy, and dignity.

The Grok scandal has brought these issues to light and has further highlighted how the artificial intelligence industry is '*too unconstrained*'⁶, raising serious concerns about the fitness of the current legislative and regulatory regime in the United Kingdom.

The role and powers of Ofcom

As a user-to-user service with ties to the United Kingdom, X is regulated under the Online Safety Act 2023⁷. Ofcom, the UK's independent online safety watchdog, has decided to open a formal investigation to ascertain whether X has failed to comply with its obligations under the Online Safety Act⁸. Whilst legal responsibility to decide whether content hosted on online platforms complies with UK law lies with the platforms themselves, Ofcom has certain enforcement powers under the Online Safety Act and can impose relatively hefty fines in cases of non-compliance, as well as to make an application to court for service restriction orders⁹. Ofcom's enforcement powers in this context are relatively new, but the regulator made a strong start at the end of 2025 by imposing AVS Group Ltd (an operator of 18 adult websites) with a £1 million fine for its failure to implement highly effective age verification checks on its website¹⁰. It remains to be seen whether Ofcom's ongoing investigation will result in

⁶ 'Grok scandal highlights how AI industry is 'too unconstrained', tech pioneer says', the Guardian, 15 January 2026, at <https://www.theguardian.com/technology/2026/jan/15/grok-scandal-ai-industry-too-unconstrained-yoshua-bengio-elon-musk>

⁷ Section 4 (2), Online Safety Act 2023.

⁸ <https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/ofcom-launches-investigation-into-x-over-grok-sexualised-imagery>

⁹ Ofcom can apply for permanent or interim service restriction orders under ss.144 and 145 of the Online Safety Act 2023, which can result in business disruption to a service provider.

¹⁰ <https://www.ofcom.org.uk/online-safety/protecting-children/ofcom-fines-porn-company-1million-for-not-having-robust-age-checks>

enforcement action against X, and whether it will have a meaningful impact on what is a very influential, multi-billion dollar company¹¹.

How are victims protected under the existing legal framework?

The Online Safety Act has introduced a number of new offences into the Sexual Offences Act 2003, making it possible to prosecute perpetrators of intimate image abuse. For example, the new offence under section 66B Sexual Offences Act 2003, which has been in force since 1 January 2024, makes it an offence for a person to intentionally share or threaten to share¹² photograph or film which shows or appears to show another person in an intimate state¹³. The offence can be committed even where the perpetrator has no intention to cause distress or alarm to the victim, as long as the victim does not consent to the sharing and the perpetrator does not reasonably believe the victim to have consented¹⁴.

The offence does not capture the creation of the image or film, only the sharing of it. Theoretically, the sharing of deepfakes or edited images, such as the ones edited through Grok AI, are within the scope of s.66B of the Act. This is because s.66A of the Act expressly states that references to 'photograph or film' include, among other things, *an image, whether made or altered by computer graphics or in any other way, which appears to be a photograph or film*'. This would capture an image which has been edited using Grok AI to portray the victim in her underwear, or wearing dental floss, as one user appears to have requested.

It is certainly not a defence that the victim has voluntarily uploaded the photograph on a platform such as X, where the original photograph portrays her in clothing, and Grok AI is then used to remove her clothing. Whilst the Act provides for exemptions in circumstances where the image or film is taken in a public place, where the victim does not have a reasonable expectation of privacy, or where the perpetrator reasonably believes the victim was in the

¹¹ https://www.statista.com/statistics/1608082/valuation-x-formerly-twitter/?utm_source=chatgpt.com

¹² This does not apply to providers of internet services, who are not to be regarded under the legislation as persons who share the image or film, under s.66D (3), Sexual Offences Act 2003.

¹³ Section 66B (1) – (4) lists various iterations of the offence, which can be committed even without the intent to cause alarm or distress. The absence of consent is a crucial element of the offence.

¹⁴ Section 66B (1), Sexual Offences Act 2003.

intimate state voluntarily¹⁵, these obviously do not apply where a ‘nudifier’ app is used to distort the image and sexualise it without the victim’s consent.

