

Submission to Coimisiún na Meán

on the

Draft Online Safety Code

for

Video-sharing Platform Services

**January 2024**

**Overview of the recommendations**

* **Recommendation 1** (relates to Section 10 of the draft Code)

At an absolute minimum, Dublin Rape Crisis Centre (DRCC) strongly urge the Commission to include the provisions of the Harassment, Harmful Communications and Related Offences Act 2020 (Coco’s law), as they apply to the general public, in the draft Code, together with the provisions of Criminal Law (Sexual Offences) Act 2017which prohibits online content by which a person exposes his or her genitals intending to cause fear, distress or alarm to another person or by which a person intentionally engages in offensive conduct of a sexual nature. The definition of ‘*illegal content harmful to the general public’* should accordingly be expanded to include paragraphs 35 36, 38, 39 and 40 of Schedule 3 (see **Annex 1**).

* **Recommendation 2** (relates to Section 10 of the draft Code)

DRCC call on the Commission to expand the definition of ‘*regulated content harmful to the general public’* to expressly and distinctly include online material which promotes and glorifies violence against women and misogyny.

* **Recommendation 3** (relates to Section 11 of the draft Code)

The response required for intimate image abuse (IIA) complaints must be immediate, in order to protect the victim/survivor from the risk of repeat victimisation.

* **Recommendation 4** (relates to Section 13 of the draft Code)

Within Section 13 of the Code, DRCC believe that provision should be made to include awareness raising on the harms of online technology-facilitated gender-based violence (TFGBV) and IIA.

* **Recommendation 5** (relates to Section 13 of the draft Code)

The detail contained in the video-sharing platform services (VSPS) provider reports must provide sufficient detail, including detail on TFGBV and IIA complaints, to understand the effectiveness of the complaints handling system.

* **Recommendation 6** (relates to Table B definitions in the Annex to the Code)

DRCC call on the Commission to expand the definition of ‘*illegal content harmful to the general public’* to include paragraphs 1, 2, 3, 6, 9, 10, 16, 17, 19, 23, 24, 25, 26.27, 28, 29, 31, 34, 37, 41 and 42 of Schedule 3 (see **Annex 1**).

* **Recommendation 7** (relates to final considerations of the draft Code)

DRCC urge the Commission to include a section in the Code specifically dealing with TFGBV and/or, at a very minimum, IIA**.**

* **Recommendation 8** (relates to future supplementary measures & related guidance)

DRCC urge the Commission to indicate clearly in the supplementary measures for further consideration that it will squarely and comprehensively deal with any aspects of TFGBV and IIA not covered in the finalised Online Safety Code.

* **Recommendation 9** (relates to future supplementary measures & related guidance)

In light of the dynamic nature of the digital landscape and the inherent challenges posed by evolving technological trends, DRCC recommends that harmful online activities not currently within the scope of the Code, warrants thoughtful consideration for future inclusion.

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* **About Dublin Rape Crisis Centre**

The mission of Dublin Rape Crisis Centre (DRCC) is to prevent the harm and heal the trauma of all forms of sexual violence in Ireland.[[1]](#footnote-1) DRCC has been at the forefront of the Irish response to sexual violence for more than 40 years. That response includes:

* Running the National 24-Hour Helpline and associated services;
* Providing individual advocacy, counselling and other support;
* Accompaniment and support services for those attending court, reporting to An Garda Síochána or attending the Sexual Assault Treatment Unit (SATU);
* Education and training for a wide range of professionals and support workers engaging with victims of sexual violence;
* Data collection and analysis on trends and issue relating to sexual violence.

As a frontline service provider, DRCC works with and supports people who have been directly affected by sexual violence including online abuse. DRCC are also committed to eliminating its tolerance through education, awareness raising, advocacy and policy analysis.

* **About this submission**

We welcome this opportunity to make a submission on the draft Online Safety Code published by Coimisiún na Méan (hereafter the Commission) in December 2023 following the initial consultation process, in respect of which the Rape Crisis Centres and many other civil society organisations, submitted views and evidence for consideration.

We have considered the draft Code and its accompanying documents, including the Statutory Guidance, Supplementary Measures and related Guidance and the Annexes. We have also considered the objective evidence collated on behalf of the Commission by PA Consulting: Online Evidence Harm Review and by the IPSOS B&A Survey.

We are disappointed to find that, broadly speaking, the very serious online harms addressed in the shared submission we made to the initial consultation process[[2]](#footnote-2) are not covered in the draft Code. There is a striking and serious absence of protections for women (and men) over 18 who are subjected to technology-facilitated gender-based violence (TFGBV) including the increasingly prevalent crime of intimate image abuse (IIA). DRCC’s response to the consultation document focuses primarily on this omission and urgently calls on this Commission to amend the draft Code prior to adoption, to broaden the definitions of ‘*illegal content harmful to the general public’* and ‘*regulated content harmful to the general public’* so as to cover TFGBV.

* **Questions answered and corresponding responses**

**Question 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?**

DRCC would agree with and welcome the proposal. User-generated content that is indissociable from user-generated videos in the definition of content to be covered by the Code, is essential for creating a safe and secure online environment.

**Question 3: What is your view on the definitions of “illegal content harmful to children” and “regulated content harmful to children”?**

DRCC is satisfied with the definitions and the additional material provided in section 5.6 of the PA Harms Review.[[3]](#footnote-3) We are also aware that colleague organisations working directly with children and young people may have other perspectives and insights about these definitions to further enhance our understanding of online safety for this younger demographic.

**Question 4: What is your view on the other definitions of illegal content and regulated content?**

The draft Code has adopted a limited definition of online harms in respect of which the Code applies. In summary, the Code will apply to the following online content:

* **Illegal content harmful to the general public** which broadly covers content consisting of EU criminal offences transposed into Irish law, specifically child pornography, terrorism, racism and xenophobia – see criminal provisions highlighted in blue at **Annex 1**;
* **Regulated content harmful to the general public** which covers content containing incitement to violence or hatred on the grounds of discrimination set out in Article 21, EU Charter of Fundamental Rights of the European Union, (which include sex and sexual orientation).

