

Ms Laura Pathe  
Clerk  
Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht  
Leinster House  
Dublin 2  
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14 April 2021

### **Online Safety and Media Regulation Bill General Scheme**

Dear Ms Pathe,

Ibec's Telecommunications Industry Ireland whose members account for the vast majority of industry investment and employment, thanks the Joint Committee on Media, Tourism, Arts, Culture, Sports and the Gaeltacht for the opportunity to comment on the General Scheme of the Online Safety and Media Regulation Bill (the Bill).

As Internet Service Providers (ISPs), mere conduits regulated by ComReg, we believe that ISPs should be explicitly excluded from the Bill for the following reasons:

**(i) ISPs are already working collaboratively within the legal framework with the relevant authorities regarding illegal content:** ISPs already play an active role in restricting access to illegal websites and will continue to work with law enforcement<sup>1</sup> authorities, notably with An Garda Síochána and Hotline.ie:

- Hotline.ie provides a secure, confidential service for the public to report suspected illegal content on the internet.
- The aim of the Garda Blocking Initiative is to block access to child sexual abuse material (CSAM) on the internet in Ireland.

It is prudent to outline that ISPs act responsibly and provide useful information regarding online safety and the tools that are available in order to ensure safer use.

**(ii) ISPs are regulated by ComReg:** we note from the Annex to the Regulatory Impact Analysis (RIA)<sup>2</sup> that *'it's recommended that services that are to be subject to other regulatory regimes under the Bill be excluded from the possibility of being designated, these being: Audiovisual media services, and Sound media service'* – ISPs are regulated by ComReg and therefore should be added to the list of exceptions.

**(iii) ISPs are a mere conduit:** as per the definition within the draft Bill of *'electronic communications network'*<sup>3</sup>, ISPs ***'transmit signals irrespective of the type of information conveyed'*** [emphasis added], and

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<sup>1</sup> Article 25 of Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography deals with 'Measures against websites containing or disseminating child pornography'. The activities of Hotline.ie and the Garda blocking initiative together fulfil Article 25 in Ireland.

<sup>2</sup> [file:///C:/Users/gsp6/Downloads/100967\\_cb626a11-6bc9-47e4-be55-ca8f36a84a76.pdf](file:///C:/Users/gsp6/Downloads/100967_cb626a11-6bc9-47e4-be55-ca8f36a84a76.pdf)

<sup>3</sup> "electronic communications network" means transmission systems, whether or not based on a permanent infrastructure or centralised administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit-

as per the (RIA).<sup>4</sup> ISPs provide the 'pipes' through which all online services flow, as a mere conduit, ISPs have no control over the nature of content or services offered through the internet. ISPs do not provide information society services or user generated content; they also do not have any editorial control over content that is offered over the internet. As per Article 12 of the eCommerce Directive<sup>5</sup>, mere conduits are not liable for any information transmitted over them, provided they do not interfere with the transmissions.

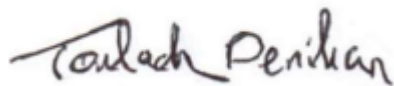
In addition, ISPs under the Net Neutrality Regulations are obliged to treat all traffic equally and are required under European law to freely provide access to all content unless it is illegal. ISPs have measures in place to comply with same.

Moreover, Telecommunications Industry Ireland's view would align with Ireland's submission to the EU consultation on the Digital Services Act package,<sup>6</sup> when it stated that *'Ireland believes that it is still appropriate that online services without editorial responsibility for the material present on their services should not be legally liable for the presence of any illegal material, providing that said material is dealt with in accordance with the law when it is brought to their attention.'*

In conclusion, we believe that there must be a harmonised approach across the EU and that the Bill should mirror the scope of the Digital Services Act<sup>7</sup> which is going to be a Regulation, and therefore directly applicable.

We look forward to hearing from you and are available to provide any additional information you may require.

Your sincerely,



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and packet-switched, including internet) and mobile networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed;

<sup>4</sup> [file:///C:/Users/gsp6/Downloads/100967\\_cb626a11-6bc9-47e4-be55-ca8f36a84a76.pdf](file:///C:/Users/gsp6/Downloads/100967_cb626a11-6bc9-47e4-be55-ca8f36a84a76.pdf)

<sup>5</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32000L0031&rid=5>

<sup>6</sup> <https://www.gov.ie/en/publication/09a22-national-submission-to-the-eu-consultation-on-the-digital-services-act-package/>

<sup>7</sup> <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=COM:2020:825:FIN>



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