

Insights into the OSMR Bill

Part 1: Introduction and Background

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Introduction

The [Online Safety and Media Regulation Bill 2022](#) (OSMR Bill) was initiated on 25 January 2022. It is expected to be taken for Second Stage in Seanad Éireann shortly, though no date has yet been set. This *L&RS Note* series forms the backdrop to the L&RS's policy and legislative analysis work in respect of this piece of legislation.

- **Part 1** of this series provides an introduction to the OSMR Bill and the policy context underpinning its development.
- **Part 2** is intended as a resource for Members who wish to access detailed empirical data (both national and international) on various aspects of online usage.
- **Part 3** will introduce the current legal and regulatory framework.

Further work will be published to aid Members' scrutiny of the Bill as it passes through the Houses. In addition to this *L&RS Note* series, the L&RS is also preparing a **Bill Digest** which will focus on the principal provisions of the OSMR Bill.

Key provisions of the OSMR Bill

The [OSMR Bill](#) provides for the dissolution of the Broadcasting Authority of Ireland (BAI) and the establishment of **Coimisiún na Meán**, or the Media Commission ('the Commission'), in its place. This Commission will have a wider remit, covering on-demand audiovisual media, video-sharing platforms and online safety. Within its structure, it is envisaged to have an Executive Chairperson and separate Commissioners overseeing broadcast media, on-demand media and online safety, although this is not explicitly referenced in the Bill (see Figure 1 overleaf for an infographic of the structure of the proposed new Commission).



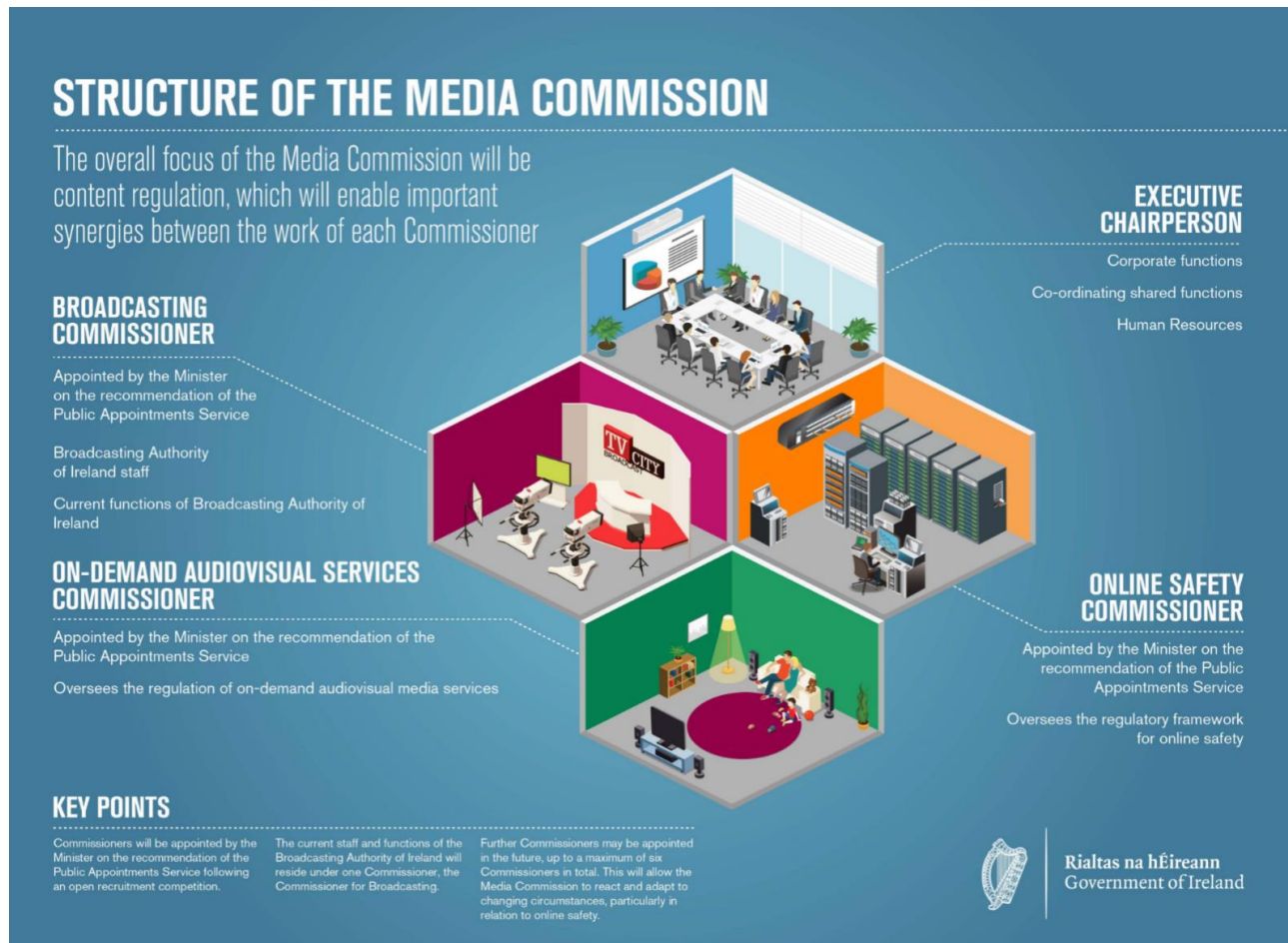
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The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media have published a range of materials in respect of the Bill, which are available on its [Online Safety and Media Regulation Bill](#) webpage.

Figure 1: Structure of the proposed Commission under the OSMR Bill



Reproduced from: [Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media](#)

The main changes introduced by the OSMR Bill are outlined in the below summaries and will be dealt with in further detail in the Bill Digest. As well as setting up the Media Commission, the Bill also transposes the revised provisions of the **Audiovisual Media Services Directive** (AVMSD) into Irish law. The main changes to the AVMSD are summarised later in this *L&RS Note*.

Jurisdiction

Sections 4 and 5 of the Bill insert new provisions into the [Broadcasting Act 2009](#) (2009 Act), which provide for the circumstances where media service providers and video-sharing platform services are deemed to be under the jurisdiction of the State.

Coimisiún na Meán

Section 7 of the Bill establishes the Commission by replacing Part 2 of the 2009 Act, setting out the structure of the BAI, with new provisions. Several transitional and consequential provisions are also provided for in the Bill, in particular Part 16, which provides for the dissolution of the BAI and the transfer of its functions to the Commission.