In the initial Call for Inputs[[4]](#footnote-4), the Commission recognised (at page 8) that, in addition to the main categories of harm set out in Article 28B of the AVMSD, the Broadcasting Act 2009 (as amended) enables the Commission to ‘*address wider categories of harmful online content*’.  Specifically, as set out at page 8 of the Call for Inputs, the Commission noted that it may address the following harms in the Online Safety Code which fall into two wider categories as follows:

1. Harmful online content on services by which a person: \*

* Bullies or humiliates another person;
* Promotes or encourages behaviour that characterises a feeding or eating disorder;
* Promotes or encourages self-harm or suicide;
* Makes available knowledge of methods of self-harm or suicide.

*\*The content must give rise to a risk to a person’s life or a risk of significant harm to a person’s physical or mental health where the harm is reasonably foreseeable.*

1. Harmful online content relating to 42 criminal offences under Irish law listed in Schedule 3 of the 2009 Act as amended. Examples of offences include:

* Non-consensual sharing of intimate images;
* Child sex abuse material
* Naming complainants in rape trials;
* Material relating to suicide;
* Harassment;
* Child and human trafficking;
* Domestic violence.

We have set out the full text of Schedule 3 of the 2009 Act in **Annex 1.** The Commission has legal authority to apply the Code to each of the 42 criminal offences specified in this list. However, only a small fraction of these provisions is covered by the current draft Code.

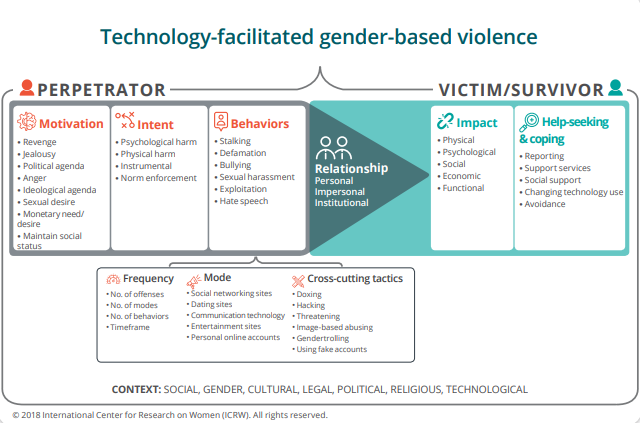
Regarding the first category listed by the Commission in the Call for Inputs, the Code can include the harms envisaged here as applicable to children and to persons over 18 years of age. The Code, however, only covers these harms in respect of children.

We note some video-sharing platform services (VSPS) proposed that the Commission ought to limit its focus in the first Online Safety Code to only the harms set out in Article 28B of the AVMSD.  However, the Broadcasting Act 2009 (as amended) is clear in affording the Commission power to adopt a code with a view to ‘*ensuring*’ that service providers take appropriate measures to minimise the availability of harmful online content and risks arising from the availability of and exposure to such content. The Act defines ‘*harmful online content’* more broadly than Article 28B of the AVMSD and, in particular, the Act squarely encompasses a range of content which amounts to TFGBV against adults.

PA Consulting’s Review summarised available evidence about *‘each of the harms in scope of the Act and of the AVMSD’*, including:

* Cyberbullying;
* Eating/Feeding disorders;
* Suicide or self-harm;
* Impairment of the physical, mental, or moral development of children;
* Incitement to violence or hatred;
* Identification of victims, suspects, or vulnerable people;
* Terrorism;
* Child sexual abuse;
* Harassment, with a particular focus on non-consensual image sharing; and
* Audiovisual commercial communications.

In the shared submission made to the initial consultation process, the eight rape crisis centres involved, provided significant evidence and information specifically demonstrating the real extent and nature of TFGBV.[[5]](#footnote-5)



We are aware of various other stake-holders whose submissions also raised similar and related concerns. We do not intend to repeat or greatly expand on the content of the earlier submission as we do not believe it is in fact in contention that the harms we outlined, broadly falling under the umbrella of TFGBV, do in fact exist and are prevalent in Ireland and across the EU.

Among the many stark and concerning findings of theIPSOS B&A Survey[[6]](#footnote-6) undertaken on behalf of the Commission, the following are of particular note:

* 94% of adults were either ‘very concerned’ or ‘somewhat concerned’ about the impact of videos on social media on mental health;
* 86% of adults were either ‘very concerned’ or ‘somewhat concerned’ about the impact of videos on social media on human rights;
* 85% of adults were either ‘very concerned’ or ‘somewhat concerned’ about the impact of videos on social media on the physical health or safety of individuals;
* 82% of adults were either ‘very concerned’ or ‘somewhat concerned’ about the impact of videos on social media on the reputation of individuals or groups of individuals.

Comparably high levels of concern were recorded as regards the potential harm caused to particular people or groups of people by videos on social media website or apps such as children, women, persons with disabilities, older persons, members of the Irish Traveller Community, people from other ethnic and/or minority communities and others – all of whom could be exposed to TFGBV.  It is clear these harms ***can*** indeed be lawfully covered in the Code and that there is an abundance of evidence before the Commission demonstrating the manner in which these harms manifest.

