

Youth Advisory Committee

Report on Consultation on Broadcast Moratorium and the application of the Online Safety Code to Video-Sharing Platform Services.

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1. Introduction

The Youth Advisory Committee (hereafter ‘Committee’) met on May 28, 2024. The meeting consisted of two consultations and two presentations. The consultations were on the application of the Online Safety Code to video-sharing platform services (VSPS) and the review of the broadcast moratorium. The presentations covered an update on the revised draft Online Safety Code and an overview of the Digital Services Act. The meeting was facilitated to enable comprehensive feedback on the consultation topics and a more detailed discussion of areas of particular interest to the members of the Committee.

Committee members had been provided with draft materials in advance, providing an opportunity to review these materials and develop comments and feedback in advance of the May 28 meeting. The objective was to assist in eliciting responses on all points of interest to the Committee members. Following Committee members’ comments, Coimisiún na Meán officials were invited to provide responses or clarification on requested points with further Committee feedback arising from this in some instances.

This report is a summary of these comments and feedback.

Opening Remarks, Online Safety Commissioner, Niamh Hodnett

- Niamh acknowledged the role of the Youth Advisory Committee in informing the development of the Online Safety Code and noted that Coimisiún na Meán (An Coimisiún) had acted on several of the recommendations provided. She also stressed the importance of two-way dialogue and thanked Committee members for their contributions to date.
- Niamh provided a summary of recent An Coimisiún activity, noting that in relation to recommender systems, An Coimisiún is supporting EU investigations in this area under the Digital Services Act (DSA).
- In relation to age assurance, Niamh clarified that, under the revised Draft Online Safety Code, VSPS will have a general obligation to have age assurance in place under Part A of the Code but no mandate on the technology to be used.
- The guidance to accompany the Online Safety Code is in the process of being finalised.

1. Briefing on revised draft Online Safety Code

An update on the publication of the revised draft Online Safety Code covering:

- The interrelationship of various laws and noting that there are 3 parts to the Online Safety Framework: the Digital Services Act, the Online Safety Code, and Terrorist Content Online Regulation.
- An Coimisiún has notified the revised Draft Online Safety Code to the European Commission under the Technical Regulations Information System Directive (TRIS).
- A summary of what has changed in the draft Code issued for consultation in December 2023 - restructured into Parts A & B; In relation to Part B of the Code there are changes to definitions, the introduction of new definitions, and the inclusion of new or revised rules. This relates to restricted video content; effective age assurance for adult-only content; parental controls; complaints handling; and transparency of audiovisual commercial communications, amongst others.

Clarifications provided in response to Committee members' observations and queries, included:

- Recommender systems: the DSA is considered the most appropriate mechanism for addressing recommender systems at this time, and it was noted that the DSA can also deal with harmful content, e.g. Article 28. It may be considered as a future supplemental measure under future Online Safety Codes.
- Age Assurance: there is a general age assurance obligation under Part A of the Code in relation to content that may impair the physical mental or moral welfare of children, where appropriate depending on the size and nature of the service. Under Part B there is an express obligation to have age assurance in place for adult only content. The aim is to seek balance and age-appropriate experiences for everyone.
- Indissociable content: Any image, text or symbol on a profile is within scope, but it will depend on case-by-case assessment.

Committee members acknowledged that the Online Safety Code will continue to evolve, but that it is a landmark step to greater safety online.

2. Consultation on application of Online Safety Code to VSPS

A short introduction was followed by discussion of two questions:

1. The Code does not require all VSPS to implement measures set out in the Online Safety Code in the same way. What are some of the different ways you think VSPS will comply with the Code?
2. Should An Coimisiún ask VSPS to comply with the Code straight away or should we give them more time to prepare for it? What are the main reasons for your views?

Committee members' requests for clarifications, discussion and questions centred on scope, the development of best practice, timelines, age assurance and proportionality.

Scope

There was discussion and clarification that the 10 VSPS are the list of services An Coimisiún has designated, but if there are other VSPS within the jurisdiction of the State that have not been designated as named services they would be captured by the category application.

Committee Members also raised questions about monitoring companies that launch new products and features which, as a result, could bring them within the definition of a VSPS.

Best practice

Members suggested in response to the first question that it should be for the VSPS to state the measures they will take to comply with the Code. They questioned whether the Code requires services to establish ideal system(s) or is the threshold basic compliance and what measures are proportionate for services to take. To establish best practice, there was discussion of the merits of Technology Ireland as a representative body (as had occurred with GDPR) and the potential to pursue a pilot.

