



RCNI Submission to Coimisiún na Meán
on
Draft Online Safety Code

31 January 2024

Introduction – Rape Crisis Network Ireland

Rape Crisis Network Ireland (RCNI) is a specialist information and resource centre on rape and all forms of sexual violence. The RCNI role includes the development and coordination of national projects such as using our expertise to influence national policy and social change and supporting and facilitating multi-agency partnerships. We are owned and governed by our member Rape Crisis Centres who provide free advice, counselling and other support services to survivors of sexual violence in Ireland.

The RCNI welcomes the opportunity to make submissions on the Draft Online Safety Code (the Code) and have done so according to the list of consultation questions, the specific recommendations or main points have been highlighted in bold. Before addressing the questions, however, we would like to express our concern and disappointment in the standard of protection contained in the draft Code. Coimisiún na Meán (The Commission) have a responsibility to ensure the protection of the public from all online harms. This Code is a defining policy piece which sets the tone and expresses the level of commitment and seriousness that is being applied to this issue. The Code as it stands, however, reflects a hesitant, non-committal attempt to provide some protection while requiring little accountability and few expectations of Video-Sharing Platform Services (VSPS) It is the duty of the Commission to set the highest standards of protection and the Code is the structure within which those standards should be set. If this Code reflects the Commission's commitment to its responsibilities, then it has failed in its objectives before it has even started.

From the outset the glaring omission of any reference to Domestic, Sexual and Gender Based Violence, misogynistic content, exploitation, image-based abuse and the non-consensual sharing of information is hugely concerning. Vague references to protections found in the Constitution, Article 21 of the Charter¹ and EU treaties are inadequate. The prevalence and volume of the online sexual harms directed at women and children is catastrophic. It is also an issue which has

¹ Charter of Fundamental Rights of the European Union

been widely written and advocated on for some time, locally and internationally. The Commission cannot simply ignore these harms that directly and indirectly affect all of society. In failing to name these harms, the Commission has missed an opportunity to acknowledge the extent of these harms and show its commitment to the protection of women and children from these harms. We strongly recommend that the Code names these significant harms specifically for the avoidance of doubt or prevarication.

We have further concerns that the language of this Code is reflecting an acceptance of the normalisation of gratuitous violence and acts of cruelty. While pornography has already unfortunately been normalised and commercialised despite its violent and exploitative content, accepting that there are platforms whose whole business is centred on providing images of gross, gratuitous violence and cruelty is just as problematic. No mention is made of the harmful effects of pornography and violence on children and adult users who then in turn re-enact those acts outside the online space. There are no protections offered to limit the amount of violence depicted in pornography and other content. The Commission should be setting the standards of what is acceptable, leading on the question of what VSPS are allowing the public to be exposed to, not merely accepting that the offering of such content for commercial purposes is now the norm.

To begin to eliminate these forms of violence, a culture change is needed that is intolerant of any form of violence directed at women and children. This violence needs to be named and not hidden in vague generalist language.

1. Do you have any comments on sections 1-9 of the draft Code?

Section 4.2

Following on from the statements made above on the prevalence of online harms directed at women and children, in addition to the stated instruments, the **Commission should also be required to act in accordance with the following international instruments and policies:**

- (a) Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)²**
- (b) GREVIO General Recommendation No. 1 on the digital dimension of violence against women³**
- (c) Conventions on the Elimination of All Forms of Discrimination against Women (CEDAW)⁴**
- (d) The EU Victims Directive⁵**

Furthermore, no specific mention is made of domestic policy or statutory objectives on domestic, sexual and gender-based violence or the rights of victims. **A duty to act in accordance with policy in the form of the Third National Strategy on Domestic, Sexual and Gender-based violence and the Criminal Justice (Victims of Crime) Act must be included.**

² Council of Europe, *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, November 2014.