Coco’s law[[7]](#footnote-7) was adopted to address the insidious and incredibly harmful crime of intimate image abuse or non-consensual sharing of intimate images. DRCC and the Rape Crisis Centre’s who collaborated on the submission, informed the Commission that the women and men we support and work with, have informed us of being subjected to these terrible crimes. Similar evidence was before the Commission from colleague organisations. The PA Consulting Review specifically identified the disproportionate number of women subjected to cyber harassment, sexualised bullying and unwanted sexualisation (receiving unwanted sexual messages and images). The PA Review noted that victims of IIA and cyber stalking reported higher levels of harm than victims of other types of abuse. On account, in particular, of online anonymity, the PA Review notes ‘*the impunity with which perpetrators feel they can act’* that there ‘*is little redress, as they are unlikely to be caught, let alone penalised’* and that there is ‘*more opportunity for repeated and longer-term abuse’*.[[8]](#footnote-8)

* **Recommendation 1**

At an absolute minimum, DRCC strongly urge the Commission to include the provisions of Coco’s law, as they apply to the general public, in the draft Code, together with the provisions of Criminal Law (Sexual Offences) Act 2017which prohibits online content by which a person exposes his or her genitals intending to cause fear, distress or alarm to another person or by which a person intentionally engages in offensive conduct of a sexual nature. The definition of ‘*illegal content harmful to the general public’* should accordingly be expanded to include paragraphs 35 36, 38, 39 and 40 of Schedule 3 (see **Annex 1**).

If it is the case that the Commission considers the definition in the draft Code for ‘*regulated content harmful to the general public’* to cover some aspects of online gender-based violence, we call on the Commission to utilise the form of the Code (or the Statutory Guidance) to make this abundantly clear to both users and VSPS providers. As presently drafted, we do not believe that a reasonable person reading the draft Code would consider it to extend any substantive protections against various forms of online toxic misogyny and TFGBV which are increasingly prevalent online. The evidence of these harms is set out clearly and extensively in the submission made to the Commission in the initial round of consultation and in the PA Consulting Review. It is vitally important that the Code clearly articulates the harms sought to be addressed.  The Code needs to clearly inform both users and VSPS providers what content/harm is regulated.

* **Recommendation 2**

DRCC call on the Commission to expand the definition of ‘*regulated content harmful to the general public’* to expressly and distinctly include online material which promotes and glorifies violence against women and misogyny.

**Question 12: What is your view on the requirements in the draft Code in relation to complaints?**

A user should be enabled to make a complaint in a uncomplicated manner receiving a prompt acknowledgment, outlining the actions to be taken by the provider(s). The response time in relation to complaints made needs to be more clearly defined than ‘*timely*’ which is the term referred to in the Code.

Time is of the essence for IIA, the longer it takes to remove content, the greater the risk of repeat victimisation. Once an intimate image is online, it is very easy to copy, save, replicate and spread. DRCC submits that the response required to protect victim/survivors of IIA must be immediate.

* **Recommendation 3**

The response required for IIA complaints must be immediate, in order to protect the victim/survivor from the risk of repeat victimisation.

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

The draft Code sets out obligations in respect of Terms and Conditions, Reporting and Flagging, Age Verification, Content Rating, Parental Controls and Complaints.  In accordance with Section 11 of the Draft Code, the VSPS providers will be required to include in their terms and conditions a prohibition on the uploading or sharing of three categories of online harm. Regulated content harmful to children will also be prohibited save to the extent permitted under Section 11.3 - 11.8 of the draft Code relating to age-verification procedures and related matters.

The Commission also explains in the consultation document that it intends to separately consult on further matters that have been raised by stakeholders and that these matters are under consideration by the Commission for inclusion in a future update to the Code. These matters and the proposed response to them are set out in the Future Supplementary Measures and Related Guidance. However, this collation of further matters for consideration does not indicate an intention to expressly tackle TFGBV nor does it refer to providing robust protections against IIA (or related deep-fakes).

**Question 18: What is your view on the requirements in the draft Code in relation to media literacy measures?**

Any media literacy measures and tools must include awareness raising on the harms of online TFGBV and IIA. The action plans of the VSPS providers should include the initiatives engaged in to help users understand how to stay safe online, how to respond to online abuse and how to be an active online bystander.

* **Recommendation 4**

Within Section 13 of the Code, DRCC believe that provision should be made to include awareness raising on the harms of online TFGBV and IIA.

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

It is important that VSPS providers report on how they handle complaints. It is equally important that such reports provide sufficient detail to understand the effectiveness of the process. Detail such as the number and type of complaint which should include TFGBV and IIA complaints, together with the corresponding actions in relation to how complaints were handled and the timeframes involved.

* **Recommendation 5**

The detail contained in the VSPS provider reports must in our opinion, provide sufficient detail, including detail on TFGBV and IIA complaints to understand the effectiveness of the complaints handling system.

**Question 22: Do you have any comments on this draft Guidance, including in relation to the matters required to be considered by Coimisiún na Meán at section 139ZA of the Act?**

Guidance: Complaints

Users should be enabled to make their complaint in an uncomplicated manner receiving a prompt acknowledgment, outlining the actions to be taken by the provider(s). As we outlined in our recommendation 3, which has relevance to the guidance; separate provision needs to made where the complaint involves IIA. Time is of the essence with complaints of this nature. Removal even on a temporary basis should be the default with VSPS providers conducting any more detailed factual investigations only thereafter.

Guidance: Media literacy – Measures and Tools

The guidance refers to providers giving consideration to undertaking measures including ‘*promoting awareness and understanding of harmful content’*. Our recommendation 4 in relation to the Code is applicable to the guidance, together with signposting to relevant support organisations. Notwithstanding it applicability, it is vital that promoting awareness on the harms of online TFGBV and IIA is addressed within the Code.

