Submission: Coimisiún na Meán

Online Safety Code for Video-Sharing Platform Service

September 2023

Introduction - Rape Crisis Network Ireland (RCNI)

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.

Commentary on Online Safety Code for Video-Sharing Platform Services

The RCNI's focus is in this context is prevention strategies combatting rape and sexual violence and providing support for victims who have experienced online violence. In this submission, we will address mostly the harms that we would like to see addressed and unless specifically stated, we would propose a similar overall approach to measures as highlight by the CRA submission.

The gender-based violence perpetrated in an online space presents a particular challenge in developing policies and law to protect victims. Tech-facilitated gender-based violence (TFGBV) is a term defined as:

> 'any act that is committed, assisted, aggravated or amplified by the use of information communication technologies or other digital tools which results in or is likely to result in physical, sexual, psychological, social, political or economic harm or other infringements of rights and freedoms.'[1]

TFGBV manifests itself in various ways including: misogyny, discrimination against sex, gender and sexuality, perpetuation of rape myths and victim blaming, coercive control, harassment, stalking, extortion/sextortion, revenge porn, threats, doxing, defamation, impersonation, hacking, hate speech, catfishing, distribution of sexual images and many more equally harmful actions by online users. This form of violence is gendered and has a disproportionate effect

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[1] https://unwomen.org/en/what-we-do/ending-violence-against-women/faqs/tech-facilitated-gender-based-violence

on women and girls. This form of violence is most commonly perpetrated by men against women in various contexts including intimate partner relationships but also outside of these relationships and particularly against young women who engage in public online spaces such as journalists, activists, politicians and academics.[2] VSPS provide a mechanism for many of the types of gender-based violence perpetrated online.

For the RCNI the protections needed on VSPS extend beyond only the protection of children or the vulnerable. It extends too beyond the potential victims to include the prevention of the development of potential perpetrators. The effects of online media on the views and perceptions of young people are particularly concerning. Exposure to mass levels of harmful information without sufficient protections and interventions creates cultural baselines that perpetuate negative stereotypes and harmful ideologies relating to sex, gender and sexuality. These cultural biases are shared and disseminated at an extraordinary rate and have a detrimental effect on attitudes towards women and sexual violence. These forms of TFGBV are a precursor to increasing levels of physical sexual violence such as rape and sexual assault as well as an extension of existing violence being perpetrated in intimate partner relationships. VSPS providers are the gatekeepers to an important tool which can also be used as a dangerous weapon. Ensuring that these providers are held to the highest standards and requirements possible is paramount in the protection of victims and the prevention of sexual violence. Having a Code which requires transparency and accountability from VSPS providers is an important step in addressing these cultural influences on sexual violence which are perpetuated and disseminated throughout VSPS.

Submission Questions:

Question 1: What do you think our main priorities and objectives should be in the first binding Online Safety Code for VSPS? What are the main online harms you would like to see it address and why?

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[2] UNFPA_Measuring TF GBV_A Discussion Paper_FINAL.pdf

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The main priorities and objectives of the Code should be transparency and accountability of VSPS providers. The overarching principle should at all times be the protection of users against harm. Not only protection against the harms perpetrated by users but also protection against the harmful effects of content on users directly. From the RCNI perspective, the effects of cultural influences on attitudes towards sex, gender, sexuality and sexual violence as well as the facilitation of gender-based violence on these platforms are the most important harms that we would like to see addressed. The continuum of sexual violence to and from the online space exacerbates the difficulties not only in the protection of victims but also the prevention of these harms.

Question 2: What types of online harms do you think should attract the most stringent risk mitigation measures by VSPS? How could we evaluate the impact of different types of harms e.g. severity, speed at which the harm may be caused? Is there a way of classifying harmful content that you consider it would be useful for us to use?

It goes without saying that any stringent risk measures should be applied to all illegal content but also to all harmful content not yet provided for under legislation. Often the most harmful content can be the most seemingly innocuous. The expression of biases and stereotypes cloaked in freedom of opinion can be hugely damaging and contribute to a culture of hate. Misogyny and attitudes towards sex, gender and sexuality fall within this category. Behind all forms of sexual violence is the belief in the inferiority and inequality of women and by extension the inferiority of what any culture or cohort class as feminine at that point in time. Content that is obvious and easily identifiable is concerning but more damaging is content that is more pervasive and harder to trace. Stringent risk mitigation measures should be applied to both the blatantly harmful content but also to content that is less conspicuous. The evaluation and classification of harm is subjective and therefore difficult to quantify in a way that satisfies all. Cooperation and consultation between stakeholders and regulatory bodies can ensure open communication which allows for constant reassessment of evaluation parameters. Categorisations and general principals can provide a guiding foundation but providing for fast, efficient reporting structures will be most effective in identifying content that is harmful quicker.

