

Revised Online Safety Code Q&A – 21 October 2024

General

1. Why is an Online Safety Code needed?

Coimisiún na Meán is implementing an Online Safety Framework in Ireland, built on several pieces of legislation.

The [Online Safety and Media Regulation Act 2022](#) requires Coimisiún na Meán to develop an Online Safety Code. This is because Ireland must implement Article 28b of the [EU Audiovisual Media Services Directive 2018](#). The Online Safety Code will apply specific rules to Video Sharing Platform Services (VSPS), which are a sub-set of online platforms on how they handle video (and associated) content. The [EU Digital Services Act](#) has applied to a wider section of online services since February 17th, 2024.

2. What will be the difference for users now that the Code is in place?

While many video sharing platforms already have some elements in place to protect their users, this Code sets binding rules and hold platforms accountable for how they keep their users safe from harmful video content, backed up by strong sanctioning powers and fines of up to €20 million or 10% of a platform's annual turnover, whichever is greater. The Code will also provide clarity to users on how platforms are required to protect them, and what their rights are. The Code will be enforced alongside the Digital Services Act, to provide safeguards for users of online services against illegal content, and content which may be harmful to children.

3. When is the Code effective?

Part A of the Code is effective after 28 days. For Part B, there is an implementation window of up to nine months to allow platforms to become compliant with the Code, if platforms need time to design internal systems to comply with the Code.

4. Is there a time period after which the approved code must be reviewed?

Once adopted, Coimisiún na Meán will continue to assess the impact and effectiveness of the Code and review it as and when required. The legislation does not specify any time period for a review. The Minister can also request that Coimisiún na Meán reviews the Code. Coimisiún na Meán intends for the Code to be a practical and useful document, it may require to be reviewed from time to time to take account of developments in video sharing platforms and consumer trends.

5. How will Coimisiún na Meán enforce the Code?

We will actively supervise designated services to ensure that they live up to their obligations under the Code, as we do with other parts of our Online Safety Framework. If issues emerge, we will move to investigation and enforcement.

6. What is the Online Safety Framework?

The Online Safety Framework is composed of the EU Digital Services Act, the Online Safety Code and the [Terrorist Content Online Regulation](#) (TCOR). When taken together, the Online Safety Framework will encompass all of the powers of Coimisiún na Meán to regulate online platforms, and to improve online safety for all users.

Contents of the Code

1. What is the difference between Part A and Part B of the Code?

Part A sets out the general obligations from the AVMS Directive, which apply where appropriate depending on the size and nature of the service. Coimisiún na Meán will ultimately determine whether the measures adopted by Video Sharing Platform Services under Part A are appropriate to provide the necessary protections to minors from content which may impair their physical, mental or moral development, or to the general public from content which incites hatred or violence, is racist and xenophobic, amounts to child sex abuse material (CSAM) or terrorism. **Part B provides more prescriptive obligations.**

2. What content or behaviour is covered by the Code?

Part A of the Code covers video content which:

- 1. Impairs physical, mental, or moral development of minors*
- 2. Incitement to hatred or violence on the grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, sexual orientation*
- 3. EU criminal content (Child Sexual Abuse Material, terrorism, racism and xenophobia which amounts to incitement to hatred or violence)*
- 4. Harmful and illegal audiovisual commercial communications*

Part B of the Code covers:

Video and video related content which amounts to:

- 1. Cyberbullying, promotion of, or making available knowledge of methods of self-harm or suicide (incl. dangerous challenges), promoting eating or feeding disorders*
- 2. Incitement to hatred or violence on the grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, sexual orientation and membership of the Traveller community or Roma communities*
- 3. EU criminal content (CSAM, terrorism, racism and xenophobia which amounts to incitement to hatred or violence)*
- 4. Audiovisual commercial communications (Harmful and illegal)*
- 5. Restricted indissociable user-generated content (e.g. comments or captions)*
- 6. Adult-only video content – pornography and extreme or gratuitous violence*

Platforms must act on reports from users alleging such restricted content on their services.

3. Why does the Code mention some harms and not others?

The Code is based on the harms outlined in the Online Safety and Media Regulation Act 2022 and the EU Audiovisual Media Services Directive 2018. The overall Online Safety Framework which includes the Digital Services Act gives Coimisiún na Meán the tools to address the harmful content and behaviour people encounter online, including the exposure of children to harmful content, and the negative impact of recommender systems on mental health and wellbeing.

4. How were the included harms identified for inclusion in the Code?

The Code is based on the Online Safety and Media Regulation Act 2022 and the EU Audiovisual Media Services Directive 2018, which identify the scope of harms to be included in the Code.

Coimisiún na Meán also issued a public Call for Inputs on the Code and received [55 responses](#) from the public and interested stakeholders in respect of the approach to the development of the Code and the harms that should be addressed in the Code. Coimisiún na Meán procured an [expert report](#) from PA Consulting on Online Harms which it published on its website. A public survey was also commissioned to further understand the public attitude to harmful content (copies of the survey responses can be found on our website, [part 1](#) and [part 2](#)). Finally, a public consultation was conducted on the draft Code which attracted circa [1,400 responses](#).

Coimisiún na Meán also engaged with its [Youth Advisory Committee](#) (YAC) in consultation on the Online Safety Code and its application. In line with the Online Safety and Media Regulation Act, at least half of the members of the Youth Advisory Committee are under the age of 25.

