[IE] Irish regulator adopts Online Safety Code

IRIS 2024-9:1/1

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The Irish regulator, *Coimisiún na Meán* (the Commission), adopted the final Online Safety Code (the Code) on 10 October and published it on 21 October, completing the Commission's overall online safety framework. This framework makes digital services accountable for how they protect users, and in particular children, from harm online.

It comes in response to Section 139K of the Broadcasting Act 2009, and is designed to ensure that VSP providers take reasonable steps to provide the protections set out in Article 28b(1)(a), (b) and (c) and Article 28b(2), including the measures set out in Article 28b(3), and to meet the requirements of Article 9(1) of the revised Audiovisual Media Services Directive. In accordance with the country-of-origin principle, the Code will apply to video-sharing platforms (VSPs) established in Ireland.

To develop the Code, the Commission launched a call for input in July 2023, which received around 1400 responses, and a literature review of the available evidence on online harm on VSPs in September 2023. The Code development process led to the collection of additional information on public views on the regulation of VSPs, and finally to a first public consultation on the draft Code in December-January 2024. In accordance with Section 19 of the Broadcasting Act, the Commission also established a Youth Advisory Committee to assist and advise it in the exercise of its online safety functions.

In developing the Code, the Commission has taken particular account of:

- the desirability of services having transparent decision-making processes in relation to content delivery and content moderation

- the impact of automated decision-making on those processes

- the need for any provision to be proportionate having regard to the nature and the scale of the services to which a code applies

- levels of availability of harmful online content on designated online services

- levels of risk of exposure to harmful online content when using designated online services

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- levels of risk of harm, and in particular harm to children, from the availability of harmful online content or exposure to it

- the rights of providers of designated online services and of users of those services

- the e-Commerce Compliance strategy prepared by the Commission

The Commission notified the draft Online Safety Code to the EuropeanCommission under the TRIS Directive on 27 May 2024 (for more information, see: IRIS 2024-6:1/6). Neither the EU Commission nor any of the Member States submitted a detailed opinion or made comments in relation to the notified text within the standstill period, leading to the adoption of the text.

Obligations on VSPs therefore include:

- Prohibiting the uploading or sharing of harmful content on their services including cyberbullying, promoting self-harm or suicide and promoting eating or feeding disorders as well as incitement to hatred or violence, terrorism, child sex abuse material, racism and xenophobia.

- Using age assurance to prevent children from encountering pornography or gratuitous violence online and having age verification measures in place as appropriate.

- Providing parental controls for content which may impair the physical, mental, or moral development of children under 16.

The general obligations of the Code will apply from November, and platforms will have an implementation period for certain detailed provisions that require IT development. The Commission will take a supervisory approach to enforcing the Code, ensuring that platforms implement appropriate systems to comply with the provisions of the Code. The Code will work alongside other measures to protect users from online harm, including the Digital Services Act and the Terrorist Content Online Regulation.

According to the Online Safety Commissioner, Niamh Hodnett, “The adoption of the Online Safety Code brings an end to the era of social media self-regulation. The Code sets binding rules for video-sharing platforms to follow in order to reduce the harm they can cause to users. We will work to make sure that people know their rights when they go online and we will hold the platforms to account and take action when platforms don’t live up to their obligations".

Online Safety Code

https://www.cnam.ie/wp-content/uploads/2024/10/Coimisiun-na-Mean_Online-Safety-Code.pdf

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