**Question 23: Do you have any comments on the Annex?**

As outline in our detailed response to Question 4 above, DRCC consider Table B and its definition of illegal content harmful to the general public, too narrow. Accessing justice and redress for victim/survivors of rape and sexual violence is incredibly difficult and often, when obtained, involves re-traumatisation through the criminal legal process. A series of legal provisions are in place in Ireland which seek to ameliorate the challenges of the criminal trial process for victim/survivors of sexual violence by protecting their identity (and the identity of the accused pending a guilty verdict, if any). Irish criminal law is in the process of being fortified to better protect complainants / victim/survivors[[9]](#footnote-9) after the country witnessed the terrible fallout of the Belfast Rape Trial where the complainant’s identity was not protected[[10]](#footnote-10) and where online avenues were used to further traumatise the complainant in that case and exacerbate an already incredibly challenging process. In the Republic of Ireland, this cannot happen and it is vital that the draft Codes expressly recognise the prohibitions in place by including them in the definition of *illegal content harmful to the general public* and by requiring VSPS providers to include these provisions in their terms and conditions. The PA Consulting Review noted as follows:

*“Suspects identified before conviction can suffer from serious mental and physical harm, as users on the VSPS jump to conclusions about their guilt. Safety fears, emotional distress, and trauma are just a few of the impacts on suspects outed online. Similarly, victims outed and identified on or through VSPS content can suffer from emotional distress, invasion of privacy, unwanted media attention, harassment, and abuse. Additionally, online content relating to the identification of victims, suspects, and vulnerable people undermine law enforcement efforts to find or convict responsible parties, and often taint jury pools.”[[11]](#footnote-11)*

* **Recommendation 6**

DRCC call on the Commission to expand the definition of ‘*illegal content harmful to the general public’* to include paragraphs 1, 2, 3, 6, 9, 10, 16, 17, 19, 23, 24, 25, 26.27, 28, 29, 31, 34, 37, 41 and 42 of Schedule 3 (see **Annex 1**).

**Question 24: Do you have any other comments on any section or aspect of the draft Code, including with reference to section 139M of the Act in relation to the matters Coimisiún na Meán is required to consider in developing an online safety code?**

The Code must dedicate a section to TFGBV and/or, at the very minimum, to IIA. There should be clear obligations imposed on VSPS providers in respect of rapid removal and take down procedures. Given the exponential harm that victim/survivors suffer from the non-consensual sharing of their intimate images which can be replicated and shared at speed, very specific minimum outcomes must be required of VSPS providers including the adoption of a precautionary approach in favour of immediate removal. The world has seen this abuse in action in recent days with the non-consensual sharing of sexually-explicit images of Taylor Swift which were generated by artificial intelligence.[[12]](#footnote-12) These images were seen by tens of millions of users and the response by X (formerly known as Twitter) illustrates how ill-equipped VSPS providers currently are at containing such damaging abuse.[[13]](#footnote-13) If the Commission proceeds with Ireland’s first Online Safety Code in its current draft form which omits any specific mention of TFGBV or IIA, it will send the wrong message to VSPS providers that they may continue to self-regulate as they wish in respect of this abhorrent and damaging crime.

* **Recommendation 7**

DRCC urge the Commission to include a section in the Code specifically dealing with TFGBV and/or, at a very minimum, IIA**.**

**Question 28: Is there anything you consider Coimisiún na Meán 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?**

In the supplementary measures document, we urge the Commission to include matters relating to TFGBV which are not covered in this draft Online Safety Code. It is imperative that the Commission takes a strong and definitive stand against TFGBV from the outset and makes clear to VSPS providers that they will be expected to adapt their services to ensure that domestic, sexual and gender-based violence (DSGBV) and discrimination is not embedded into society further. A primary objective of the Code must be to combat and prevent the ever-evolving forms of TFGBV, while upholding the right to freedom of expression, including access to information, the right to privacy and data protection, as well as the rights of women that are protected under the international human rights framework (including CEDAW and the Istanbul Convention).

Safety by design must encompass a human rights-based approach which protects against TFGBV. Platforms and their moderators require specialised training in identifying and understanding DSGBV and to understand the dynamics of consent, control, coercion and harm. Cooperation and collaboration between service providers, law enforcement and DSGBV support agencies must be required and must reflect the reality that TFGBV is very often perpetuated offline and across various online forums and platforms.

* **Recommendation 8**

DRCC urge the Commission to indicate clearly in the supplementary measures for further consideration that it will squarely and comprehensively deal with any aspects of TFGBV and IIA not covered in the finalised Online Safety Code.

The pace at which technology advances often outstrips the capacity of legislation and regulation to adapt accordingly. Consequently, there is a pressing need to anticipate and address emerging issues pre-emptively, rather than reactively. The stratospheric growth of AI means that comprehensive, effective and enforceable laws and controls are needed to keep online users safe, otherwise platforms become potential sites of TFGBV. Recent reports from the UK that a girl’s avatar was raped by a group of adult men[[14]](#footnote-14) illustrates the need for the work of the Commission to lead, rather than follow the pace of change happening online. Notwithstanding that the Code applies to VSPS providers and the metaverse doesn’t come within the scope of this Code, DRCC urges the Commission to use this Code, future iterations and other relevant legislation to challenge these evolving risks.

* **Recommendation 9**

In light of the dynamic nature of the digital landscape and the inherent challenges posed by evolving technological trends, DRCC recommends that harmful online activities not currently within the scope of the Code, warrants thoughtful consideration for future inclusion.

**Annex 1**

**Extract of Broadcasting Act 2009 (as amended)**

*[Harms highlighted in yellow = Illegal content harmful to children, as defined in the draft Code.*

*Harms highlighted in green = illegal content harmful to children where the victim of the offence is a child or the content is viewed or likely to be viewed by a child (i.e. the same crime will not be subject to the draft Code where the victim is over 18), as defined in the draft Code.*

*Harms highlighted in blue = Illegal content harmful to the general public, as defined in the draft Code.]*

**S.139A**

**SCHEDULE 3**

**Harmful Online Content: Offence-Specific Categories**

[**Offences against the State Act 1939**](http://www.irishstatutebook.ie/eli/1939/act/13/enacted/en/html)

1. Online content by which a person publishes or broadcasts information about an application under [**section 30**](http://www.irishstatutebook.ie/eli/1939/act/13/section/30/enacted/en/html)(4) of the [**Offences against the State Act 1939**](http://www.irishstatutebook.ie/eli/1939/act/13/enacted/en/html) contrary to subsection (4BA)(d) of that section (application for further detention of a person arrested for certain offences).