Question 3: Do you have reports, academic studies or other relevant independent research that would support your views?

See Annexure 1 attached.

Question 4: What approach do you think we take to the level of detail in the Code? What role could a non-binding guidance play in supplementing the code?

We submit that the Code together with any guidelines or regulations should be binding. VSPS providers are required to submit themselves to regulation in order to do business but are unlikely to take any action which has not been prescribed. If they had more altruistic motivations then these proposed provisions would already be in practice and a Code would not be necessary. There would be little purpose in the Code if the VSPS providers are then simply left to self-regulate. In addition, effective and appropriate sanctions should be included in the Code to ensure compliance by the VSPS providers with its requirements.

Question 5: What do you think would be the most effective structure for the Code? What are the most important factors we should consider when we decide how to structure the Code?

We will not make a specific submission on structure bar to say that we consider a combination of detailed provisions together with overarching principles most effective in encompassing a wide range of regulations while guarding against loopholes and technicalities. Factors to consider are firstly, ensuring that the Code's principles cover aspects broadly now but make allowance for new aspects as they arise in the future and secondly that for consumers, regulators and indeed the VSPS providers there are clear and simple thresholds defined upon which action can be taken.

Question 6: How should we design the Code to minimise the potential for conflict and maximise the potential for synergies in how platforms comply with it and the DSA?

We agree with the suggestions made in the Call for Inputs. The Code should minimise conflict and maximise synergy in that it should mirror the DSA at a high-level but provide more detailed instruction and guidance for VSPS providers on how to comply.

Question 7: To what extent, if at all, should the Code require VSPS providers to take measures to address content connected to video content?

Content connected to video content such as comments and attachments can be as harmful and in some cases more harmful when hidden below, embedded or attached to seemingly benign video content. The same stringent risk mitigation measures should be applied to connected video content as that applied to the video content itself.

Questions 8 to 18:

We have no specific submission to make in this regard and refer to the submission made by the CRA.

Question 19: How do you think that cooperation with other regulators and bodies can help us to implement the Code for VSPS?

Consistent and widespread consultation with all stakeholders is essential to developing and maintaining an effective Code of conduct. The use of VSPS is not limited to any one area, sector or country, it is a technology that has multiple uses and multiple effects. Cooperation between regulators and bodies ensures not only knowledge sharing but knowledge production inclusive of diverse viewpoints and experiences.

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Question 20: What approach do you think we should take in the Code to address feeds which cause harm because of the aggregate impact of the provide access to? Are there current practices which you consider to be best practice in this regard?

Where users are exposed to large quantities of content which contains harmful messaging, it can result in a belief that either the harmful information is true due to the same information being presented from multiple sources or alternatively that this is the only information available on a particular subject. Specifically when dealing with young people, they are unlikely to conduct independent research to establish the veracity of content they are presented with. We submit that VSPS providers should be required to firstly prevent and control the harmful content but also to put in place measures to ensure that generally feeds contain a mix of content. Furthermore they should have measures in place to flag users whose feeds become dominated by harmful or potentially harmful content to ensure a change to the feed can be introduced to mitigate against its harmful effects. RCNI suggest that algorithms which select content for users based on perceived interests, must obey a 20/80 rule. For example, no matter the commercial or other interest of the platform and its customers, it can only direct a limited percentage of content. The remaining percentage must remain 'free' from algorithmic influence. Child protection limitations such as parental control mechanisms would be exempt to continue to limit content for those purposes. We further suggest that VSPS providers should be required to provide transparency to users as to how they are being profiled. This information should be easily accessible and allow users to correct, alter and control these algorithmic assumptions about them. This user control should be a minimum standard set within the Code.

Question 21: Do you have any views on how requirements for commercial content arranged by a VSPS provider itself should be reflected in the Code?