³ Council of Europe Expert Group on Action against Violence against Women and Domestic Violence (GREVIO), [General Recommendation No.1 on the digital dimension of violence against women adopted on 20 October 2021](#).

⁴ UN General Assembly, *Convention on the Elimination of All Forms of Violence Against Women*, 18 December 1979, *United Nations*.

⁵ Directive 2012/29/EU of the European Parliament and the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.

Section 4.3

This paragraph refers to the balancing of the right to freedom of expression with the protection of the public and children. This statement does not, however, reflect a prioritisation of the protection of the public or a commitment to ensuring that the right to **freedom of expression will not be privileged over the right the public and children especially have to protection from harm.**

Sections 4.5, 4.6 and 4.8

While these sections quote the provisions of sections 7(3) and (4) of the Act, the Commission is empowered by the provisions of Section 7(2) of the Act to ensure that the interests of the public are protected. This allows for **the expansion of the statutory objectives to include further areas of protection such as against domestic, sexual and gender-based violence, misogynistic and violent content in videos and related media, exploitation, imaged-based abuse and the non-consensual sharing of images and information.** The protection of women and children from these forms of violence in the online sphere is within the objective of the protection of the public and should be included and named as a specific objective of the Commission and the Code. A vague reference to the Charter and other instruments is not adequate to highlight the prevalence of the problem and the importance of the Commission making a commitment to tackling this abuse. Furthermore, **the reference to 'child pornography' implies a sub-category of legally acceptable pornography rather than a form of child abuse and a crime, the term 'Child Abuse Material' is more appropriate.**

Section 4.8 - Objective 1

Second paragraph: Referencing only the grounds of discrimination contained in the Charter does not draw attention to some of the most prevalent harms experienced by users in the online space. **Specific reference should be made to domestic, sexual and gender-based violence, misogyny,**

exploitation, intimate image abuse and non-consensual sharing of images and information so that particular attention is paid to these harms and forms of abuse.

Third paragraph: Criminal offences have been limited to terrorism, child pornography, racism and xenophobia. We do not agree with the limitation of criminal offences to only four examples. **It should be the objective of the Code to protect the general public from all content that constitutes a criminal offence under Irish, European Union and International Law without limitation.**

Section 4.9 - Objective 2

Second paragraph – the inclusion of the term ‘...taking into account the limited control exercised by those video-sharing platforms over those audiovisual commercial communications’ sets a dangerous precedent of allowing VSPS to rely on this as an excuse for non-compliance or failure to act timeously. **Although we accept that VSPS may not have control over the content of commercial communications, we do not accept that platforms do not have complete control over access to content on their platforms, it is a question rather of whether they are prepared to allocate appropriate resources to ensure sufficient monitoring and immediate and appropriate action.** The key is the use of the word ‘exercised’ e.g. a choice, VSPS choose to exercise limited control, a practice which the Commission should prevent.

Section 4.10 - Objective 3

This paragraph is another example of the watering down of protections. **There is no acceptable level of proportionality for harms against children. Any material which could cause harm to children should be subject to absolute restrictions.** No child should gain access to such material. If they do, they or those assisting them are committing an illegal act or acting contrary to clearly stated terms and conditions of use of the platform which should carry immediate suspension of the account and reporting of the incident to the Gardai where appropriate. **Platforms must be expected to implement every tool or form of technology available to ensure that children**

cannot gain access and should their security measures fail then immediate and appropriate action must be taken not only against the user by the VSPS but by the Commission against the VSPS.

Section 4.11 - Objective 4

In the interests of clarity and transparency, the **'appropriate measures' stated must be clearly defined and publicly accessible**. There is also no indication of whether the right to protections from harm will be prioritised over the interests of the VSPS and the uploading user.

Section 4.12, 4.13, 4.14 - Objective 5

The Commission should be **required to act in accordance with the suggested instruments stated in under Section 4.2 above** in addition to the Constitution, Charter, ECHR and Treaties.