[**Criminal Law (Rape) Act 1981**](http://www.irishstatutebook.ie/eli/1981/act/10/enacted/en/html)

2. Online content by which a person publishes or broadcasts matter likely to lead members of the public to identify a person as the complainant in relation to a charge of a sexual assault offence, contrary to [**section 7**](http://www.irishstatutebook.ie/eli/1981/act/10/section/7/enacted/en/html)(1) of the [**Criminal Law (Rape) Act 1981**](http://www.irishstatutebook.ie/eli/1981/act/10/enacted/en/html).

3. Online content by which a person publishes or broadcasts matter likely to lead members of the public to identify a person as the person charged with a rape offence, contrary to [**section 8**](http://www.irishstatutebook.ie/eli/1981/act/10/section/8/enacted/en/html)(1) of the [**Criminal Law (Rape) Act 1981**](http://www.irishstatutebook.ie/eli/1981/act/10/enacted/en/html).

[**Prohibition of Incitement to Hatred Act 1989**](http://www.irishstatutebook.ie/eli/1989/act/19/enacted/en/html)

4. Online content by which a person publishes or distributes written material, or a recording of visual images or sounds, contrary to [**section 2**](http://www.irishstatutebook.ie/eli/1989/act/19/section/2/enacted/en/html)(1) of the [**Prohibition of Incitement to Hatred Act 1989**](http://www.irishstatutebook.ie/eli/1989/act/19/enacted/en/html) (material, images or sounds which are threatening, abusive or insulting and are intended or, having regard to all the circumstances, are likely to stir up hatred).

5. Online content by which a person broadcasts visual images or sounds, contrary to [**section 3**](http://www.irishstatutebook.ie/eli/1989/act/19/section/3/enacted/en/html) (1) of the [**Prohibition of Incitement to Hatred Act 1989**](http://www.irishstatutebook.ie/eli/1989/act/19/enacted/en/html) (threatening, abusive or insulting images or sounds whose broadcast is intended or, having regard to all the circumstances, is likely to stir up hatred).

[**Criminal Justice Act 1993**](http://www.irishstatutebook.ie/eli/1993/act/6/enacted/en/html)

6. Online content by which a person publishes or broadcasts information relating to, or to part of, evidence given under [**section 5**](http://www.irishstatutebook.ie/eli/1993/act/6/section/5/enacted/en/html) (3) of the [**Criminal Justice Act 1993**](http://www.irishstatutebook.ie/eli/1993/act/6/enacted/en/html), contrary to an order under subsection (5)(a) of that section (sentencing: evidence of a person in respect of whom an offence is committed).

[**Criminal Law (Suicide) Act 1993**](http://www.irishstatutebook.ie/eli/1993/act/11/enacted/en/html)

7. Online content by which a person counsels the suicide of another, contrary to [**section 2**](http://www.irishstatutebook.ie/eli/1993/act/11/section/2/enacted/en/html) (2) of the [**Criminal Law (Suicide) Act 1993**](http://www.irishstatutebook.ie/eli/1993/act/11/enacted/en/html).

[**Criminal Justice (Drug Trafficking) Act 1996**](http://www.irishstatutebook.ie/eli/1996/act/29/enacted/en/html)

8. Online content by which a person publishes or broadcasts information about an application under [**section 2**](http://www.irishstatutebook.ie/eli/1996/act/29/section/2/enacted/en/html) (2) of the [**Criminal Justice (Drug Trafficking) Act 1996**](http://www.irishstatutebook.ie/eli/1996/act/29/enacted/en/html) contrary to subsection (3A)(d) of that section (application for detention of a person arrested for a drug trafficking offence).

[**Bail Act 1997**](http://www.irishstatutebook.ie/eli/1997/act/16/enacted/en/html)

9. Online content by which a person publishes or broadcasts information relating to the criminal record of a person applying for bail, contrary to [**section 4**](http://www.irishstatutebook.ie/eli/1997/act/16/section/4/enacted/en/html) (3) of the [**Bail Act 1997**](http://www.irishstatutebook.ie/eli/1997/act/16/enacted/en/html).

10. Online content by which a person publishes or broadcasts information relating to, or to part of, evidence given under section 9A(1) of the [**Bail Act 1997**](http://www.irishstatutebook.ie/eli/1997/act/16/enacted/en/html) contrary to an order under subsection (3) of that section (evidence, at application for bail, from a person in respect of whom an offence is alleged to have been committed).

[**Non-Fatal Offences against the Person Act 1997**](http://www.irishstatutebook.ie/eli/1997/act/26/enacted/en/html)

11. Online content by which a person applies force to the body of another, or causes another to believe on reasonable grounds that he or she is likely immediately to be subjected to such force, contrary to [**section 2**](http://www.irishstatutebook.ie/eli/1997/act/26/section/2/enacted/en/html) of the [**Non-Fatal Offences against the Person Act 1997**](http://www.irishstatutebook.ie/eli/1997/act/26/enacted/en/html).

F275**[**11A. Online content by which a person without lawful excuse, intentionally or recklessly, causes another to believe on reasonable grounds that he or she is likely immediately to be subjected to suffocation or strangulation, contrary to section 3A(1)(b) of the Non-Fatal Offences against the Person Act 1997.**]**

12. Online content by which a person makes a threat, contrary to [**section 5**](http://www.irishstatutebook.ie/eli/1997/act/26/section/5/enacted/en/html)(1) of the [**Non-Fatal Offences against the Person Act 1997**](http://www.irishstatutebook.ie/eli/1997/act/26/enacted/en/html) (threat to kill or cause serious harm to a person).