Media Duties, Codes and Rules

Section 9 of the Bill provides for **duties** of broadcasting and on-demand audiovisual media services, while also providing that the Commission may make **media service codes** and **media service rules** in respect of those audiovisual media services. The existing Part 3 of the 2009 Act, which currently makes similar provision for broadcasters, is proposed to be repealed by section 71 of the Bill, with a new Part 3B containing the revised provisions.

Online safety

One of the central objectives of the Bill is to establish a regulatory environment for online safety. Section 44 of the Bill proposes to do this by inserting a new Part 8A into the 2009 Act, which, among other things:

- Sets out defined categories of **harmful online content** and a definition of **age-inappropriate online content**;
- Empowers the Media Commission to designate relevant online services as designated online services, enabling it to regulate such services through the use of binding **online safety codes**;
- Provides for **enforcement powers** for the Commission to ensure compliance with online safety codes, as part of a wider enforcement framework under the investigations and sanctions provisions under the proposed Part 8B (see below). The Commission may also **audit the complaints handling processes** of designated online services;
- Provides that the Commission may also issue **guidance materials** and **advisory notices** to relevant online services; and
- Sets up a scheme under which nominated bodies may bring concerns to the attention of the Commission, including concerns relating to the availability of harmful online content and compliance with online safety codes (known as a **super-complaints mechanism**).

The revised AVMSD also contains new provisions aimed at **video-sharing platform providers**, including requirements regarding particular categories of content that must be transposed, although Member States may impose more detailed or stricter measures, provided such measures comply with other specified provisions of EU law.

Enforcement

As noted above, the Bill includes **enforcement mechanisms** for online safety codes, media safety codes and media rules and any other contravention referenced in the 2009 Act once amended. Section 46 of the Bill proposes to introduce these new mechanisms as a new Part 8B of the Act, which is envisaged to cover investigations and sanctions. These provisions include procedures for the appointment of authorised officers to investigate such contraventions and the imposition of **administrative financial sanctions**. Further provision is made for three categories of offences that may be prosecuted by the Commission.

For designated online services, the Bill provides that the Commission may issue a **content limitation** notice to remove, disable or limit access to harmful online content. Furthermore, where there is ongoing contravention, the Commission may apply to the High Court to require an ISP to **block access** to a relevant online service or an audiovisual on-demand service.

European works

The transposition of the AVMSD also includes requirements relating to the prominence and production of **European works**. The Bill proposes the imposition of a **European works levy** (also

known as a content levy) on audiovisual media services under the jurisdiction of the State, or under the jurisdiction of another Member State but targeting audiences in the State. This is permitted by Article 13 of the revised AVMSD, which allows Member States to require audiovisual media service providers to make a financial contribution towards the production of content.

Support schemes

The Bill also introduces two grant schemes, which are as follows:

1. A support scheme for **community sound broadcasters** for the purposes of supporting good journalistic practices / standards, which will be funded by the broadcasting fund.
2. A scheme funded by the European works levy to be known as the **European works scheme**, which will be aimed at supporting the production of European works by media service providers.

Repeals

Section 71 of the OSMR Bill also provides for the repeal of several provisions from the 2009 Act. Most of these repeals are to accommodate more expansive provisions introduced by the Bill, such as those governing media service duties, codes and rules, and governing administrative financial sanctions.

The principal provisions of the Bill, including the above, will be set out in greater detail by the L&RS in the upcoming **Bill Digest** for the Bill.

The OSMR Bill as amending legislation

The Bill itself is primarily an amending Bill, implementing its provisions by making changes to existing sections and inserting new provisions into the 2009 Act. The broad structure of the Bill, and the Parts of the 2009 Act impacted, are outlined in the below table.

Table 1: Effect of each Part of the OSMR Bill in the 2009 Act

Part – OSMR Bill	Effect on the 2009 Act
Part 1	Consists of preliminary and general provisions
Part 2	Amends Part 1 of the Act to account for new definitions
Part 3	Replaces Part 2 of the Act with provisions establishing the Media Commission
Part 4	Inserts a new Part 3A, providing for a register of providers of audiovisual on-demand media services
Part 5	Inserts a new Part 3B, providing for duties, codes and rules applying to media service providers and sound broadcasters
Part 6	Amends Part 4, which deals with redress, by amending provisions on complaints handling and the right of reply and replacing section 48, which deals with complaints
Part 7	Amends Part 5, which concerns Enforcement. Section 71 of the Bill also repeals sections 52 to 56 of the 2009 Act, which concern financial sanctions.
Part 8	Amends Part 6, which concerns Broadcasting Contracts and Content Provision Contracts for both commercial and community broadcasters
Part 9	Amends Part 7, which concerns public service broadcasting. These amendments include new provisions on the availability and prominence of public service programmes and services.
Part 10	Amends Part 8, which concerns digital broadcasting and analogue switch-off, by making some changes to definitions and providing for consequential amendments accounting for the Media Commission's establishment

Part 11	Inserts a Part 8A, providing for the regulatory framework for online safety, and a new Schedule 3, which sets out specific categories of harmful online content that relate to offences in other enactments
Part 12	Inserts a new Part 8B, providing for the Media Commission's procedures relating to investigations and sanctions, and a new Schedule 4, setting out the Commission's procedures for oral hearings
Part 13	Amends Part 10, which relates to the broadcasting fund. Also inserts a new section 155A, which provides for a scheme for professional journalistic practices in community sound broadcasting
Part 14	Inserts a new Part 10A, which concerns European Works, including provisions around the prominence of European works and the creation of a European works scheme that is funded by a European works levy (also referred to as a content levy)
Part 15	Provides for technical amendments to Part 11, which deals with the television coverage of major events, to account for the revised AVMSD
Part 16	Provides for the dissolution of the BAI and transitional elements
Part 17	Provides for consequential amendments to other enactments

Current Legal and Regulatory Framework

The Broadcasting Act 2009

The 2009 Act sets out the current framework for the regulation of broadcasting services in Ireland. The Act established the BAI in place of the previous Broadcasting Commission of Ireland (BCI) and the Broadcasting Complaints Commission (BCC), and also established two sub-bodies for the BAI; the Contract Awards Committee and the Compliance Committee.