As stated in reference to 4.3 above, this statement does **not reflect a prioritisation of the protection of the public, children or those with protected characteristics nor does it contain a commitment to ensuring that the rights such as the freedom of expression will not be privileged over the right the public, children and those with protected characteristics have to protection from harm**.

Section 4.16

While we agree that any measure should be proportionate, we reiterate again the need to ensure that the **protection from harm should outweigh considerations of expression or commercial interest**.

Section 4.18

The term 'due regard' requires some provisos. **While regard should be taken of these factors, they should never outweigh the objectives and responsibilities of the Commission to protect the public.** The reference to industry standards is problematic. Industry standards are often set by those in the industry based on what is most desirable for them. It is the purpose of this Code to ensure that standards are established that are in the best interests of those the Code purports to protect not those it is required to monitor. **Industry standard should be replaced with standards in the interest of the public good.** Furthermore, the inclusion of the consideration of costs as a factor to influence whether measures are implemented sets another dangerous precedent where the costs of implementation are used as an excuse for non-compliance. While prohibitive costs would of course be a consideration, it should only be a factor considered under extraordinary circumstances. **To put it plainly, if a VSPS does not have the resources to monitor and control its products then they should not be permitted to offer these products to the public at all.**

Section 4.22

Any discretion exercised by the Commission in the enforcement of breaches and any other circumstances should be **strictly held to the principle of transparency.**

- 2. What is your view on the proposal to include user-generated content that is indissociable from user-generated videos in the definition of content to be covered by the Code?**

The RCNI agree with this proposal but suggests the **inclusion of the term 'image' after 'text, symbol, or caption' in paragraph (b) of the definition.** Any content, however tenuous the connection to the original content, should be considered as forming part of the whole. It is often the associated content such as comments or associated private information such as names, addresses and other identifying information that can be the most harmful.

3. What is your view on the definitions of ‘illegal content harmful to children’ and ‘regulated content harmful to children’?

We disagree with the limitation of the offences included in the definition of illegal content. **Illegal content should be defined as all content and related content that consists of any offence in Irish or European Law.** A broad definition protects against the possibility of excluding any offences which would leave victims without protection and ensures the Code would not require constant amendment as legislative changes are made.

Under regulated content, we recommend the **inclusion of content that affects the mental health of children as well as any content that depicts or promotes misogyny and domestic, sexual and gender-based violence, exploitation, intimate image abuse, non-consensual sharing of images or information.** While some of these are considered offences under our law, there are always grey areas which are manipulated and exploited by perpetrators. Including them under regulated content ensures greater protection.

4. What is your view on the other definitions of illegal content and regulated content?

Again, these definitions are too limited. **Illegal content should include all criminal offences without restriction.** The harms identified in regulated content harmful to children are also harmful to adults. **Violent pornography and images of violence and cruelty are also harmful to adults. These definitions need to be expanded to include these harms as well as additional harms such as misogyny, domestic, sexual and gender-based violence, exploitation, intimate image abuse and the non-consensual sharing of images and information.**

5. Do you have any comments on any other definitions provided in the draft Code?

No.

6. What is your view on the obligations in the draft Code that relate to what a VSPS provider must include in its terms and conditions?

Section 11.1

As stated above, these **definitions require expansion and the specific offences and prohibited content should be specifically named and not referenced as 'as defined in the Code'**. Users must be made aware of all illegal content, the processes which will be followed after infringement and what the penalties imposed will be both on the platform and in terms of criminal charges. Users must be made aware of all prohibited content and what the processes will be for infringement. Users must also be made aware of the impact of such harms on other users and themselves. **We suggest here again that incorporated into the acceptance of the terms and conditions a training module be attached which provides this information and requires that users have understood and accepted these terms after completing this training module.**

Section 11.2, 11.3, 11.4

'Robust Age Verification measures' needs further definition and the provisions in the Statutory Guidance need to be included in the Code. What does the Code mean by this and what are the specific parameters of measure to meet the standard of robust? This cannot be left to the VSPS to establish. **These standards must be set by the Code.**