F276**[**13. Online content by which a person harasses another contrary to section 10(1), stalks another contrary to section 10(2), or breaches an order made under section 10(4), of the Non-Fatal Offences against the Person Act 1997.**]**

F275**[**13A. Online content by which a person publishes or broadcasts identifying material contrary to section 10A of the Non-Fatal Offences against the Person Act 1997.**]**

[**Child Trafficking and Pornography Act 1998**](http://www.irishstatutebook.ie/eli/1998/act/22/enacted/en/html)

14. Online content by which a person distributes, transmits, disseminates or publishes child pornography, contrary to [**section 5**](http://www.irishstatutebook.ie/eli/1998/act/22/section/5/enacted/en/html) (1)(b) of the [**Child Trafficking and Pornography Act 1998**](http://www.irishstatutebook.ie/eli/1998/act/22/enacted/en/html) .

15. Online content by which a person publishes, distributes, transmits or disseminates an advertisement, contrary to [**section 5**](http://www.irishstatutebook.ie/eli/1998/act/22/section/5/enacted/en/html) (1)(e) of the [**Child Trafficking and Pornography Act 1998**](http://www.irishstatutebook.ie/eli/1998/act/22/enacted/en/html) (advertisement of sale etc. of child pornography).

[**Children Act 2001**](http://www.irishstatutebook.ie/eli/2001/act/24/enacted/en/html)

16. Online content by which a person publishes or includes in a broadcast a report to which [**section 51**](http://www.irishstatutebook.ie/eli/2001/act/24/section/51/enacted/en/html) (1) of the [**Children Act 2001**](http://www.irishstatutebook.ie/eli/2001/act/24/enacted/en/html) applies (report in relation to admission of a child to the Programme etc. or revealing information likely to lead to identification of the child).

17. Online content by which a person publishes or includes in a broadcast any such report or picture as is referred to in [**section 93**](http://www.irishstatutebook.ie/eli/2001/act/24/section/93/enacted/en/html) (1) of the [**Children Act 2001**](http://www.irishstatutebook.ie/eli/2001/act/24/enacted/en/html) , except so far as the requirements of that section have been dispensed with under subsection (2) of that section (proceedings before a court concerning a child: particulars likely to lead to identification etc.).

18. Online content by which a person encourages unlawful activity involving a child, contrary to [**section 249**](http://www.irishstatutebook.ie/eli/2001/act/24/section/249/enacted/en/html) of the [**Children Act 2001**](http://www.irishstatutebook.ie/eli/2001/act/24/enacted/en/html) (person with custody, charge or care of a child encouraging sexual offences on the child etc.).

19. Online content by which a person publishes or includes in a broadcast a report or picture to which [**section 252**](http://www.irishstatutebook.ie/eli/2001/act/24/section/252/enacted/en/html) (1) of the [**Children Act 2001**](http://www.irishstatutebook.ie/eli/2001/act/24/enacted/en/html) applies, except so far as the requirements of subsection (1) of that section have been dispensed with under subsection (2) of that section (proceedings for an offence against a child or where a child is a witness: report or picture likely to lead to identification of the child etc.).

[**Criminal Justice (Terrorist Offences) Act 2005**](http://www.irishstatutebook.ie/eli/2005/act/2/enacted/en/html)

20. Online content by which a person engages in public provocation to commit a terrorist offence, contrary to [**section 6**](http://www.irishstatutebook.ie/eli/2005/act/2/section/6/enacted/en/html)(1)(a)(i) of the [**Criminal Justice (Terrorist Offences) Act 2005**](http://www.irishstatutebook.ie/eli/2005/act/2/enacted/en/html) (where a "terrorist linked activity" includes public provocation to commit a terrorist offence, as defined by section 4A of that Act).

21. Online content by which a person makes a threat to engage in a terrorist activity, contrary to [**section 6**](http://www.irishstatutebook.ie/eli/2005/act/2/section/6/enacted/en/html)(1)(a)(iii) of the [**Criminal Justice (Terrorist Offences) Act 2005**](http://www.irishstatutebook.ie/eli/2005/act/2/enacted/en/html).

[**Criminal Law (Insanity) Act 2006**](http://www.irishstatutebook.ie/eli/2006/act/11/enacted/en/html)

22. Online content by which a person publishes, contrary to [**section 4**](http://www.irishstatutebook.ie/eli/2006/act/11/section/4/enacted/en/html) (9) of the [**Criminal Law (Insanity) Act 2006**](http://www.irishstatutebook.ie/eli/2006/act/11/enacted/en/html), a report of evidence adduced under subsection (8) of that section as to whether an accused person did the act alleged, or of the decision of the court under that subsection not to order the accused to be discharged.

[**Criminal Justice Act 2006**](http://www.irishstatutebook.ie/eli/2006/act/26/enacted/en/html)

23. Online content by which a person publishes any matter relating to criminal proceedings which would identify a person as having a particular medical condition, contrary to an order under [**section 181**](https://revisedacts.lawreform.ie/eli/2009/act/18/schedule/3/revised/en/html) of the [**Criminal Justice Act 2006**](http://www.irishstatutebook.ie/eli/2006/act/26/enacted/en/html).

[**Criminal Justice Act 2007**](http://www.irishstatutebook.ie/eli/2007/act/29/enacted/en/html)

24. Online content by which a person publishes or broadcasts information about an application under [**section 50**](http://www.irishstatutebook.ie/eli/2007/act/29/section/50/enacted/en/html) of the [**Criminal Justice Act 2007**](http://www.irishstatutebook.ie/eli/2007/act/29/enacted/en/html) contrary to subsection (4A)(d) of that section (application for further detention for investigation of certain serious offences).

[**Criminal Law (Human Trafficking) Act 2008**](http://www.irishstatutebook.ie/eli/2008/act/8/enacted/en/html)

25. Online content by which a person publishes or broadcasts, contrary to [**section 11**](http://www.irishstatutebook.ie/eli/2008/act/8/section/11/enacted/en/html) (1) of the [**Criminal Law (Human Trafficking) Act 2008**](http://www.irishstatutebook.ie/eli/2008/act/8/enacted/en/html) —

(*a*) a photograph of, or that includes a depiction of, the alleged victim of an offence with which a person is charged under section 2 or 4, or section 3 (other than subsections (2A) and (2B)) of the [**Child Trafficking and Pornography Act 1998**](http://www.irishstatutebook.ie/eli/1998/act/22/enacted/en/html),

(*b*) any other representation of the physical likeness, or any representation that includes a depiction of the physical likeness, of the alleged victim of such an offence, or

(*c*) any other information in relation to such an offence,

that is likely to enable the identification of the alleged victim of the offence.