The main elements of the 2009 Act provide, among other things, for the establishment of the BAI, the duties of broadcasters, the power of the BAI to make broadcasting codes and broadcasting rules, provisions in relation to complaints and enforcement, public service broadcasting and provision for schemes to be supported by a broadcasting fund. Broadcasters are required to comply with broadcasting codes and rules made by the BAI. The Act also includes provision for the imposition of financial sanctions of up to €250,000 in certain circumstances.

Furthermore, the provisions of the AVMSD (as opposed to the revised AVMSD) were transposed into Irish law by the 2009 Act and secondary legislation made in 2010 (outlined below).

Law related to online safety and harms

The main legal challenges associated with online harms are introduced in a previous *L&RS Note*, [Online harms – what are the legal issues?](#), which noted that there is already a range of offences applicable to cyberbullying. However, it also notes that these offences do not map onto the typical modes of bullying and are only appropriate to the most serious cases.¹ Furthermore, at present, provisions on online safety take place within a self-regulating environment, where social media platforms set terms of service or conditions for the use of their platforms and operate reporting mechanisms for harmful or inappropriate content.

While the Bill focuses on media service providers and, for online safety, designated online services, there are aspects of current law and regulation which may nonetheless be relevant to online harms and addressing harmful content. These include:

- The [Non-Fatal Offences Against the Person Act 1997](#);
- The [Harassment, Harmful Communications and Related Offences Act 2020](#);

- The [Criminal Damage Act 1991](#);
- The [Prohibition of Incitement to Hatred Act 1989](#);
- The [Defamation Act 2009](#);
- Norwich Pharmacal Orders²; and
- EU requirements concerning the liability of intermediary service providers (ISPs) under the [e-Commerce Directive](#).³

The above provisions will be outlined in further detail in Part 3 of this series on the current legal and regulatory framework.

Policy Background

A range of policy inputs inform the background and development of the OSMR Bill, from both governmental and non-governmental sources.

In November 2017, the then Minister for the Environment, Climate and Communications convened a meeting with the then Minister for Justice and Equality and the then Minister for Children and Youth Affairs on the subject of digital safety for all citizens, especially children. An Open Policy Debate was deemed the most appropriate way to progress this issue.⁴ The event, coordinated by the Department of Communications, Climate Action and Environment in cooperation with the Departments of Education and Skills; Justice and Equality; Business, Enterprise and Innovation; Health; and Children and Youth Affairs, was held on 8 March 2018.⁵ Over 120 representatives from a range of stakeholders participated in the event, including NGOs, industry, parents' groups and young people.⁶ A range of areas were raised by participants during discussions including education and awareness raising (e.g. a single point of access for information/resources), cooperation and collaboration, structures, and legislation. Concern was also expressed in respect of the response of online platforms to offensive content (i.e. speed in removing). Further issues of particular concern for participants were that:

“..no single person or organisation can sort these issues out on their own and that there is a need for strong partnerships and a more structured approach to the issue of Online Safety.”⁷

This Open Policy Debate informed the development of the [Action Plan for Online Safety 2018-2019](#) which aimed to “set out in a coherent plan the actions that are being undertaken across Government Departments and agencies to protect children and adults in their online engagement”.⁸

The [Action Plan for Online Safety 2018-2019](#) centred on 5 goals:

Goal	Key Objective(s)
Goal 1: Online Safety for All	<ul style="list-style-type: none"> • Develop a single online access point where all advice, information and other resources for children and young people; parents and guardians; teachers; and the wider public can be accessed in a single place.
Goal 2: Better Supports	<ul style="list-style-type: none"> • Improved digital citizenship through schools • Improved online links to mental health supports and services

Goal 3: Stronger Protections	<ul style="list-style-type: none"> • Legislate for new criminal offences • Build up means of capturing and responding to harmful and illegal content • Improved industry responses
Goal 4: Influencing Policy	<ul style="list-style-type: none"> • Work with the European Union and International Partners in respect of improved policy, legislation and regulation • Develop national regulatory and policy responses • Strengthen national protective measures
Goal 5: Building our Understanding	<ul style="list-style-type: none"> • Establish a new National Advisory Council for Online Safety • Research and publish an annual Safer Internet Reports

Source: [Action Plan for Online Safety 2018-2019](#)

It set out 25 specific actions to be progressed over the 18-month timeframe of the Action Plan, including the creation of a single online access point on gov.ie through which all available Online Safety resources can be accessed (Action 1) and the establishment of a National Advisory Council on Online Safety (Action 20).⁹ Operationalising a single online access point on gov.ie (Action 1) led to the development of [Be Safe Online](#), an online safety hub which provides information and resources across three cohorts: for parents, guardians and teachers; children and young people; and the general public. In the case of parents, guardians and teachers, this hub covers topics such as cyberbullying, sexting, online pornography, online gaming, grooming/sexual exploitation. There's a section for children which gives information and resources across a range of topics, including sexting, mental health and protection of personal data, as well as tips for staying safe online and a link to [Hotline.ie](#) for the reporting of illegal online content.¹⁰

As part of the Action Plan (Action 20), the [National Advisory Council for Online Safety](#) (NACOS) was established in September 2018. The Council, which is described as a forum for non-governmental, industry, and academic stakeholders to discuss online safety issues, has 20 members and a chairperson (currently the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media). This membership is drawn from children's and parents' organisations, major online platforms¹¹, and experts on online safety issues. Membership of the Council is not static: instead, it is envisaged that this membership will be refreshed every two to three years to involve other persons in the core membership. Providing an annual report for Government to coincide with Safer Internet Day forms part of the Council's Terms of Reference. To date, the Council has published two progress reports, in [February 2019](#) and [May 2020](#). The Council recently commissioned research on online safety to establish "robust baseline information" with a view to "address[ing] gaps in the evidence base about the state of online safety in Ireland", with findings of three separate nationally representative surveys in respect of online

Role of NACOS

- Provide advice to Government on online safety issues
- Identify emerging issues where government intervention might be needed
- Help in the creation of clear and easy to understand online safety guidance materials for all internet users
- Examine national and international research and communicate key findings to Government, stakeholders and the wider public.

Source: [National Advisory Council for Online Safety](#)

safety presented: linked surveys with children aged 9-17 years and their parents¹², as well as one with other adults aged 18+ years. The findings of this research are discussed in forthcoming *L&RS Notes* in this series.¹³

Proposals for Reform

Over the last decade, the advent of digital media has led to consideration of how policy and legislative responses may be reformed to address the challenges to online safety. Two particular examples are the reports of the Internet Content Governance Advisory Group (ICGAG) and the Law Reform Commission (LRC).

