

European Commission consultation feedback: Fighting child sexual abuse: detection, removal and reporting of illegal content online

WeProtect Global Alliance ('the Alliance') is a non-profit that brings together people and organisations with the knowledge, experience and influence to transform the global response to child sexual exploitation and abuse online. As of 12 September 2022, its membership is comprised of 99 government [members](#), including all the Member States of the European Union, 60 companies, 78 civil society groups and nine international organisations.

The Alliance strongly welcomes the European Commission's ('the Commission') proposal to provide a uniform approach to detecting and reporting child sexual abuse, support the work of public authorities and boost EU efforts on prevention and assistance to victims. This proposal will help the Commission to deliver on commitments made in the EU Strategy for a More Effective Fight Against Child Sexual Abuse.

As a multi-sector membership organisation spanning governments, civil society, the private sector and international non-governmental organisations, WeProtect Global Alliance occupies a unique position in the child protection sector and thus has a broad viewpoint of both the threat landscape for children in a digital environment and the current response to child sexual abuse online.

As a consequence, the Alliance understands the necessity for a societal response to tackling child sexual abuse online; one which involves coordinated, consistent and strategic action by a range of stakeholders – as set out in our well-established [Model National Response](#) (MNR) framework.

A recent [review](#) with UNICEF of the use of the MNR in 42 countries (of which eight, Belgium, Bulgaria, Finland, Greece, Italy, Malta, the Netherlands and Sweden, were EU Member States) documented the diversity of national responses, as well as a range of good practice, challenges and practical solutions. Importantly, it included a call to action for governments and partners, which focused on investing in national responses, accelerating global cooperation between companies and countries, strengthening data and evidence, sharing best practice and promoting the implementation of the MNR.

The Alliance recognises the differences across countries and regions. However, it is necessary to acknowledge the universality and cross-border nature of child sexual abuse online. The [Global Strategic Response](#) framework responds to this international dynamic and provides objectives and a comprehensive strategy for collaboration, coordination and shared learning to eliminate child sexual abuse online at global and regional levels. It reflects the need for a coordinated multi-sector, multi-agency and multi-layered response to safeguard children both online and offline from child sexual exploitation and abuse.

With this in mind, the Alliance strongly supports the Commission's proposed regulations, which responds across several of these recommendations and would help respond to existing child sexual abuse and take down child sexual abuse material but also act to prevent abuse from happening in the first place.

The Alliance's [research](#) has shown that children face a 'sustained threat' from child sexual abuse online and that a 'step change' is required to turn the tide on the growing threat that young people face in digital environments.

The nature of online harm has continued to grow and diversify at an unprecedented rate. In the past two years, the reporting of child sexual exploitation and abuse online has reached its highest levels. [Evidence](#) indicates an increase in:

- The incidence of online grooming.
- The volume of child sexual abuse material available online.
- The sharing and distribution of child sexual abuse material.
- Livestreaming for payment.

Our 2021 [survey](#) of young adults about their childhood experiences of online sexual harms highlighted the widespread risk to children across Europe and the rest of the world. In Western Europe, 65% of 18-20 year olds had experience one of four online sexual harms (44% in Eastern Europe and the Commonwealth of Independent States).

The [Global Threat Assessment 2021](#) states that “the best opportunity for change is to improve online safety for children and reduce opportunities for offenders”.

This comprehensive report identifies four key areas of our [Global Strategic Response Framework](#) for urgent priority:

1. Internet Regulation;
2. Voluntary co-operation, transparency and online safety technologies;
3. Law enforcement capacity-building;
4. Societal initiatives.

It is our view that the proposed regulations by the Commission would allow the European Union to address these priority focus areas and help to create the ‘step change’ needed to tackle child sexual abuse online in line with our Model National Response and Global Strategic Response frameworks. The obligation to detect, report and remove online child sexual abuse content would lead to more proactive detection and removal of child sexual abuse material (as opposed to reactive activity, triggered by user reports or police investigations), allowing a more preventative approach to tackling illegal content.