[**Criminal Procedure Act 2010**](http://www.irishstatutebook.ie/eli/2010/act/27/enacted/en/html)

26. Online content by which a person publishes or broadcasts, contrary to an order under [**section 12**](http://www.irishstatutebook.ie/eli/2010/act/27/section/12/enacted/en/html) (3) of the [**Criminal Procedure Act 2010**](http://www.irishstatutebook.ie/eli/2010/act/27/enacted/en/html) —

(*a*) evidence given or referred to at a hearing of an application for a re-trial order, or

(*b*) matter identifying or having the effect of identifying a person who is the subject of an application for a re-trial order, or any other person connected with the re-trial for which an order is sought under section 8 or 9 of that Act.

27. Online content by which a person publishes or broadcasts, contrary to an order under [**section 25**](http://www.irishstatutebook.ie/eli/2010/act/27/section/25/enacted/en/html) (3) of the [**Criminal Procedure Act 2010**](http://www.irishstatutebook.ie/eli/2010/act/27/enacted/en/html) —

(*a*) evidence given or referred to during a proceeding under section 23 of that Act, or

(*b*) matter identifying or having the effect of identifying a person who is the subject of an appeal under section 23 of that Act, or any other person connected with a re-trial for which an order is sought under that section.

[**Criminal Justice (Female Genital Mutilation) Act 2012**](http://www.irishstatutebook.ie/eli/2012/act/11/enacted/en/html)

28. Online content by which a person publishes matter contrary to [**section 9**](http://www.irishstatutebook.ie/eli/2012/act/11/section/9/enacted/en/html) (1) of the [**Criminal Justice (Female Genital Mutilation) Act 2012**](http://www.irishstatutebook.ie/eli/2012/act/11/enacted/en/html) (matter likely to lead to identification of a woman or girl as a person in relation to whom an offence is alleged to have been committed).

29. Online content by which a person publishes matter contrary to[**section 10**](http://www.irishstatutebook.ie/eli/2012/act/11/section/10/enacted/en/html) (1) of the [**Criminal Justice (Female Genital Mutilation) Act 2012**](http://www.irishstatutebook.ie/eli/2012/act/11/enacted/en/html) (matter likely to lead to identification of a person charged with an offence).

[**Animal Health and Welfare Act 2013**](http://www.irishstatutebook.ie/eli/2013/act/15/enacted/en/html)

30. Online content by which a person—

(*a*) publicises or promotes a proposed animal fight or performance,

(*b*) provides information about an animal fight or performance, or

(*c*) supplies, displays, shows or publishes anything by which an animal fight or performance is recorded,

contrary to [**section 15**](http://www.irishstatutebook.ie/eli/2013/act/15/section/15/enacted/en/html)of the [**Animal Health and Welfare Act 2013**](http://www.irishstatutebook.ie/eli/2013/act/15/enacted/en/html).

[**International Protection Act 2015**](http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/html)

31. Online content by which a person publishes or broadcasts information, contrary to [**section 26**](http://www.irishstatutebook.ie/eli/2015/act/66/section/26/enacted/en/html) (2) of the [**International Protection Act 2015**](http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/html) (publication or broadcast of information likely to lead to identification of an applicant for protection).

[**Criminal Law (Sexual Offences) Act 2017**](http://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/html)

32. Online content by which a person communicates with another person for the purpose of facilitating the sexual exploitation of a child, contrary to [**section 8**](http://www.irishstatutebook.ie/eli/2017/act/2/section/8/enacted/en/html) (1) of the [**Criminal Law (Sexual Offences) Act 2017**](http://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/html).

33. Online content by which a person sends sexually explicit material to a child, contrary to [**section 8**](http://www.irishstatutebook.ie/eli/2017/act/2/section/8/enacted/en/html)(2) of the [**Criminal Law (Sexual Offences) Act 2017**](http://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/html).

34. Online content by which a person publishes matter contrary to [**section 30**](http://www.irishstatutebook.ie/eli/2017/act/2/section/30/enacted/en/html) (1) of the [**Criminal Law (Sexual Offences) Act 2017**](http://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/html) (matter likely to lead to identification of a person as a person charged with an offence under the [**Punishment of Incest Act 1908**](http://www.irishstatutebook.ie/eli/1908/act/45/enacted/en/html) or as a person in relation to whom an offence is alleged to have been committed).

35. Online content by which a person exposes his or her genitals intending to cause fear, distress or alarm to another person contrary to [**section 45**](http://www.irishstatutebook.ie/eli/2017/act/2/section/45/enacted/en/html) (1) of the [**Criminal Law (Sexual Offences) Act 2017**](http://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/html).

36. Online content by which a person intentionally engages in offensive conduct of a sexual nature contrary to [**section 45**](http://www.irishstatutebook.ie/eli/2017/act/2/section/45/enacted/en/html)(3) of the [**Criminal Law (Sexual Offences) Act 2017**](http://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/html).

[**Domestic Violence Act 2018**](http://www.irishstatutebook.ie/eli/2018/act/6/enacted/en/html)

37. Online content by which a person publishes or broadcasts information, or a photograph, depiction, or other representation, contrary to [**section 36**](http://www.irishstatutebook.ie/eli/2018/act/6/section/36/enacted/en/html) (1) of the [**Domestic Violence Act 2018**](http://www.irishstatutebook.ie/eli/2018/act/6/enacted/en/html) (publication or broadcast of material likely to lead to the identification of persons concerned in proceedings).