We do not have any specific submission to make in this regard save that the VSPS provider should be held to the same if not higher standards than those expected of content providers and users.

Question 22: What compliance monitoring and reporting arrangements should we include in the Code?

As stated above, the expectations placed on VSPS providers should be guided by transparency and accountability. VSPS providers should be required to share any and all information required to identify potential risks posed by their systems. Furthermore, they should be required to share potential weaknesses in the protections they have in place or propose to put in place to combat these risks. Compliance statements, while useful for governance, do not always reflect the true picture of whether a system is effective. Internal and external testing of the protections should be required by the VSPS providers in addition to compliance measures. The regulator should have the capacity to audit systems internally and not just be reliant on receipt of volunteered information or information accessed through queries. The code should contain the strict and detailed conditions of such internal access such that all parties can be assured of the protection of commercial and/or sensitive information on the one hand and that access has indeed been facilitated.

Question 23: Should the Code have a transition period or transition periods for specific issues?

While transition periods are understandably necessary, many of the requirements being expected of VSPS providers are extensions or variations on systems that are already or at least should be in place. Any delays in the implementation of the Code and with it the necessary protections results in users being exposed to harms. Any transition periods allowed should only be those that are absolutely necessary and kept to the shortest period possible. That said there will be learning in the roll out of a Code no matter how well crafted. We would suggest that rather than a transition period that the code contains a review mechanism. It is important that such a review mechanism does not become an opportunity for watering down the standards and requirements in the Code. The code review should therefore have strict criteria.

Summary:

The main areas of focus in this submission are the importance of the main objectives and priorities of the Online Safety Code taking into account the following:

- The devastating effects of TFGBV on users and women in particular. Perpetrators use VSPS to harass, coerce and manipulate. This online gendered violence while being a harm in itself, can also be the precursor to physical violence in the form of rape and sexual assault and/or be an extension of existing physical, emotional, psychological and economic violence already being experienced by a victim.
- The damaging effects of content found on VSPS which perpetuates biases and stereotypes that create cultural baselines of hate and prejudice. The primary enabler of the range of harms of sexual violence is the belief in the inferiority and inequality of women and by extension the perception of the 'feminine'. The Code in combating the perpetuation and escalation of sexual violence must take a robust stance against sexism and misogyny.
- The crucial importance of the principles of transparency and accountability being the overarching objective when designing a Code which holds VSPS providers to stringent standards of compliance, monitoring, risk assessment and implementation.

RCNI are at your disposal should you wish to engage with us further on any of these points. While these submissions in their current form are broad, we hope to have an opportunity at a later stage in the drafting process to contribute more specific and detailed information.

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Annexure 1: Research reports

Byerly, C.M. (2020) Incels online reframing sexual violence, The Communication Review, 23:4, 290-308,
https://doi.org/10.1080/10714421.2020.1829305

Crelinstein R. What Can We Do to Combat Online Gender-Based Violence? CIGI

What Can We Do to Combat Online Gender-Based Violence? - Centre for International Governance Innovation (cigionline.org)

Felmlee, D., Inara Rodis,P., & Zhang, A. Sexist Slurs: Reinforcing Feminine Stereotypes Online. *Sex Roles* 83, 16-28 (2020).

Harris, B. , Woodlock, D. Digital Coercive Control: Insights From Two Landmark Domestic Violence Studies, *The British Journal of Criminology*, Volume 59, Issue 3, May 2019, Pages 530–550, https://doi.org/10.1093/bjc/azy052

Henry, N., & Powell, A. (2018). Technology-Facilitated Sexual Violence: A Literature Review of Empirical Research. Trauma, Violence, & Abuse, 19(2), 195–208. https://doi-org.ucd.idm.oclc.org/10.1177/1524838016650189

Tanczer, L. Parkin, S. and López -Neira, I. (2021) 'I feel like we're really behind the game': perspectives of the United Kingdom's intimate partner violence support sector on the rise of technology-facilitated abuse, Journal of Gender-Based Violence, vol 5, no 3, 431–450.

UN Discussion Paper: UNFPA_Measuring TF GBV_ A Discussion Paper_FINAL.pdf

Woodstock, D. (2017). The Abuse of Technology in Domestic Violence and Stalking. *Violence Against Women*, 23(5), 584-602. https://doi-org.ucd.idm.org/10.1177/1077801216646277