It is the Alliance’s view that this draft legislation would enable a major step forward in implementing existing technological solutions, such as the detection and removal of child sexual abuse material, whilst fostering innovation to protect children online in the future.

Below, the Alliance will respond to individually to the key elements of the Commission’s proposal.

Obligations on service providers to prevent child sexual abuse online by assessing and mitigating risks and, where needed, adopt targeted orders to detect, report and remove online child sexual abuse.

The Alliance strongly welcomes the proposal for risk assessments of service providers and preventive measures that would make internet services [safer by design](#). In particular, the mandatory use of safe technologies would improve the detection, reporting and removal of illegal abuse content, helping to protect the privacy of victims and survivors of abuse and to reduce a culture of ‘normalisation’ of abuse content on the open web.

The Alliance has consistently championed the need for a [preventative](#) approach to child sexual abuse. Up to this point, detection has relied mainly on the voluntary efforts of service providers, which is the basis for the majority of reports of potential abuse globally. The Alliance welcomes the voluntary efforts of companies in developing and applying detection technologies that help to identify suspected abuse and remove illegal content. However, we recognise that voluntary efforts alone do not go far enough in terms of protecting children from sexual abuse online and a more consistently applied approach, defined clearly in law, is necessary to ‘turn the tide’ on abuse.

Child sexual abuse online – whether it takes the form of production of / sharing / storage of abuse material, grooming or livestreaming of abuse – is a serious crime in progress against a child. The Alliance believes there should be an obligation to detect, report and remove this illegal content as soon as possible to prevent further re-traumatisation to the child and to allow for best efforts to identify victims and apprehend offenders. Legislation must be able to help victims after a crime occurs but also help to prevent the harm before it happens.

A current lack of legal clarity has already proven a [challenge](#) in terms of existing voluntary detection efforts. There was a sharp drop (58%) in reports of suspected abuse to the National Center for Missing and Exploited Children (NCMEC) in the 18-week period from December 2020 when there was disagreement over the Temporary Derogation from the e-Privacy Directive and some service providers stopped utilising detection tools.

This situation showed the importance of creating a robust legal framework that gives companies clarity on what is required of them and what is permitted, taking into balance the relevant data protection, privacy and freedom of expression laws. The proposed regulations would seek to achieve this and, in doing so, enable more widespread and consistent application of a range of abuse detection tools – and, overall, better protection of children online.

By adopting a risk-based approach, the Commission can work closely with individual companies to develop bespoke strategies for each platform or provider that can improve child protection whilst maintaining innovation to ensure the response keeps pace with changing trends in offender / general user behaviour and evolving technologies and services. However, the Alliance believes that voluntary efforts will remain necessary alongside regulation to the overall effort to protect children, particularly with regards to developing / testing new tools and techniques as knowledge and capabilities grow.

Additionally, it will be important that there is a clear transition period when the Interim Regulation of the Temporary Derogation of the e-Privacy Directive ends and the coming into force of the proposed regulations to avoid the risk of creating a gap of several months of legal uncertainty for detection. As stated above, this has previously led to a significant drop in the number of reports of suspected abuse and would leave children at risk. Therefore, the transition from a voluntary to a mandatory regime will need to be carefully planned (and communicated to relevant service providers) to avoid any such risk.

Introduce strong safeguards on detection.

It is important that any required use of detection tools is defined clearly in legislation in order to balance and protect the fundamental rights of all internet users and ensure compliance with international human rights standards. Having European legislation will mean that technologies can be assessed by the European Data Protection Board and make sure that detection tools do not extract any other information than what is strictly necessary to detect child sexual exploitation and abuse.

As reported in an [Alliance roundtable](#) on privacy and safety, ensuring proportionality requires: 1) safeguards such as strict licensing to counter circumvention and re-engineering; and 2) transparent oversight mechanisms to ensure accountability.