Section 11.6 and 11.7

We disagree with this provision and are disappointed that the Code would allow such a blatant lack of protection for users, especially children. It is far more likely that children are viewing most of the harmful content on more general platforms rather than accessing specific pornography sites. What point is there in specifically defining a VSPS as a pornographic VSPS under section 11.3 if any VSPS is then allowed to upload and share the same content without the same

protections for users? The standard between the two, while not clearly defined is the difference between robust and effective measures. The standard of age verification applied is reduced for more general VSPS, the very places where children have the most access. If adults would like to access pornographic content, then they can access pornographic VSPS directly, there is no reason for such content to be permitted on general VSPS. **If the principal purpose of the VSPS is not to provide pornographic material to adults, then the uploading or sharing of pornographic content should be prohibited.**

We disagree with the provision of allowing users then to rate their own content. This again is open to abuse and requires other users to flag the content by which time it could have been viewed by numerous children. The Code, furthermore, does not then require any sanction for the content uploaders failure to accurately label their content.

The term 'effective age verification measures' requires further definition. What does the Code mean by this and what are the specific parameters of measure to meet the standard of 'effective'? This cannot be left to the VSPS to establish. **These standards must be set by the Code.**

Section 11.9

This section is vague and insufficient. The Code must set out the definitions of 'fair procedures' and what constitutes 'appropriate'. **The Code should set out what procedures are to be applied included specific time-limits for responses to flagged content and after how many infringements an account should be suspended and ultimately terminated.**

7. What is your view on the requirements in the draft Code for the VSPS provider to suspend or terminate an account in certain circumstances?

We agree with this provision but recommend that this be strictly applied, and the Code needs to be more specific in its requirements of what these fair procedures should consist of. It is our recommendation that warnings should be displayed before any posting that identifies what

content would infringe on the terms and conditions of the service. Algorithms can be used to identify language which has the potential to cause harm and users should be warned and prompted to use different language, alternatively the content should be flagged as potentially harmful. **A first infringement should result in the suspension of the account until the user has completed a training module setting out the reason for the infringement and the potential harm such an infringement could cause. Subsequent infringements should result in longer suspensions and ultimately termination. The Code should set out the time periods for this progression.**

8. What is your view on the requirements in the draft Code in relation to reporting and flagging of content?

The process involved in the flagging and reporting of content is the most important aspect of this Code. This is where users can exercise the protections they supposedly have. The Commission has essentially left the monitoring of these processes in the hands of the VSPS which is unacceptable. No mention is made in the Code of some of the most prevalent issues with online abuse which is the creation and sharing of child abuse material, intimate image abuse and the non-consensual sharing of intimate images and information, nor is there any reference to specific procedures for victims of these offences. **Specific procedures and protections need to be established and laid out clearly within the Code to ensure that abuse of this kind is dealt with quickly and effectively by VSPS.** The harms involved in this type of abuse are exponential once the images are shared. Having strict timelines for ensuring these images are removed are essential. **We suggest a strict 24-hour rule for the removal of the images, suspension of the account, informing and cooperation with other VSPS to ensure the removal of the images from all platforms and the reporting of the incident to the police. There should be further supports and protections offered to the victims of this offence.**

Section 11.11

The Code needs to set out the specifics of what the terms transparent and user-friendly mean. **Provisions needs to be made for multiple accessibility options in different languages with detailed explanations of terms, processes and timelines. This system cannot be entirely automated.** There must be the option to engage directly with a person who is **trained in dealing with victims of DSGBV and other forms of abuse and violence.** The abuse experienced by users is often over multiple platforms. **Provision should be made for cooperation between different VSPS to ensure they are all notified of the illegal or harmful content which can then be removed from all platforms.**

Section 11.13

Notification must also be given that should the complaint handling procedures provided by the VSPS be unsatisfactory then users have recourse to the Commission's own complaint handling procedures. **The Code must state the minimum standards and requirements that should be followed by the service providers when developing their complaints handling procedures.** An escalation of a complaint from a VSPS should place a burden on VSPS such that this is something they are strongly incentivised to avoid through effective resourcing the complaint handling on their platforms.