Furthermore, once in force, section 138 of the Data (Use and Access) Act 2025 (‘DUAA 2025’) will introduce a further offence into the Sexual Offences Act, that of creating, or requesting the creation of a purported image of an adult. The introduction of the offence by s.138 DUAA 2025 is intended to complement the existing offences in the Sexual Offences Act and to fill the legislative gap in respect of the creation of deepfake images. However, until s.138 DUAA 2025 comes into force, there remains a loophole in the legislative framework, as the creation of a sexually explicit deepfake is currently legal.

Outside the criminal law, victims of intimate image abuse can also bring a civil claim for misuse of private information, which protects an individual’s right to privacy enshrined in Article 8 of the European Convention of Human Rights. A successful claimant will usually be awarded damages¹⁶. The position on deepfakes is still not fully settled, but the law appears to recognise that the image itself does not need to be ‘real’ to found a cause of action in misuse of private information, as long as the victim has a reasonable expectation of privacy in the image or film and it is ‘used’ in some way, such as where it is shared with the public, for example. In the case of Mc Kennitt and Ors v Ash [2006] EWCA Civ 1714 the Court made it clear that *[t]he question in a case of misuse of private information is whether the information is private, not whether it is true or false.*

A host of other civil causes of action are possible against individual perpetrators, such as claims in defamation, malicious falsehood, copyright, passing off, civil harassment, breach of contract claims, and even data protection claims where the data is not being processed in the context of a purely personal or household activity. However, it all depends on the specific circumstances of the particular case, such as who the victim is, what the relationship between the victim and perpetrator is, and many other factors. These are complex and often expensive civil claims, and many victims may not be able to afford specialist legal advice and representation.

¹⁵ Section 66C (1), Sexual Offences Act 2003.

¹⁶ For example, in FGX v Stuart Gaunt [2023] EWHC 419 (KB), the claimant issued a claim for misuse of private information against the defendant, who had secretly made recordings of naked images of the claimant and had subsequently uploaded them onto a pornographic website without her consent.

Closing the legislative loopholes

In December 2025, the government announced its intention to ban 'nudification' apps. In a recent letter addressed to the Science, Innovation and Technology Committee's Chair Dame Chi Onwurah, the Secretary of State for Science, Innovation and Technology has confirmed Government's commitment in this respect. We are told that this will be done by way of new legislation, which will make amendments to the Crime and Policing Bill going through Parliament at the moment¹⁷. The Crime and Policing Bill includes proposals to criminalise the making, adaptation, possession, supply, or offer to supply a child sexual abuse ('CSA') image-generator, among other things¹⁸.

The Secretary of State has further claimed that alongside these amendments, Government will bring into force as a matter of urgency powers to criminalise the creation of intimate images without consent, building on existing legislation which bans sharing, or threatening to share non-consensual intimate images¹⁹, although it is not clear what additional changes will be introduced other than the proposed changes coming into force through the DUAA 2025 and the Crime and Policing Bill. In any event, it appears that these measures are designed to close any remaining legislative loopholes, although it still remains to be seen whether the law can develop as quickly and efficiently as technological advancements in the AI sphere.

Who does moral responsibility lie with and are better rules sufficient?

Behind every legal rule or legislative instrument lies a moral question, often surrounding responsibility and fairness. The Grok scandal has reignited the debate around who should be held liable for the creation and proliferation of sexually explicit deepfakes - should it be the platform that hosts the content, the creators/owners of the AI tool, or the users? The existing legal framework allocates responsibility at both the platform and user level but leaves a notable regulatory and liability gap in relation to those who design and develop AI tools — a gap that the government is in the process of addressing. Whilst we do need better rules that address

¹⁷ <https://committees.parliament.uk/publications/51067/documents/283193/default/>

¹⁸ <https://bills.parliament.uk/publications/61564/documents/6824>

¹⁹ <https://committees.parliament.uk/publications/51067/documents/283193/default/>

responsibility at all levels, law is not a panacea. A more comprehensive regulatory and criminal framework will not be sufficient if societal attitudes continue to normalise violence in intimate relationships and trivialise misogyny at all levels of society.

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