

Opening Statement from John Evans, Digital Services Commissioner at Coimisiún na Meán

Thank you to the Committee for the invitation to speak today. I am John Evans, Digital Services Commissioner at Coimisiún na Meán and I am joined here today by Tiernan Kenny, Director of Communications and Public Affairs. I would like to give a brief overview of our work and structure at Coimisiún na Meán, then describe the EU Digital Services Act and our role under it, as well as what it means in concrete terms for people in Ireland.

Coimisiún na Meán was established almost a year ago, in March 2023, taking on the functions and staff of the Broadcasting Authority of Ireland. Our remit covers broadcasting and on-demand regulation, media development, and online safety. Since our establishment, we have been working hard to grow the organisation. Our headcount now is approaching 100 and we have sanction to hire 160, a number we expect to hit in the middle of this year. We are arranged in a divisional structure that we believe is the best way to meet our objectives.

Coimisiún na Meán has five Commissioners, who oversee the different divisions. I am the Digital Services Commissioner, and I work alongside Celene Craig, our Broadcasting and On-demand Commissioner, Niamh Hodnett, our Online Safety Commissioner, Rónán Ó' Domhnaill, our Media Development Commissioner, and Jeremy Godfrey, our Executive Chair. Celene is stepping down in mid-March and there is a recruitment process underway to replace her. The organisation is structured into different divisions, each of which is overseen by a Commissioner.

There are four “external-facing” divisions:

- Platform Supervision and Investigations – focused mostly on compliance and enforcement of platform obligations in relation to harmful and illegal content under the DSA, TCOR and national law, overseen by myself
- Regulatory Policy – focused on consulting with civil society and industry on harms and issues, and on making rules for industry to follow, overseen by the Online Safety Commissioner
- Media Landscape – focused on AVMS providers, sound broadcasters and content producers, overseen by the Broadcasting and On-demand Commissioner
- User support – focused on audiences and users of online services, overseen by the Media Development Commissioner

In addition, we have a Data and Technology Division, a Legal Services Division, and a Corporate Services Division, which includes functions such as governance, communications and finance.

This year, we are putting in place an Online Safety Framework in Ireland. This will apply to the online services people use every day. This Framework will end the era of self-regulation in the technology sector, and make online platforms accountable for how they keep their users, especially children, safe online. Platforms must also uphold fundamental rights, including freedom of expression.

This Framework has three main parts:

- the EU Terrorist Content Online Regulation, for which we became a competent authority in November 2023
- the EU Digital Services Act, which became fully applicable on February 17th
- the draft Online Safety Code

It is our intention to implement the different elements of this Framework in a coherent way, to avoid unnecessary duplication and burdens for businesses, and make it easy for citizens to know and enforce their rights.

We have responsibility for regulating services which have their European headquarters in Ireland. I will now explain our role under the Digital Services Act (DSA) in more detail, as this sits within my role as Digital Services Commissioner.

The Digital Services Act is an EU regulation which sets rules for online intermediary services. The definition of an online intermediary service is broad, covering almost any service which is provided online, although it does not include private messaging services. The DSA applies a baseline set of obligations to all intermediary service providers, including having clear terms and conditions for how they can be used. Further obligations are added depending on the functionality and size of the service.

The DSA applies a particular set of obligations for online platforms, such as social media services, online marketplaces or app stores. These include providing a way for users to flag illegal content, publishing transparency reports on their activities, allowing users to appeal content removals, and devoting sufficient resources to content moderation activities, without solely relying on automated decision-making.

The most stringent obligations apply to Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs). Any platform or search engine with 45 million or more monthly active EU users qualifies as a VLOP or VLOSE. These services have additional obligations to assess and mitigate the risks that arise from how their services are designed and used across 4 categories, including how they can facilitate the spread of illegal content or cause negative outcomes for public order, electoral integrity, or public health. These provisions can help to address issues such as misinformation or disinformation. The European Commission has designated 22 VLOPs or VLOSEs, 13 of which have their EU headquarters in Ireland.

Each member state has to appoint a Digital Services Commissioner (DSC) to enforce the DSA, in Ireland's case the DSC is Coimisiún na Meán, with some responsibilities for online marketplaces allocated to the Competition and Consumer Protection Commission (CCPC). Each DSC has responsibility for regulating the service providers whose EU headquarters is in their country, however the European Commission has primary responsibility for some of the obligations applying only to VLOPs and VLOSEs. As online services can be provided across borders, international cooperation will be important in the application and enforcement of the DSA. The legislation sets up a group of national DSCs and the European Commission, the European Board for Digital Services. It is our intention to work closely with the European Commission and our EU counterparts to ensure that the DSA leads to improvements in online safety for people, especially children. This cooperation will be particularly important when dealing with the largest platforms, given the EU Commission's role.

A key aim of the DSA is to provide a more predictable and trustworthy online environment for users. The DSA gives users several rights when using online platforms. As well as the obligations to explain their terms of service in plain language and provide a mechanism for flagging illegal content, the DSA also obliges platforms to inform users when their content has been removed, downranked or demonetised, or when their account has been suspended or terminated. Users also have the right to appeal content moderation decisions made by platforms to the platform itself, and then to an out-of-court dispute settlement body.

Coimisiún na Meán can receive complaints from users of online services who believe the provider of an online service has not complied with its obligations under the EU Digital Service Act (DSA). We have opened a contact centre to give users advice and support, and so we can feed real-world intelligence into our platform supervision teams, and take action when the rules are broken.

While it is within Coimisiún na Meán's remit to assess if providers of an online service are doing what they are obliged to do under the DSA in relation to illegal content, it is not our role to act as an online censor or to tell people what they can or cannot say.

On Monday 19th February we opened our dedicated contact centre, providing advice to the public on their rights under the Digital Services Act and which we will use to gather intelligence that will inform An Coimisiún's supervisory and enforcement activities.

We have also published an application form and guidance on Out-of-Court Dispute Settlements. This process will allow users of online platforms the opportunity to avail of an impartial and independent means of resolving disputes relating to content moderation decisions by online platforms, without requiring users to enter a costly or lengthy legal dispute.

Separately, we have published an application form and guidance on the new Trusted Flaggers system. This system will create a fast lane for approved Trusted Flaggers, and platforms will have to prioritise dealing with reports from them. These Trusted Flaggers will be independent, and will have particular expertise in detecting, identifying and notifying illegal content.

Internally, we are in the process of initiating our supervision strategy, considering our functions relating to the Digital Services Act and our responsibilities under the Terrorist Content Online Regulation (TCOR) and the Online Safety and Media Regulation Act.

We have adopted an “Impacts and Risk” approach to supervision. This assesses the risk of harm occurring and categorises regulated entities or services accordingly and differentiates the approach to supervision based on the impact category of the regulated entity.

This Risk and Harms Framework recognises that the most value can be delivered by focusing on regulated entities that may pose the highest levels of online harms and risks, and on the types of risks that pose the greatest threat to harm people online.

I wish to acknowledge the work of members of this Committee in making sure that the DSA was swiftly implemented in Ireland, and that we were the one of just six EU member states to have their Digital Services Commissioner in place for the DSA’s first day of operation. We are at the early stages of the implementation of the DSA. We will need to work collaboratively with a range of partners to deliver a positive impact for people and ensure that they can take advantage of the benefits of being online, while being protected from being harmed by illegal content.