

Public Consultation on the Regulation of Harmful Content on Online Platforms and the Implementation of the Revised Audiovisual Media Services Directive

Group Submission on Common Principles



As organisations expertly involved in the areas of mental health, digital citizenship and the wellbeing, safety and empowerment of children and young people, we welcome Minister Bruton's call for greater regulation of online platforms in Ireland.

Definitions

In order for any proposed legislation to be effective in this area, it is essential that it clearly sets out the issues it intends to tackle. In particular, the Online Safety Act must set out a clear definition of what constitutes "harmful content". This scope of the definition set out in the consultation paper should be widened to include the following:

- Homophobic and transphobic bullying
- Hate speech
- Non-consensual sharing of intimate images
- Indirect as well as direct harassment online

The Online Safety Act should also clearly define what constitutes bullying and, in particular given the context of the Act, cyberbullying.

In addition, it is vital that the Act uses terminology that is up-to-date with best practice. The use of the term 'online safety' itself should be minimised, as this places an assumed burden on victims and potential victims to keep themselves safe online. Instead, we recommend that the term 'Digital Citizenship' be utilised as much as possible, as this more appropriately spreads the burden of responsibility amongst all citizens to behave respectfully and responsibly online.

Meeting the Needs of Young People

The impact of harmful content is felt by individuals of all ages, and the Act should consequently ensure that it covers and ameliorates harm done to all people, regardless of age. An Act which focuses solely on the needs of legal minors will let down thousands of people who deserve access to a safe, well-regulated online environment.

However, meeting the particular needs of children and young people will be essential to the success of any regulation. This current generation is the most technologically advanced in history, with far greater levels of digital literacy amongst young people than any other societal group. Therefore, the Department and legislators must work with young people, giving them a real voice in shaping the Online Safety Act.

One area in which the opinions of young people should be drawn on is in tackling the issue of age verification for online services. It is essential that the Act specifies regulations to ensure online platforms have an appropriately robust mechanism for age verification to assist in the protection of minors.

Empowering the Online Safety Commissioner

One outcome of the Act which we believe would be of fundamental importance is the strengthening of the role, funding and remit of the Online Safety Commissioner. We believe the Act should empower citizens to make a complaint directly to the Commissioner after having engaged with an online platform in the first instance and having not received a satisfactory remedy to their reported issue within a reasonable timeframe.

The Online Safety Act should, in the first instance, empower the Online Safety Commissioner to compel a platform or service provider to remove content. Furthermore, it should afford the Commissioner with sufficient powers to enforce such orders in entities across and, crucially, outside the European Union. Some of the most popular platforms amongst children and young people today are headquartered outside of the EU (for instance, Snapchat and TikTok).

One way in which the required takedown powers could be enforced is through a statutory code covering entities headquartered inside the EU, supplemented with a voluntary code for those based outside. Under no circumstances should the Act fail to take account of and seek appropriate solutions for the issues of enforcement around online providers based outside the EU.

The relationship between the Commissioner and the Gardaí should also be prescribed in the Act, as should the appropriate role of the Gardaí in relation to enforcement of the Act itself.

The Online Safety Act should further provide for a central role for the Online Safety Commissioner in coordinating sufficiently-funded public education campaigns in the area of digital citizenship and online safety.

Funding

As with any matter of public policy, the true test of commitment to this issue by the Government will be ensuring appropriate levels of funding for the effective enforcement of the Online Safety Act.

We believe that the regulator should be resourced with a budget of approximately €10 million initially, amounting to 66% of the current Data Protection Commission budget. Hotline.ie should continue to be fully resourced in relation to the reporting and monitoring of child abuse material. We are open to this unit being amalgamated into the new regulator if it would deliver a more impactful and cost-effective public service.

To meet the funding needs of this new regulatory body, we recommend that the feasibility of an industry levy be examined. However, we believe that this should be based not on revenues, but on the basis of online user numbers within either Ireland or the EU. In this way, those platforms whose services affect the most citizens can be called on to contribute the most towards safeguarding our common online space.