Section 11.14

It is extraordinary to us that the Commission would allow VSPS to set their own targets with respect to timelines, accuracy of reporting and flagging mechanisms. **These targets must be set by the Commission and monitored closely to ensure compliance.** Timelines especially are already an area of dissatisfaction expressed by users, particularly the time it takes to remove content. **Minimum timelines must be set by the Code. We recommend a strict maximum of 24-**

hours be implemented for the complete removal of content across all platforms, suspension of the account and reporting to the police. The meaning of the term ‘accuracy of reporting’ needs to be defined further. **The design of flagging mechanisms must be set by the Code and should be standard for all VSPS.**

The Code should set out specific reporting that is required not a general comparison of performance against self-imposed targets. There should be complete transparency on information relating to how VSPS deal with reports, flagging of content and responses to content identified as illegal or harmful. Furthermore, there must be **requirements set on what data is to be collected and that all such data be stored and maintained and accessible to the Commission on request.**

9. What is your view on the requirements in the draft Code in relation to age verification?

Section 11.16

Effective measures need to be more clearly defined. **The contents of the Statutory Guidelines should be incorporated into the Code** and not contain in a separate document. This creates unnecessary confusion and the potential for conflicting information.

We disagree with the word ‘may’ when referring to the application of the measures. **These measures must be applied both at the opening of an account and as a continuing measure.** As suggested above, a mandatory training module should be applied to all users at the opening of an account educating them on the terms and conditions of the VSPS, what content constitutes illegal or harmful material, the impact of these harms, the processes for flagging and reporting and the consequences of non-compliance with these terms. If these measures are applied to all users, then children who are accessing the platform will all still be subject to the measures whether they are lying about their age or not.

Section 11.17

A content warning on its own is not sufficient, a **further age verification process should be required to access such data.**

Section 11.18

(iii) We are unsure of the meaning of this sentence. How do you set targets for the number of children who are wrongly identified? This requires some clarification. The target should always be that no children should be accessing the service pretending to be adults. Specific reporting must be required on how many children are identified and what measures are being taken to ensure the methods they have used are addressed. **The evaluation of measures should be established and monitored by the Commission or an independent body not by the VSPS themselves. All data collected on these measures should be stored and accessible to the Commission.**

Section 11.19, 11.20 and 11.21

Pornography and gross gratuitous acts of violence and cruelty are particularly harmful to all users but especially to children. **The most stringent protections must be in place to ensure that children cannot access this material.** A clear definition of what constitutes acceptable 'robust age verification' must be established by and contained in the Code, not in the Guidance materials. **This age-verification should be required at both sign up and on each occasion that content is accessed.** We would go further to suggest that where the option exists for users to share content of this nature, **the use of anonymous profiles on these platforms should be restricted to discourage the use of temporary anonymous profiles being created for the purpose of sharing illegal or harmful content.** Again, while the VSPS should be required to provide reports on their mechanisms, the **Commission should be monitoring and establishing whether these mechanisms are accurate and effective.**

10. What is your view on the requirements in the draft Code in relation to content rating?

We disagree with allowing users to rate their own content. This leaves these ratings open to abuse and therefore entirely pointless as they would have to be viewed by other users (potentially children) before anyone would establish that they may not be suitable. **The VSPS must have responsibility for ensuring the content rating is accurate to prevent any harm to children before they view such content.** Questions of practicality based on the requirement for speed and volume of content should not outweigh the need for protections from harmful material reaching children. Comprehensive protections are applied to film and television, there is no reason comprehensive protections should not be applied to online content, we would argue even more stringent protections should be applied considering the ease of access children have to such content. **The reasoning that content is required to be instantly available should not be trumping considerations of accuracy and appropriateness.**

11. What is your view on the requirements in the draft Code in relation to parental controls?

We suggest all new accounts opened by children should have the strictest possible safety and privacy settings by default which can then be adjusted using parental controls. The provisions contained in the Statutory Guidance materials should be contained within the Code and should be prescriptive and not suggestive.

