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NOTE

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To: Law Enforcement Working Party (Police)
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Subject: Proposal for a Regulation of the European Parliament and of the Council
laying down rules to prevent and combat child sexual abuse
– Presidency compromise texts

Delegations will find in the Annex Presidency compromise texts on the above proposal. Changes to document 9068/22 are marked in **bold** and ~~strikethrough~~. Changes to document 12354/22 are marked in **bold underline** and ~~strikethrough underline~~.

Compromise texts in Articles 1 and 2 are based on the discussions during the LEWP meeting of 22 September 2022 and delegations' written comments.

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
laying down rules to prevent and combat child sexual abuse

(Text with EEA relevance)

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation lays down uniform rules to **prevent and** address the ~~mis~~use of relevant information society services for online child sexual abuse in the internal market.

It establishes, in particular:

- (a) obligations on providers of relevant information society services to minimise the risk that their services are ~~mis~~used for online child sexual abuse;
 - (b) obligations on providers of hosting services and providers of interpersonal communication services to detect and report online child sexual abuse;
 - (c) obligations on providers of hosting services to remove or disable access to child sexual abuse material on their services;
 - (d) obligations on providers of internet access services to disable access to child sexual abuse material;
 - (da) obligations on providers of online search engines to delist websites indicating specific items of child sexual abuse;**
 - (e) rules on the implementation and enforcement of this Regulation, including as regards the designation and functioning of the competent authorities of the Member States, the EU Centre on Child Sexual Abuse established in Article 40 ('EU Centre') and cooperation and transparency.
2. This Regulation shall apply to providers of relevant information society services offering such services in the Union, irrespective of their place of main establishment.

3. This Regulation shall not affect the rules laid down by the following legal acts:
- (a) Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA;
 - (b) Directive 2000/31/EC and Regulation (EU) .../... [on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC];
 - (ba) Regulation (EU) 2022/... of ... on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act);**
 - (c) Directive 2010/13/EU;
 - (d) Regulation (EU) 2016/679, Directive 2016/680, Regulation (EU) 2018/1725, and, subject to paragraph 4 of this Article, Directive 2002/58/EC;
 - (e) Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online.**
4. This Regulation limits the exercise of the rights and obligations provided for in 5(1) and (3) and Article 6(1) of Directive 2002/58/EC insofar as necessary for the execution of the detection orders issued in accordance with Section 2 of Chapter ~~I~~ **II** of this Regulation.

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

- (a) ‘hosting service’ means an information society service as defined in Article 2, point (f), third indent, of Regulation (EU) .../... [on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC];
- (b) ‘interpersonal communications service’ means a publicly available service as defined in Article 2, point 5, of Directive (EU) 2018/1972, including services which enable direct interpersonal and interactive exchange of information merely as a minor ancillary feature that is intrinsically linked to another service;
- (c) ‘software application’ means a digital product or service as defined in Article 2, point 13, of Regulation (EU) .../... [on contestable and fair markets in the digital sector (Digital Markets Act)];
- (d) ‘software application store’ means a service as defined in Article 2, point 12, of Regulation (EU) .../... [on contestable and fair markets in the digital sector (Digital Markets Act)];

- (e) ‘internet access service’ means a service as defined in Article 2(2), point 2, of Regulation (EU) 2015/2120 of the European Parliament and of the Council¹;
- (f) ‘relevant information society services’ means all of the following services:
- (i) a hosting service;
 - (ii) an interpersonal communications service;
 - (iii) a software applications store;
 - (iv) an internet access service;
 - (v) online search engines.**
- (g) ‘to offer services in the Union’ means to offer services in the Union as defined in Article 2, point (d), of Regulation (EU) .../... [*on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC*];
- (h) ‘user’ means any natural or legal person who uses a relevant information society service;
- (i) ‘child’ means any natural person below the age of 18 years;
- (j) ‘child user’ means a natural person who uses a relevant information society service and who is a natural person below the age of ~~17~~ **18** years
- (k) ‘micro, small or medium-sized enterprise’ means an enterprise as defined in Commission Recommendation 2003/361 concerning the definition of micro, small and medium-sized enterprises²;
- (l) ‘child sexual abuse material’ means material constituting child pornography or pornographic performance as defined in Article 2, points (c) and (e), respectively, of Directive 2011/93/EU;
- (m) ‘known child sexual abuse material’ means ~~potential~~ child sexual abuse material detected using the indicators contained in the database of indicators referred to in Article 44(1), point (a);
- (n) ‘new child sexual abuse material’ means potential child sexual abuse material detected using the indicators contained in the database of indicators referred to in Article 44(1), point (b);

¹ Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1–18).

² Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36–41).

- (o) ‘solicitation of children’ means the solicitation of children for sexual purposes as referred to in Article 6 of Directive 2011/93/EU;
- (p) ‘online child sexual abuse’ means the online dissemination of child sexual abuse material and the solicitation of children;
- (q) ‘child sexual abuse offences’ means offences as defined in Articles 3 to 7 of Directive 2011/93/EU;
- (r) ‘recommender system’ means the system as defined in Article 2, point (o), of Regulation (EU) .../... *[on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC]*;
- (s) ‘content data’ means data as defined in Article 2, point 10, of Regulation (EU) ... [on European Production and Preservation Orders for electronic evidence in criminal matters (.../... e-evidence Regulation)];
- (t) ‘content moderation’ means the activities as defined in Article 2, point (p), of Regulation (EU) .../... *[on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC]*;
- (u) ‘Coordinating Authority of establishment’ means the Coordinating Authority for child sexual abuse issues designated in accordance with Article 25 by the Member State where the provider of information society services has its main establishment or, where applicable, where its legal representative resides or is established;
- (v) ‘terms and conditions’ means terms and conditions as defined in Article 2, point (q), of Regulation (EU) .../... *[on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC]*;
- (w) ‘main establishment’ means the head office or registered office of the provider of relevant information society services within which the principal financial functions and operational control are exercised;
- (x) **‘online search engine’ means online search engine as defined in Article 2(5) of Regulation (EU) 2019/1150 [...on promoting fairness and transparency for business users of online intermediation services].**