[**Harassment, Harmful Communications and Related Offences Act 2020**](http://www.irishstatutebook.ie/eli/2020/act/32/enacted/en/html)

38. Online content by which a person distributes or publishes or threatens to distribute or publish an intimate image, contrary to [**section 2**](http://www.irishstatutebook.ie/eli/2020/act/32/section/2/enacted/en/html) (1) of the [**Harassment, Harmful Communications and Related Offences Act 2020**](http://www.irishstatutebook.ie/eli/2020/act/32/enacted/en/html) (distribution etc. of image without consent and with intent to cause harm etc.).

39. Online content by which a person distributes or publishes an intimate image, contrary to [**section 3**](http://www.irishstatutebook.ie/eli/2020/act/32/section/3/enacted/en/html) (1) of the [**Harassment, Harmful Communications and Related Offences Act 2020**](http://www.irishstatutebook.ie/eli/2020/act/32/enacted/en/html)(distribution etc. of image without consent and so as seriously to interfere with peace and privacy or to cause alarm, distress or harm).

40. Online content by which a person—

(*a*) distributes or publishes a threatening or grossly offensive communication about another person, or

(*b*) sends a threatening or grossly offensive communication to another person,

contrary to [**section 4**](http://www.irishstatutebook.ie/eli/2020/act/32/section/4/enacted/en/html) (1) of the [**Harassment, Harmful Communications and Related Offences Act 2020**](http://www.irishstatutebook.ie/eli/2020/act/32/enacted/en/html) (distribution etc. of communication with intent to cause harm).

41. Online content by which a person publishes or broadcasts information, or a photograph or other representation, likely to enable the identification of the alleged victim of an offence under [**section 2**](http://www.irishstatutebook.ie/eli/2020/act/32/section/2/enacted/en/html) or [**3**](http://www.irishstatutebook.ie/eli/2020/act/32/section/3/enacted/en/html) of the [**Harassment, Harmful Communications and Related Offences Act 2020**](http://www.irishstatutebook.ie/eli/2020/act/32/enacted/en/html), contrary to section 5(1) of that Act.

[**Criminal Procedure Act 2021**](http://www.irishstatutebook.ie/eli/2021/act/7/enacted/en/html)

42. Online content by which a person publishes or broadcasts information about a preliminary trial hearing, or an appeal under [**section 7**](http://www.irishstatutebook.ie/eli/2021/act/7/section/7/enacted/en/html)of the [**Criminal Procedure Act 2021**](http://www.irishstatutebook.ie/eli/2021/act/7/enacted/en/html), contrary to section 10(1) of that Act.**]**

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| **For further information please contact:**  [**rachel.morrogh@rcc.ie**](mailto:rachel.morrogh@rcc.ie) **| 01-6614911 ext. 134**  [**shirley.scott@rcc.ie**](mailto:shirley.scott@rcc.ie) **| 01-6614911 ext. 124**  **National 24-Hour Helpline: 1800 77 88 88** |

1. For more information see Dublin Rape Crisis Centre website at: <https://www.drcc.ie/about/> [↑](#footnote-ref-1)
2. Submission to the Commission from 8 Rape Crisis Centres on Developing Irelands First Binding Online Safety Code for Video-sharing Platform Services – <https://www.drcc.ie/news-resources/resources/joint-rape-crisis-centres-submission-on-online-safety-code/> Question 2 pages 5-7 [↑](#footnote-ref-2)
3. PA Consulting: Online Harms Evidence Review. (September 2023): Available at: <https://www.cnam.ie/wp-content/uploads/2023/12/PAConsulting_Online-Harms-Evidence-Review_vFinal.pdf> [↑](#footnote-ref-3)
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5. Hinson L, Mueller J, O’Brien-Milne L, Wandera N. (2018). Technology-facilitated gender-based violence: What is it, and how do we measure it? Washington D.C., International Center for Research on Women available at <https://www.icrw.org/wp-content/uploads/2018/07/ICRW_TFGBVMarketing_Brief_v8-Web.pdf> [↑](#footnote-ref-5)
6. Ipsos B&A Online Safety Research Part II (November 2023) Available at: [https://www.cnam.ie/wp-content/uploads/2023/12/2023\_IPSOSBA\_SurveyPt2\_Harms\_vFinal.pdf Question 5](https://www.cnam.ie/wp-content/uploads/2023/12/2023_IPSOSBA_SurveyPt2_Harms_vFinal.pdf%20Question%205), Page 10. [↑](#footnote-ref-6)
7. Harassment, Harmful Communications and Related Offences Act 2020 [↑](#footnote-ref-7)
8. PA Consulting Online Evidence Harms Review (September 2023) Available at: <https://www.cnam.ie/wp-content/uploads/2023/12/PAConsulting_Online-Harms-Evidence-Review_vFinal.pdf> Section5.11.3

   [↑](#footnote-ref-8)
9. Supporting a Victim’s Journey Available at: <http://www.justice.ie/en/JELR/Supporting_a_Victims_Journey.pdf/Files/Supporting_a_Victims_Journey.pdf> [↑](#footnote-ref-9)
10. <https://www.irishtimes.com/news/crime-and-law/man-accused-of-publicly-identifying-belfast-rape-trial-complainant-1.3583030> [↑](#footnote-ref-10)
11. PA Consulting Online Evidence Harms Review (September 2023) Available at: <https://www.cnam.ie/wp-content/uploads/2023/12/PAConsulting_Online-Harms-Evidence-Review_vFinal.pdf> Section5.8.2 [↑](#footnote-ref-11)
12. <https://www.theguardian.com/technology/2024/jan/30/taylor-swift-ai-deepfake-nonconsensual-sexual-images-bill> [↑](#footnote-ref-12)
13. <https://www.independent.ie/style/celebrity/x-blocks-searches-for-taylor-swift-after-ai-generated-explicit-image-spread/a587793206.html> [↑](#footnote-ref-13)
14. https://www.theguardian.com/commentisfree/2024/jan/05/metaverse-sexual-assault-vr-game-online-safety-meta [↑](#footnote-ref-14)