Report of the Internet Content Advisory Group (2014)

In December 2013, the then Minister for Communications, Energy and Natural Resources, Pat Rabbitte TD, established the ICGAG. The group was requested to consider:

- Whether the existing national regulatory and legislative frameworks around electronic communications, internet governance and the sharing and accessing of content online remain relevant;
- Whether other existing policy responses by the State remain sufficient in relation to dealing with any of these issues; and
- What the most appropriate relationship should be between ISPs, online service providers, the State and citizens in relation to internet content that may be age-inappropriate and to bullying and harassment online.¹⁴

In considering the above, the group was also requested to have regard to a number of matters, including the opportunities offered by the internet and particularly to children and young people, the risks of bullying and harassment online (particularly to children), the present national regulatory and legislative framework, and the need to preserve the free and open nature of the internet.¹⁵

In its [report](#), the ICGAG made 30 recommendations, ranging from revising the role of the Office for Internet Safety, the expansion of legislative measures (particularly the [Communications Regulation \(Amendment\) Act 2007](#)), assigning responsibility for the implementation of the AVMSD regarding on-demand audiovisual media to the BAI, and a suite of educational measures targeted at cyberbullying and harassment.¹⁶

The group identified a range of statutes applicable to the online environment, but also referenced “soft law” elements, noting that this approach is increasingly preferred given the sensitive nature of subject matter and the age of many victims.¹⁷ At the time, the group also agreed with the view that existing legislation was, for the most part, adequate to deal with the offences of bullying and harassment. However, it did note that a review of the suitability of the offence of harassment under the [Non-Fatal Offences Against the Person Act 1997](#) to address cyberbullying was ultimately a matter for the LRC, while also concurring with the view that the implementation of the Act for such an offence required further investigation.¹⁸ The group did, however, recommend the extension of the offence of sending grossly offensive, indecent, obscene or menacing messages under the [Communications Regulation \(Amendment\) Act 2007](#) be extended to electronic communications. It also recommended reform of court rules regarding discovery and disclosure to adapt them to a technological context.¹⁹

On the above, it should be noted that since the publication of the ICGAG Report, the functions of the Office for Internet Safety were incorporated into the Cybercrime Division at the Department of Justice.²⁰

Law Reform Commission Report on Harmful Communications and Digital Safety (2016)

The LRC published a report entitled [Harmful Communications and Digital Safety](#) in 2016, which highlighted that the freedoms offered by digital media and communication have also brought some negative aspects.²¹ These included the victim-shaming of individuals, intimidating and threatening online messages directed at both private persons and public figures, as well as many instances of online and digital harassment and stalking.²² In addressing these challenges, the Report made 32 recommendations aimed at reforming the criminal law, establishing a new statutory oversight system for promoting and supporting digital safety, as well as recommendations on takedown procedures and civil law responses.²³

Stating that it would avoid using the terms bullying or cyberbullying, the Report drew important distinctions between different types of online harms. It asserted that as a clear threshold should be reached for criminal liability to be applied, the term “harmful communications” is used for such behaviour. This included communications that are abusive, threatening, offensive, false, invade a person’s privacy with the intention of causing harm, concern non-consensual communication of intimate images or involve harassment or stalking. According to the LRC, these communications fall within the accepted definitions of bullying and cyberbullying.²⁴

By contrast, whilst other forms of behaviour (e.g. hurtful or embarrassing comments, non-verbal exclusion from groups) may also fall within accepted definitions, the LRC asserted that these may be more appropriately and proportionately addressed through the promotion of digital safety.²⁵ In the context of these distinctions, the LRC proposed the following hierarchy for address harmful digital communications:

- **Education:** to create user empowerment and foster safe and positive digital citizenship;
- **Civil law and regulatory oversight:** where education and related responses are ineffective and the law needs to be employed, civil law should be favoured as it is less onerous than the criminal law;
- **Criminal law:** Only the most serious harm should be subject to the criminal law.²⁶

In addition to the above two reports, several Private Members’ Bills on the area of online safety have been proposed in recent years, including:

- [Digital Safety Commissioner Bill 2017 – No. 144 of 2017](#)
- [Harmful Communications and Digital Safety Bill 2017 – No. 5 of 2017](#)
- [Children's Digital Protection Bill 2018 – No. 133 of 2018](#)

Furthermore, the Joint Committee on Children and Youth Affairs of the 32nd Dáil published its [Report on Cybersecurity for Children and Young Adults](#) in March 2018. The report made 18 recommendations, including the establishment of an Office of a Digital Safety Commissioner with sufficient resources and personnel to ensure that it can perform its functions adequately, and a recommendation for social media platforms do more to strengthen their safety policies with a view to protecting their users. It also suggested that the latter could be done in consultation with the proposed Office of the Digital Safety Commissioner.²⁷ The Committee also made a number of recommendations that centred on educational initiatives.²⁸

The following recommendations were also made in reference to the LRC report:

- That [section 10 of the Non-Fatal Offences Against the Person Act 1997](#) should be repealed and replaced with a new offence of harassment which expressly applies to harassment by all forms of communication including through digital and online communications.²⁹
- That a specific stalking offence, separate from the related offence of harassment, should be introduced.³⁰

- That [section 13 of the Post Office \(Amendment\) Act 1951](#) should be repealed and replaced with a provision which would make the distribution of threatening, false, indecent or obscene messages, whether that message is to a person or about a person, an offence, with this provision applying to all forms of communication, including any online communication.³¹ The scope of this offence was extended to SMS messages by [Part 2 of Schedule 1](#) to the [Communications Regulation \(Amendment\) Act 2007](#).

The Committee also made a recommendation on the enactment of offences relating to the distribution of intimate images without the consent of the person depicted, which were subsequently provided for by the [Harassment, Harmful Communications and Related Offences Act 2020](#).³²

EU Provisions – The Audiovisual Media Services Directive

This section provides a high-level overview of the key issues related to the additional transposition elements. It also includes material on the application of new provisions relating to video-sharing platform providers (VSPPs) and the share and prominence of European works, as well as the Bill's proposals for a European works levy.

