

**PLEASE CHECK AGAINST DELIVERY**

**Opening statement by Sinéad Gibney, Chief Commissioner of the Irish Human Rights and Equality Commission.**

**Pre-Legislative Scrutiny of the General Scheme of the Online Safety and Media Regulation Bill**

**To be delivered to the Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht**

**Wednesday, 26 May 2021**

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My thanks to the Chair and the members on behalf of the Irish Human Rights and Equality Commission, and I am joined by Commission Member Dr. Lucy Michael.

The Irish Human Rights and Equality Commission is Ireland's independent National Human Rights Institution and National Equality Body.

In this role the Commission holds a specific mandate to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights and equality, and to examine any legislative proposal and report our views on any implications for human rights or equality.

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Our written contribution, already provided to Members, focused on a number of specific issues, primarily the role and functions of the Media Commission, the definition of harmful online content and age appropriate content, and the accessibility of services for people with disabilities. We hope to be able to expand where necessary on our recommendations.

Most fundamentally the Commission is clear that any proposed legislation must satisfy the requirements of legality, necessity and proportionality.

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There can be no doubt this is very significant legislation from a human rights and equality perspective. The Commission is clear that this Bill can be strengthened through stronger and more consistent reference to human rights and equality standards.

Protecting people from online harmful content and conduct is a requirement under international human rights law, however it is necessary that such measures should be balanced against competing fundamental rights including the rights to freedom of expression, privacy and freedom of assembly.

We will speak to the issues of disability access informed by the work of our own Disability Advisory Committee and the Commission's role as the independent monitor of Ireland's compliance with the UN Convention on the Rights of Persons with Disabilities. However we would strongly recommend, in line with the CRPD principles that on issues of disability access, that this Committee would invite disabled people's organisations to speak to their direct experience and understanding.

In relation to the establishment of a Media Commission, it is important that this legislation includes a specific statutory requirement for this Commission, in the performance of its functions, to have due

regard to the need to eliminate discrimination, promote equality of opportunity and protect human rights.

This requirement is one incumbent upon all public bodies as part of the Public Sector Equality and Human Rights Duty, but given the breadth of responsibility of this new Commission, an explicit statement of this obligation is an important addition.

Legal definitions of concepts which are central to the effectiveness of this law in practice need to be more explicitly articulated. For example the definition of harmful online content needs to be clear and sufficiently precise. Terms relating to hate speech, such as for example racism, sexism, and ableism should also be clearly defined under this proposed legislation.

We would further question why the definition of online harm does not include material which violates other legal regimes, such as defamation law, data protection, privacy law, consumer protection law or copyright law. The fact that a statement is defamatory, in breach of data protection or copyright law or so on does not necessarily mean that it may not also be a form of harmful online content.

This clarity is in the interest of clearly delineating freedom of speech as well as providing adequate protection for affected groups.

For these and other reasons the Commission is clear that this Bill is sorely needed, but it must be designed and defined in ways that make it truly effective, and it cannot be a stand-alone measure.

Legislatively it must fit hand in glove with the draft Hate Crime legislation also being prepared by these houses, and combine effectively with the eventual publication of a National Action Plan Against Racism, the last iteration of which expired in 2008.

And beyond legislation, to ensure an overarching, effective and human rights compliant framework for online safety, media regulation and tackling hate speech and hate crime, there must be a broader societal conversation beyond criminalisation and prohibition – including education, counter-speech, and the promotion of pluralism.

Thank you again

**ENDS**