Timelines

There was universal agreement that the Code should be implemented immediately. Taking into account a long process up to this point, members asserted that VSPS have had sufficient time to prepare and have demonstrated capability to move quickly where it is in their commercial interest. It was also asserted that it is essential the Code is applied and that VSPS do not determine timelines for compliance with it.

Minor Protection Measures

Observations were made that the user experience of age assurance will vary by platform and that, while any change will be met with some frustration from users, the measures were justified. Issues were noted with cross-platform sharing and screen recording as responses to be anticipated when VSPS put minor protection measures in place, along with the potential that measures may drive users to competitors with similar service offerings who are not similarly regulated. Committee Members felt overall that the positives for age assurance outweighed these issues.

There was broad agreement from members that the fact that VSPS implementing some of the minor protection measures could potentially drive users to other services should not stop the Commission from applying the Code.

3. Review of the Broadcast Moratorium

A short introduction was followed by discussion on three questions:

1. What do you think of the broadcast moratorium? Should it be kept, removed altogether or changed (for example, should it apply from midnight on the day of an election or operate only when polling stations are open)?
2. Even in an age where social media and internet news are becoming more prevalent, is there a significant role for traditional radio and television broadcast media from a public interest perspective?
3. How important is news, no matter where you get it, in your process of deciding how you will vote on an issue? Are there other factors that are a significant influence?

Committee members' requests for clarifications, discussion and questions centred on the present-day value of the moratorium, the media habits of young people and potential evolution of the moratorium in response to the changed media landscape.

Value of the moratorium

Committee members broadly endorsed the moratorium as useful to prevent “snap” influences on opinions, but many members suggested that it is not very effective in practice as young people do not obtain most information from broadcast media. Members noted that a strong or well-resourced partisan actor could sway opinion in the final hours of an election using non-regulated media and that the opportunity to fact check material can be limited in these final hours.

Media habits

A range of views were expressed on the relevance of media falling under the moratorium for young people, with some members noting that many young people hear radio at home and in the car, and broadcast music channels with news are still listened to. It was also noted that, as a general trend, younger people tend to engage to a greater degree with online news media rather than broadcast media.

Evolution in response to changed media landscape

Members suggested that an ‘all or nothing’ approach ought to apply i.e. that all media actors, rather than just broadcasters, should be required to comply with a moratorium. Pure “online news” outlets should fall within scope, and it may be relevant to engage with the Press Council on this subject if the moratorium were to be extended in this way.

4. Presentation on Digital Services Act (DSA) and protection of minors

This presentation covered:

- The supervision role of An Coimisiún in relation to the DSA and a reminder to consider the three interrelated elements of the Online Safety Framework (the DSA, the Online Safety Code, and the Terrorist Content Online Regulation)
- 3 particular articles of relevance in the DSA and two current investigations under the DSA.

Clarifications provided in response to Committee members' observations and queries included:

- An Coimisiún's Contact Centre: if young people are concerned about anything, they should contact An Coimisiún. However, the role of the Contact Centre is not to adjudicate on individual pieces of content, but rather to review if platforms are adequately meeting their obligations under the DSA and mitigating risks. The Contact Centre is equipped to take calls

from children and young people. Members raised cultural competency training across An Coimisiún in particular in the Contact Centre.

- **Trusted Flaggers:** An Coimisiún staff noted the issue of resourcing, confirmed An Coimisiún's openness to consultation with Youth Advisory Committee members on the low numbers of Trusted Flaggers to date, and responded to questions regarding an alternative plan if no sectoral bodies come forward.

5. Additional items referenced

- An Coimisiún is in the process of developing an initial set of educational materials and would like to consult with the Youth Advisory Committee on these materials in June/July 2024.
- An Coimisiún is aiming to host a third in person meeting towards the end of 2024. A range of potential consultation topic items to include on the agenda is under consideration.
- Committee members were reminded to return signed consent forms for photos and to review the previously circulated privacy notice for information.

Thank were expressed to all meeting participants and the meeting concluded.

Appendix 1: Youth Advisory Committee members

The Youth Advisory Committee includes nominees from the following organisations:

- BeLonG To
- Children's Rights Alliance
- CyberSafeKids
- Irish Heart Foundation
- Irish Second-Level Students' Union
- ISPC
- Irish Traveller Movement
- National Parents Council
- National Youth Council of Ireland
- SpunOut
- Webwise

Appendix 2: Meeting Agenda

Item
1. Welcome & opening remarks
2. Briefing: Revised Online Safety Code
3. Consultation: Application of the Online Safety Code to VSPS
4. Consultation: Review of the Broadcast Moratorium
5. Presentation: DSA and protection of minors
6. Administrative Matters & Wrap Up