Previous EU legislation and transposition of the 2010 AVMSD

The AVMSD, [Directive 2010/13/EU](#), was adopted to establish harmonised rules regarding the regulation of broadcasting in Europe. One of the key objectives of the AVMSD was to codify the provisions of the previous Directive 89/552/EEC, and its subsequent amendments, in the interests of clarity and rationality.³³ These codified provisions were transposed into Irish law by the 2009 Act and the [European Communities \(Audiovisual Media Services\) Regulations 2010](#).³⁴ The revised AVMSD incorporates the changes arising from the adoption of [Directive \(EU\) 2018/1808](#) (2018 Directive), which is being transposed by the OSMR Bill.³⁵

Transposition of the revised AVMSD

Some of the main amendments of the Directive, outside of the above changes, include the below.

- **Article 1** is amended to account for several changes to definitions. These include replacement definitions for 'audiovisual media service', 'programme', 'audiovisual commercial communication', 'sponsorship' and 'product placement'. New definitions for 'video-sharing platform service', 'user-generated video', 'editorial decision' and 'video-sharing platform provider' are also inserted.
- **Article 3** is replaced to adapt the right of Member States to derogate from provisions allowing freedom of reception and prohibiting restrictions on the retransmission of audiovisual media services from other Member States. This derogation may be invoked where an audiovisual media service provided by a media service provider under the jurisdiction of another Member State seriously and gravely infringes the provisions in Article 6(1) and 6a(1).
- **Article 6** is replaced to include more expansive provisions regarding the incitement of hatred or terrorism. Furthermore, a new **Article 6a** is inserted, which merges provisions in relation to the protection minors from inappropriate content in television broadcasts and on-demand audiovisual media services into a single provision. Consequentially, the 2018 Directive also repeals Articles 12 and 27 from the AVMSD because of these changes.

- **Article 7** is replaced to include more expansive provisions on accessibility of audiovisual media services to persons with disabilities. These changes include requiring Member States to encourage media service providers to develop of accessibility action plans, the designation of a publicly available online point of contact regarding accessibility issues, and that emergency information is provided in an accessible manner.
- **Article 9** is replaced to expand provisions concerning the advertising of cigarettes and tobacco products to also include electronic cigarettes and refill containers. Further provisions are added in relation to the criteria for audiovisual commercial communications for alcoholic beverages (excluding sponsorship and product placement), and the use of co-regulation and self-regulation through codes of conduct in relation to the exposure of minors to audiovisual commercial communication for alcoholic beverages.
- **Article 10.2** is replaced to extend the prohibition on the sponsorship of audiovisual media services and programmes by manufacturers and sellers of cigarettes and tobacco products to also include manufacturers and sellers of electronic cigarettes and refill containers.
- **Article 10.4** is replaced to permit Member States to prohibit the sponsorship of children's programmes, while also retaining the previous prohibition on the sponsorship of news and current affairs, as well as provisions on the showing of sponsorship logos during children's programmes, documentaries and religious programmes.
- **Article 11** is replaced to make changes to provisions concerning product placement. Under the previous provision, product placement was prohibited with certain exceptions. The revised provision inverts this, instead allowing product placement on all programmes except programmes on news and current affairs, consumer affairs programmes, religious programmes and children's programmes.
- **Article 23**, which limits the amount of advertising / teleshopping time within a given clock hour to 20% of that hour, is replaced. The revised Article 23 provides that no more than 20% of the time between 6am and 6pm, and the time between 6pm and 12 midnight, consists of advertising / teleshopping.
- **Article 30** is replaced to set out more expansive provisions in relation to national regulatory authorities. These include provisions requiring the independence, impartiality and transparency of such authorities, the clear defining of their competences and powers, and provisions on their resourcing and enforcement powers. **Articles 30a and 30b** are inserted to respectively provide for information exchange between regulatory authorities and the European Commission and underpinning provisions for the European Regulators Group for Audiovisual Media Services (ERGA).³⁶ Ireland is presently represented at ERGA by the BAI.³⁷
- **Article 33a** is inserted to require Member States to promote and take measures for the development of media literacy skills.

Video-sharing Platforms

The 2018 Directive inserts **Articles 28a and 28b** into the AVMSD, which set out rules applicable to VSPPs. Article 28a relates to determining which Member State has jurisdiction over a VSPP, while Article 28b relates to protecting minors from harmful online content and all users from hate speech and certain criminal content.

Article 28b.1 requires Member States to take appropriate measures to protect specified groups from particular types of content, as set out in the table overleaf.

Table 2: Content requiring appropriate measures under Article 28b(1) of the revised AVMSD

Protected Group	Programmes, user-generated content and AV commercial communication
Minors	That impairs their physical, mental or moral development
General Public	That contains incitement to violence or hatred directed against a group of persons or a member of a group of persons on the grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation.
General Public	That contains content that the dissemination of which constitutes a criminal offence under EU law: <ul style="list-style-type: none"> - public provocation to commit a terrorist offence; - offences concerning child pornography; - offences concerning racism and xenophobia.

Article 28b.2 makes further provision in relation to appropriate measures to comply with Article 9(1) of the revised AVMSD, regarding audiovisual commercial communication, which includes advertisements, teleshopping, sponsorship and product placement. Article 28b.3 of the AVMSD provides some indication of the appropriate measures that may be employed by Member States to address such content. Article 28b.6 also permits Member States to apply more detailed or stricter measures on VSPPs if they wish, but also requires that such measures comply Articles 12 to 15 of [e-Commerce Directive](#) and Article 25 of [Directive 2011/93/EU](#).³⁸ These provisions relate to the liability of intermediary service providers (ISPs) and measures against websites containing or disseminating child pornography.

While the AVMSD, as a whole, is focused on audiovisual media services, some revised provisions may also encompass social media. Recital 5 of the 2018 Directive acknowledges the potential impact of provisions regarding VSPPs and user-generated videos on social media platforms:

“While the aim of Directive 2010/13/EU is not to regulate social media services as such, a social media service should be covered if the provision of programmes and user-generated videos constitutes an essential functionality of that service. The provision of programmes and user-generated videos could be considered to constitute an essential functionality of the social media service if the audiovisual content is not merely ancillary to, or does not constitute a minor part of, the activities of that social media service. ...”³⁹

The OSMR Bill proposes to account for this point by obliging the Commission to automatically designate services provided by VSPPs as a category of designated online services.⁴⁰ The Bill envisages that online safety codes will apply to a designated online service or a category of designated online services as the Commission may determine.⁴¹

European works levy

One of the central issues in the implementation of Article 13 of the revised AVMSD and the OSMR Bill is the introduction of a content levy, referenced as a European works levy in the Bill.