The proposed regulations would help to increase transparency to help better understand industry efforts and, importantly, what works. Additional visibility and analysis of abuse detection can help to build trust in tools and techniques that detect illegal content, ensure scrutiny and avoid potential misuse.

Creating a trustworthy environment is crucial for deploying effective artificial intelligence (AI) tools to support human moderation and review and can help to alleviate fears about ‘mission creep’ or other misuses.

This additional data could be used to inform research and the development of new approaches to tackle child abuse. The learning from increased transparency reporting will also ensure that policymakers have access to the necessary information to develop effective and fair policies to protect children online. With a fast-moving threat and sophisticated offenders, it is essential for any legislation to be ‘future-proofed’ to allow existing technologies to be refined and new technologies to be developed to protect children and identify perpetrators of abuse.

Create a new EU Agency to prevent and combat child sexual abuse.

The Alliance believes that a new EU Agency or Centre could serve as an important regional centre for receiving reports of potential abuse from across the EU from relevant technology providers and for liaising closely with Europol and national law enforcement actors. Our work as a cross-sector global membership underlines that coordinated and cross-border action is crucial to victim identification, effective criminal justice and the sharing of learning that can improve the overall response.

Such a centre should help to ensure a consistent response across Member States to tackling child sexual abuse online, building on the learning from existing similar centres, such as the National Center for Missing and Exploited Children (NCMEC) in the United States. Learning should be actively sought from NCMEC and other relevant networks / organisations, such as hotlines, in order to avoid duplication of effort and to ensure effective data sharing agreements and partnerships. This coordination and integration should also extend to other relevant thematic work, such as child safety and violence against children more broadly, child trafficking, slavery and exploitation, missing children and the exploitation of children in travel and tourism.

A key and welcome benefit of the creation of an EU Centre would be to standardise and maintain indicators of child sexual abuse online and also of image and video hashes that help to identify known child sexual abuse material (underpinned by strong privacy and security arrangements). This would help to avoid silos of information and intelligence that may hamper efforts to identify and support victims, and to apprehend perpetrators.

To ensure trust and the robustness of the data, it would be helpful if the regulations stated minimum standards and processes by which material submitted to the EU Centre is categorised and confirmed as constituting abuse material in the EU.

The draft regulations set out that the EU Centre should “work closely” with Europol to ensure effective cooperation and coordination. The Alliance recognises the importance of this relationship, especially in relation to highly sensitive datasets and intelligence. A strong and clearly defined relationship between the two entities would be critical to delivering the necessary law enforcement response and support to victims. The Alliance would recommend that the EU Centre works with existing national ecosystems and retains independence in order to build public trust and engagement. It can also protect against the risk of false positives before sending requests and material to national law enforcement.

The Alliance welcomes the planned research function of the proposed centre that should raise the profile of the issue of child sexual abuse and help promote evidence-based strategies to prevent it. The Alliance would be keen to work closely with the centre to share the experience and expertise from across our alliance of more than 250 cross-sector members for this purpose, particularly from a global perspective given the cross-border nature of the associated crimes. We would encourage any EU Agency or Centre to work closely with other bodies outside of the EU in order to achieve a more consistent and aligned global response.

A particularly important role of the centre, as set out in the regulation, would be to provide formal support and redress mechanisms for victims of child sexual abuse. As such, victims residing in the EU would have the right to know when, where and how their images/videos had been shared and what follow-up action had been taken. Crucially, the regulation should also recognise its global role for victims by making reference to victims who are not residing in the EU but who have suffered crimes committed in the EU (such as their content being shared by online service providers operating in the EU).

This submission is reflective of the views of the Secretariat of the WeProtect Global Alliance and does not necessarily represent the opinions and positions of any of its members.

For further information, please contact Chloe Setter, Head of Advocacy, Policy & Research, at WeProtect Global Alliance: chloe@weprotectga.org.