12. What is your view on the requirements in the draft Code in relation to complaints?

The provisions of the Statutory Guidance should be included in the Code itself and should be prescriptive and not suggestive.

Section 11.29

Users must be able to make complaints directly to the Commission about the VSPS implementation or complaints procedure or appeal decisions made by the VSPS on any dispute (it is our understanding that the development of this process is set for 2024 and trust that this will be a priority for the Commission). Both procedures should be transparent, accessible and have specific time limits for responses by the VSPS and the Commission. Specifically, when dealing with the urgency required in matters involving child abuse material, intimate image abuse and the non-consensual sharing of images or information, the processes need to have strict timelines and clear protections and supports for victims.

Section 11.30

The terms 'timely' and 'effective' are vague and not defined in the Code. Specific time periods for the responses to and subsequent handling of complaints must be established by the Code.

The Commission should develop a set of specific and appropriate time periods for all procedures clearly set out as an appendix to this code.

13. Do you have any other comments on the requirements in section 11 of the draft Code?

No.

14. What is your view on the requirements in the draft Code in relation to audiovisual commercial communications which are not marketed, sold and arranged by the VSPS provider?

This falls outside the area of focus for the RCNI, but we would suggest that strong protections be put in place to protect users from any harmful content with strict monitoring from the Commission. Furthermore, the Commission should be prioritising the protection of the public over any commercial interests of the content creators or VSPS.

15. What is your view on the requirements in the draft Code in relation to audiovisual commercial communications which are marketed, sold and arranged by the VSPS provider?

This falls outside the area of focus for the RCNI, but we would suggest that strong protections be put in place to protect users from any harmful content with strict monitoring from the Commission. Furthermore, the Commission should be prioritising the protection of the public over any commercial interests of the content creators or VSPS.

16. What is your view on the requirements in the draft Code in relation to user declarations that user-generated content contains an audiovisual commercial communication?

This falls outside the area of focus for the RCNI, but we would suggest that strong protections be put in place to protect users from any harmful content with strict monitoring from the Commission. Furthermore, the Commission should be prioritising the protection of the public over any commercial interests of the content creators or VSPS.

17. Do you have any other comments on the requirements in section 12 of the draft Code in relation to audiovisual commercial communications?

No.

18. What is your view on the requirements in the draft Code in relation to media literacy issues?

Any media literacy measures should include information and guidelines as to identifying harmful content and the impact such content can have on users. Particularly content containing or promoting domestic, sexual and gender-based violence, misogyny, exploitation, intimate image abuse and the sharing of images and information and exploitation. These have a devastating

impact on victims and encourages behaviour that influences user's behaviour both within and outside the online space. **The Guidance on Media Literacy provided should be prescriptive rather than suggestive.** VSPS should be required to promote the qualities suggested and required to consider the measures contained. **Any media literacy standards should be set by the Code and uniformly applied to all VSPS.** These standards should include not only provisions relating to the approach by VSPS to informing and educating content creators but also users so that they are not making uninformed choices about the content they are accessing and the information they may be sharing.

19. What is your view on the requirements in the draft Code in relation to ensuring the personal data of children is not processed for commercial purposes?

We agree with this requirement but would take it further to ensure that the **personal information is not processed for any purpose other than the age verification and parental controls** required for the security and protection of the children. Naming only commercial purposes leaves the interpretation open to abuse. The information contained in the Guidance should be placed in the Code itself.