Currently, a number of initiatives in place to encourage indigenous film and television production. These include [Section 481 of the Taxes Consolidation Act 1997](#), as amended in by [section 17 of the Finance Act 2015](#), which operates as a corporation tax credit. to producer companies. Since 2018, applicants have been required to have a ‘cultural certificate’ issued by the Minister in advance of production and may claim the credit online.⁴² Further initiatives include the Sound and Vision Scheme⁴³ operated by the BAI and the financial supports available from Screen Ireland.⁴⁴

Research has also been completed into the current models of funding for creative industries in Ireland, including the [Olsberg SPI with Nordicity Report](#) (OSN Report) commissioned by the Government⁴⁵, and the Indecon Report commissioned by the Joint Creative Audiovisual Sectoral Group.⁴⁶

The OSN Report was commissioned by the Government in 2016 and published the following year. This study stated that the total investment in television and radio in 2016 amounted to €282.4 million, comprising investments from the above three sources and the licence fee.⁴⁷ The OSN study also examined the issue of finance in the film and television industry and noted that in the creative sector finance can be used for two purposes; project finance and corporate finance.⁴⁸ The study made a number of recommendations, in particular for a strategic root and branch review of feature film funding. Further recommendations in funding included granting additional funding to the IFB / Screen Ireland, the creation of a specific funds for the development of films, TV drama and TV formats and for Irish TV drama production, funding for business development and clear mapping for companies to access finance.⁴⁹ The Government published its [Audiovisual Action Plan](#) in 2019, which responded to the OSN recommendations.⁵⁰

In its report, *Analysis to Inform Potential National Media Creative Content Fund*, Indecon set out six potential scenarios for the application of a levy based on the subscription revenues of Pay TV and subscription video on-demand (SVOD) providers, and the advertising revenues of broadcasters, are modelled.⁵¹ While the report outlines these scenarios in further detail, figures on the impact of each scenario are outlined in the below table.

Table 3: Selected scenarios modelled in the Indecon Report⁵²

Scenario	Pay TV / SVOD Contribution	Broadcaster Contribution	Funds Raised – Year 1 (€m)	Direct output impact – 5 years (€m)	Overall Economy-wide output – 5 years (€m)
1	1%	1%	7.82	160.21	192.2
2	2%	2%	15.63	323.75	388.4
3	3%	3%	23.45	490.63	588.7
4	0.5%	1%	4.83	98.98	118.8
5	1%	2%	9.66	200.03	240.0
6	2%	4%	19.31	404.19	484.9

Data source: Indecon, *Analysis to Inform Potential National Media Creative Content Fund*⁵³

Article 13.1 is replaced to provide that Member States must ensure that on-demand audiovisual media services secure a quota of at least 30% share of European works in their catalogues and ensure prominence of those works.

Article 13.2 of the revised AVMSD permits Member States to require media service providers to contribute financially to the production of European works, may also require providers based in other Member States that are targeting audiences in their territories, to also make such financial contributions. If a Member State decides to impose such contributions, they must be proportionate and non-discriminatory. This financial contribution is referred to as a European works levy in the Bill and was also called a content levy during the pre-legislative scrutiny of the Bill.

Article 13.6 permits the exempting of low audience or low turnover media service providers from making financial contributions. The European Commission has published a [guidance document](#) regarding the calculation of the share of European works in on-demand catalogues and the definition of low audience and low turnover.⁵⁴

Infringement Proceedings

The 2018 Directive set a deadline of 19 September 2020 for Member States to transpose its provisions into national law. Under [Article 258 TFEU](#), the European Commission may launch infringement proceedings against a Member State that fails to transpose EU rules, which consists of two steps:

- A reasoned opinion issued by the European Commission to the Member State after giving the Member State an opportunity to submit its observations; and
- If the Member State does not comply with the reasoned opinion, the European Commission may bring the matter before the Court of Justice of the European Union.

The European Commission outlines its infringement procedure in more detail on its [website](#), but the stages of infringement generally involve a formal notice issued to the Member State, which must send a detailed reply within a specified period – this is the opportunity the Member State has to submit observations. If the matter remains unresolved, the Commission may then move towards a reasoned opinion and legal proceedings, which may result in penalties for the Member State and a direction to comply with EU law.

In November 2020, the European Commission announced that it had commenced infringement proceedings against 23 Member States and the United Kingdom.⁵⁵ In September 2021, 9 Member States were yet to implement the Directive, to which the European Commission has issued reasoned opinions (completing the first stage of the infringement process).⁵⁶ Ireland was among 19 Member States yet to transpose wider measures across the digital and media fields.⁵⁷

In response to a Parliamentary Question in October 2021, the Minister highlighted the possibility of fines if the OSMR Bill is not enacted:

There is significant urgency attached to the enactment of the Bill, not least due to ongoing infringement proceedings against Ireland given the implementation deadline of 19 September 2020 for the revised Directive. These proceedings have recently moved to the “reasoned opinion” stage and the European Commission has noted the potential imposition of significant fines for continued non-transposition.⁵⁸

Development of the OSMR Bill

The then Minister for Communications, Climate Action and Environment, Richard Bruton TD, announced proposals for an OSMR Bill on 4 March 2019 with a view to transposing the revised Audiovisual Media Services Directive contained in [Directive \(EU\) 2018/1808](#) and to address gaps within the legal framework in respect of harmful online content.

A [public consultation](#) was also launched at this time to inform the development of the proposed legislation. It closed in April 2018, with 84 submissions received: 40 from members of the public, 21 from commercial organisations and industry groups, 7 from public bodies and 16 from NGOs. Submissions were published on the Department’s [website](#) on 27 June 2018. A [Thematic Analysis](#) of these submissions was subsequently prepared by the Department and published on 25 July 2019. The Department identified a range of key themes from this public consultation process, including those set out in the text box overleaf.⁵⁹

Key issues identified by the Department's thematic analysis

- Overarching issues regarding the need for consistency in legislation and regulation, particularly given the complexity of the online landscape
- That the regulatory framework for online safety established by the legislation should be future-proof to the greatest extent possible so that it can adapt and will not quickly become obsolete, and
- That there is a need for significant safeguards in legislation to prevent unintended consequences and to avoid imbalances in the consideration of fundamental rights, including in relation to freedom of expression, the right to privacy, the right to communicate, freedom of religion, freedom of assembly and other key rights.