5. Can the list of harms be added to?

Yes. Coimisiún na Meán can make a proposal to the Minister that a particular type of content should be added to the categories of harmful content included in the Online Safety and Media Regulation Act 2022. There is a statutory procedure to follow set out in the Act and the Minister must ultimately approve any additions to the categories of harmful content.

6. How does the Code deal with Political advertising?

Political advertising is not provided for under the Code. Advertising is dealt with under the commercial communications section of the Code. It needs to be clearly marked as advertising.

7. How does the Code deal with Disinformation?

Disinformation is not covered specifically by the Code.

However, under the Code, platforms also have to publish an action plan which is updated annually, on the actions they will take to promote media literacy to their users.

Media literacy can help users to recognise disinformation, minimising its harmful effects.

The Digital Services Act has further obligations for the largest platforms to assess and mitigate the risks their services present in areas such as electoral integrity and public health, which will help to address the impacts of disinformation and misinformation.

Scope

1. What platforms does the code apply to?

The Code applies to Video Sharing Platform Services, i.e. services which allow users to upload and view videos online where the provider of the service is under the jurisdiction of the Irish state.

2. What about other online services?

From February 17th 2024, Coimisiún na Meán has been responsible for enforcing the EU Digital Services Act in Ireland. The DSA covers all types of illegal content on a variety of [online intermediary services](#).

3. What is the approach to age assurance and age verification?

Video Sharing Platforms which allow users to upload pornography or scenes of gratuitous violence will have to use age assurance so that children cannot normally encounter this content. The Code contains a general obligation for Video Sharing Platforms to use age verification (including age estimation) to protect minors from content that could impair the mental, moral or physical development where it is appropriate. Coimisiún na Meán will determine when it is appropriate for a platform to use age verification.

4. Does the Code address recommender systems?

Under our Online Safety Framework, Coimisiún na Meán will be best able to tackle the potential dangers of recommender systems through our implementation of the Digital Services Act. The Code does not address recommender systems. However, the proposal to have recommender system safety plans was consulted on as a supplementary measure in the draft Code and was not intended to be in the first Code. We recognise that recommender systems can have harmful impacts on users, especially children. The European Commission recently opened investigations into [TikTok](#) and [Meta](#) which related in part to their recommender systems and their impact on children and young people under the Digital Services Act. Coimisiún na Meán is supporting the European Commission in its investigations as the Digital Services Coordinator in Ireland. The Digital Services Act has specific provisions in relation to recommender systems – it requires that the very large platforms to assess the risks posed by the design of recommender systems and mitigate these. It also requires that platforms are transparent in relation to parameters used by recommender systems and to provide options for the public to be able to modify these. It also requires for the very large platforms an option to have content recommended other than based on profiling such as chronologically. In addition, it requires that platforms put in place measures to ensure a high level of privacy, safety and security of minors.

5. Will the Code apply to all video-sharing platforms which Coimisiún na Meán designated in December 2023?

The Online Safety Code will be applied to nine of the video-sharing platforms designated by Coimisiún na Meán in December 2023. In respect of the remaining video-sharing platform designated in December 2023, Coimisiún na Meán has not reached a determination in respect of the application of the Code to that video-sharing platform.

Users

1. What should someone do if they come across harmful content on a video sharing platform?

*Users should first and foremost **report the content to the platform** in question. Under the Online Safety Framework, platforms must have systems for users to report content and those platforms must also make a decision in relation to content which is flagged or reported. Platforms must also have to have a complaint handling process in place for users. In February 2024, Coimisiún na Meán established a Contact Centre which can receive queries and complaints from members of the public. Coimisiún na Meán will supervise compliance with the Online Safety Framework by platforms, so information from users about their experiences is very helpful for this supervision. Coimisiún na Meán is not a content moderator nor appeals body for the decisions of platforms on individual pieces of content. We have helpful [information](#) on our website to guide and inform people.*

2. How will Coimisiún na Meán deal with complaints?

Coimisiún na Meán has established a Contact Centre which can receive queries and complaints related to our powers under the Online Safety Framework. Where appropriate our complaints team will escalate systemic issues to our platform supervision teams to resolve through supervisory dialogue or else to our investigation and enforcement team.

3. How will the Contact Centre contribute to the supervision of the Online Safety Code?

The Contact Centre provides us crucial information on the types of complaints being received, the nature of these complaints and allows us to identify trends in illegal and harmful online content. The Contact Centre also provides information to users of online services about their rights under the Online Safety Framework.

4. How do members of the public contact the contact centre?

The public can contact the Contact Centre by emailing usersupport@cnam.ie or calling 01 963 7755 from Monday-Friday, 8am-6pm.

5. Can people make individual complaints to Coimisiún na Meán?

Coimisiún na Meán can already receive individual complaints relating to platforms' systems and processes as possible infringements of the Digital Services Act via the Contact Centre. Coimisiún na Meán is not a content moderator nor appeals body for

the decisions of platforms on individual pieces of content. Coimisiún na Meán has recently certified an [appeals body](#).

Legal Provisions

1. What legislation is the code based on?

The power for Coimisiún na Meán to make Online Safety Codes is contained in Section 139K of the Online Safety and Media Regulation Act 2022. In addition, the Code must address the harms set out in Article 28b of the EU Audiovisual Media Services Directive 2018.

2. What will be done with any fines collected? Where will that money go?

Any fines collected will go directly to the exchequer.