20. What is your view on the requirements in the draft Code in relation to reporting in relation to complaints?

No.

21. Do you have any other comments on the requirements in section 13 of the draft Code?

No.

22. Do you have any comments on this section of the Draft Code?

No.

23. Do you have any comments on the Annex?

We repeat our concerns over the limited definitions of illegal content harmful to both children and the general public. There should be no limitations set. All illegal content is harmful.

24. Do you have any other comments on any section of aspect of the draft Code, including with reference to section 139M of the Act in relation to the matters the Commission is required to consider in developing an online safety code?

As mentioned above, the lack of acknowledgement or commitment to tackling the high levels of risk and harm perpetuated by content which contains domestic, sexual and gender-based violence, misogyny, exploitation, intimate image abuse and non-consensual sharing of images or information is of great concern. **No mention is made of these harms in the Code, despite their devastating impact on victims and society generally.**

The Code should require cooperation between VSPS themselves and between VSPS and the Commission, the police and specialist NGOs and public sector bodies in combatting the sharing of illegal and harmful content, training and development of prevention measures and support services for victims. VSPS should be obligated to resource and fund such external expertise, through a Code based mechanism under the control of the Commission, that ensures that the transparent distribution of the levy cannot interfere with the independence of the external experts.

Consultation on Statutory Guidance

25. Do you have any comments on this draft Guidance, including in relation to the matters required to be considered by the Commission a section 139ZA of the Act?

We suggest that the Guidance should be incorporated into the Code. Having included these suggested measures in this consultation process, there is no reason to have any delays in

incorporating these measures into the Code. The more comprehensive the first version of the Code is, the more protections users will have from the outset.

Section 1.1 Safety by Design

While protection from sexual abuse is referenced in relation to minors, once again, domestic, sexual and gender-based violence, misogyny, intimate image abuse, non-consensual sharing of images and information and exploitation are not mentioned as grounds for protection. **The Code must provide specific details on what the requirements of the 'online safety impact assessment' should be.**

Section 1.3 Recommender System Safety

The Code only requires that VSPS 'consider' the measures stated in this paragraph and to provide explanation as to 'whether' they have given effect to them. **These measures must be mandatory. The only effective way to protect users from recommender algorithms/systems is for them to be optional for users on all platforms.** The use of these algorithms/systems should, by default, be switched off and only be engaged when specifically consented to by users with additional protections in place to ensure users are able to make informed decisions before consenting. The use of the algorithms/systems not only interferes with user's choices when using platforms but is also the vehicle through which illegal or harmful content is spread at a rapid rate. The harm to users is not only the content of one video but the subsequent bombardment with similar content they experience as soon as they engage with the material. This perpetuates the harms where content that is illegal and harmful is directed at a user indefinitely and exponentially. This is particularly problematic when children have gained access to illegal and harmful content which they are unlikely to flag as harmful themselves. This results in further harmful content being directed at them. This does not stop until such time or if the content is flagged by another user

or identified by the VSPS. VSPS should also be prevented from feeding recommender algorithms/systems with personal information collected on users without consent.

We disagree with the use of the term ‘in aggregate’. Content which is illegal or harmful causes harm after only one viewing of such content. There is no mass point after which the content becomes harmful. Using this language creates the perception that there is room for allowances of such content before action is taken.

General Recommendations

Consultation on the application of the Code to the category of video-sharing platform services

26. Do you have any comments on the proposed application of this draft Code to the category of video-sharing platform services?

No.

27. Do you have any comments on the proposed application of this draft Code to the named individual video-sharing platform services?

No.

Proposed Supplementary Measure and Related Guidance

28. Is there anything you consider the Commission needs to be aware of in relation to the draft supplementary measures and draft supplementary guidance as it further develops its thinking in these areas and seeks to effectively fulfil its mandate in relation to online safety?

We thank you for the opportunity to make a submission. Please contact us should you require further or clarifying information.

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