Source: [Regulatory Impact Assessment](#)

The General Scheme of the proposed OSMR Bill was approved by Government on 9 January 2020 and subsequently published. Later that year, a [Regulatory Impact Analysis](#) (RIA) of the OSMR Bill was published in November 2020. It was accompanied by an [Annex](#), which contained policy papers across 7 key policy areas:

- Regulatory structures and functions;
- Regulatory powers and sanctions;
- Defining harmful online content;
- Approach to regulating harmful online content;
- Services in scope of the regulatory framework for online safety;
- Funding regulation; and
- Regulation of audiovisual media service.

The RIA considered a range of policy options, including:

Policy options considered in the RIA	
1. Do nothing	
2. Transpose the revised Directive through a statutory instrument, assign the regulatory functions arising from transposition to an existing regulatory body and either:	(a) Assign the oversight of the regulatory framework for online safety to the same regulatory body, or, (b) Establish a new regulatory body to oversee the regulatory framework for online safety.
3. Transpose the revised Directive through primary legislation, assign the regulatory functions arising from transposition to an existing regulatory body and either:	(a) Assign the oversight of the regulatory framework for online safety to the same regulatory body, or, (b) Establish a new regulatory body to oversee the regulatory framework for online safety.
4. Transpose the revised Directive through primary legislation, establish a new regulatory body to carry out the functions arising from transposition and either:	(a) Assign the oversight of the regulatory framework for online safety to the same new regulatory body, or, (b) Establish another separate new regulatory body to oversee the regulatory framework for online safety.

Reproduced from: [Regulatory Impact Assessment](#)

On undertaking this regulatory impact assessment, the Department's preferred option was Option 4a as it was deemed to:

"..adequately and robustly transposes the revised Directive, aligns the national regulatory response to online safety matters with the online safety related requirements of the revised Directive under a single robust, adaptable and proportionate regulatory framework for online safety, establishes an adaptable structure for media regulation, provides greater clarity and protection to the citizen and minimises costs to the exchequer".⁶⁰

Further, the specific costs, benefits and impacts in respect of this option (Option 4a) were characterised by the Department as follows:

Costs	Benefits	Impacts
Start-up/bridging funding required from exchequer.	Significant progress in addressing regulatory requirements Cost of regulation borne by the regulated sectors in accordance with the principle of proportionality	Negative aspects of the regulated sectors robustly addressed; EU obligations adequately met; Government commitments regarding online safety substantially realised; Costs on exchequer minimised

Reproduced from: [Regulatory Impact Assessment](#)

On the 18 May 2021, the Department announced the integration of the [Broadcasting \(Amendment\) Bill 2019](#) with the OSMR Bill. The Broadcasting (Amendment) Bill 2019 was published on 2 August 2019 and had reached Committee stage when the Dáil was dissolved in January 2020. The Department noted that this Bill was "subsequently overtaken" by the development of the OSMR Bill.⁶¹

In addition, further policy development was undertaken by the Department following the publication of the General Scheme and RIA, with a virtual workshop⁶² on the regulatory framework for online safety held by the Department on 18 June 2020. Approximately 60 participants from a range of backgrounds (including expert academics, representatives of commercial organisations, domestic and international NGOs, the European Commission, and public bodies) attended the workshop. A summary of the event and the issues raised was published on the Department's [website](#), with key themes identified by stakeholders outlined below.⁶³

Key themes identified by stakeholders at virtual workshop

- **Further clarity regarding the designation process for online services**, in particular why some perceived low-risk online services are in scope for potential designation and factors that inform a decision by the Online Safety Commissioner to designate online services
- **Further clarity regarding the obligations that designated online services may be obliged to meet under Online Safety Codes**, in particular what these obligations may be and whether they are sufficient.
- **A consultative approach to regulation** to be further highlighted, involving regulated online services, NGOs and relevant experts.
- **Further guidance on the practical application of the categories of harmful online content**, particularly regarding their potential application in content moderation.

Reproduced from: Department's [summary](#) of virtual workshop

Pre-legislative Scrutiny of the OSMR Bill

The Joint Committee on Tourism, Culture, Arts, Sport and Media agreed to undertake pre-legislative scrutiny (PLS) at its meeting on 16 December 2020. PLS commenced in early February 2021, with the Committee holding 15 oral hearings on this matter and also receiving written evidence from 61 stakeholders.⁶⁴ The [report](#) of the Committee's PLS of the General Scheme, which was published in November 2021, will be further considered in the forthcoming **Bill Digest**.

Publication of the OSMR Bill

Prior to the initiation of the OSMR Bill in the Seanad on 25 January 2022, a draft copy of the Bill was published on gov.ie on 14 January 2022. Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Catherine Martin TD, described the publication of the Bill as follows:

The Online Safety and Media Regulation Bill marks a watershed moment as we move from self-regulation to an era of accountability by platforms for online safety and a more joined up approach to audiovisual media regulation. I am pleased to be publishing this landmark piece of legislation.

One of the most important aspects of the Bill is that it establishes a new, powerful regulator to enforce accountability in the sector. The Media Commission will include an Online Safety Commissioner to enforce not just this legislation, but also additional legislation and measures that will be brought forward at European level in the coming years.⁶⁵

This publication was accompanied by confirmation that Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Catherine Martin TD, had secured government approval to begin recruitment of an Online Safety Commissioner.⁶⁶ Further, the Minister stated that the establishment of the new regulator, the Media Commission (which includes the Online Safety Commissioner), has begun prior to the passing and enactment of the OSMR Bill.⁶⁷

Given the importance of the Commission, Government has now approved its establishment on an administrative basis prior to the enactment of the Bill. Work is underway between my officials and officials from the Department of Public Expenditure and Reform and the Public Appointments Service to start recruitment of key staff of the Commission, including an Online Safety Commissioner, through open public competitions.⁶⁸

Further, the Minister advised that while the Commission will ultimately be funded through levies on regulated services, Budget 2022 included provision for start-up funding of €5.5 million to support the administrative establishment of the Commission in order to enable it to "hit the ground running" on its formal establishment.⁶⁹

PLS recommendations and establishment of an expert group

On publishing the Bill, Minister Martin indicated it addressed "the majority" of the recommendations contained within the PLS report of the Joint Committee on Tourism, Culture, Arts, Sport and Media.⁷⁰ However, Minister Martin confirmed that the Bill does not address a number of these PLS recommendations, including an individual complaints mechanism in respect of harmful content:

There are a number of recommendations, including those regarding the provision of an individual complaints mechanism for harmful online content, that require further consideration and which I intend to address through potential amendments to the Bill at Committee Stage.⁷¹

Committing to address these at Committee Stage, the Minister announced that she intends to shortly establish an expert group to recommend how best to address these issues within 90 days of its establishment:

I am currently in the process of establishing an expert group to report to me within 90 days with recommendations for how to best address the matter of individual complaints. I will announce the membership of the group next week.⁷²

The Department subsequently announced the establishment of this expert group⁷³ on 24 January 2022:

.. to examine whether it is practicable to include an individual complaints mechanism in the Bill and, if so, how this may be done.⁷⁴

In this context, the Department confirmed that the expert group will have 90 days from its establishment with a view to examining the “the range of complex legal and practical matters that this issue raises” and reporting back to Minister Martin. Following this, the Department advises that the Minister:

.. will then consider amending the Bill as it passes through the Oireachtas on the basis of their recommendations.⁷⁵

Speaking in Dáil Éireann on 20 January 2022, Minister Martin outlined the legal and practical issues to be considered by the expert group.

The expert advisory group will be examining a proposal that will raise complex legal and practical matters, as I mentioned earlier. For example, in one context there is the complexity in the Irish constitutional and legal context of upholding fundamental rights and respecting due process requirements for complainants, online services and the uploaders of content subject to complaint. From a practical perspective, there are questions regarding the design and resource implications.

For that reason, the expert advisory group I will announce in the coming days will need to be able to draw from a wide and diverse range of expertise and experience. I am seeking: legal expertise, especially in the complexities of regulating the online world; knowledge of and expertise in the operation of complaints systems in other contexts; experience in the protection of children's rights in an online environment; and knowledge of and expertise in practical requirements, such as resourcing and organisation required to operate an individual complaints system.⁷⁶

Of note is that an individual complaints mechanism, and any recommendations of the expert group, are not presently underpinned by the Bill itself, so would not have the status of a legal obligation should the Bill be passed as it currently stands.

The Minister also advised Deputies that the Bill will be initiated in Seanad Éireann and that the recommendations of the expert advisory group will be accounted for at Committee stage. The Minister also highlighted the importance of the Bill given the number of online platforms based in Ireland:

On the EU-wide base, the major issue is the 450 million people that we would represent if the platform is based in Ireland, as we would be the country in charge of that regulation. That is why all eyes are on us.⁷⁷

The Terms of Reference of the expert group are included below for Members' information.⁷⁸

Table 4: Terms of Reference of Expert Group

1. To examine if an individual complaints mechanism is practicable in the context of the Online Safety and Media Regulation Bill and, if not, if there is another method of resolving matters raised by such a mechanism;
2. To consider the scope of such a scheme, in terms of both the online services and online content that would be covered, taking into account the nature and volume of online content and the overall purpose of the Online Safety and Media Regulation Bill.
3. To examine the fundamental rights and due process requirements for complainants, online services and the uploaders of the content subject to a complaint, taking into account relevant provisions on such matters in section 46 (Part 8B – Chapter 7 of the 2009 Act) of the Online Safety and Media Regulation Bill, which provides an Online Safety Commissioner with the power to issue content limitation notices.
4. To consider the operations of any such scheme, in light of best practices by public bodies in receiving and processing complaints, appeals or requests for review from members of the public; This would include:
 - a. The thresholds which must be met by a complainant before their complaint is accepted by an Online Safety Commissioner;
 - b. The threshold which must be met before an Online Safety Commissioner may issue a content limitation notice on foot of a complaint; and
 - c. The process by which an Online Safety Commissioner would receive and acknowledge complaints and engage with complainants, online services and the uploaders of the content subject to a complaint about the complaint, including regarding the outcome of any complaint.
5. To consider the resource implications and timing in respect of the introduction of any such scheme;
6. To recommend such draft amendments to the Online Safety and Media Regulation Bill as are necessary to underpin any proposals put forward by the Expert Advisory Group for an individual complaints mechanism; and
7. To report to the Minister within 90 days of the expert advisory group's establishment.

Oireachtas Committee meeting post publication

Following the publication of the Bill in January 2022, the Joint Committee on Tourism, Culture, Arts, Sport and Media met with officials from the Department of Enterprise, Trade and Employment and the Department of Tourism, Culture, Arts, Sport and Media to discuss the potential interplay between the EU Digital Services Package (DSP) and the OSMR Bill. Committee Cathaoirleach, Niamh Smyth TD, noted the purpose of the meeting as follows:

“There is potential overlap between the EU DSP and the Online Safety and Media Regulation Bill, the text of which, as approved by Government, was published last week, and which is due before the Oireachtas in the coming weeks. Following extensive pre-legislative scrutiny last year by this Committee, Members welcome this opportunity to discuss these legislative packages and to discussing the issues involved and related matters with the officials from both departments”.⁷⁹

At the meeting, as well as discussing the upcoming Digital Services Act (DSA), the Committee also raised the expected timeframes for both pieces of legislation, how the DSA will interact with the AVMSD, and the digital services coordinators envisaged by the DSA. The Committee also raised the DSA provisions on complaints mechanisms, the legislative response to disinformation and fake news, and the work of the Future of Media Commission. The [debate](#) is available on the Oireachtas website.⁸⁰

Commentary following the publication of the OSMR Bill

Press Commentary

An [opinion piece](#) from *The Irish Times* welcomed the provisions in the OSMR Bill in respect of establishing a new regulator, the Media Commission, whilst noting that the Bill does not provide the option for the right of individual complaint:

“With Ireland responsible for regulation of EU-wide services based here, the commission will have to represent consumers of Irish-headquartered giants like Google. It is a task so potentially huge that the Bill’s drafters have opted not to provide for a right, through the commission, of individual complaint, although Minister for Media Catherine Martin has set up an expert committee to examine its viability. The right was of strong concern to TDs and NGOs when the Bill was considered by an Oireachtas committee ..”⁸¹

This opinion piece highlighted that the lack of this provision means that the Commission will “differ significantly” from the Press Council, which is argued to be “specifically geared to individual redress” and applies if a publication has failed to address grievances.⁸²

An *Irish Examiner* [opinion piece](#) described the OSMR Bill as a “significant legislative proposal” seeking to regulate both ‘old’ and ‘new’ media. In respect of the obligation on broadcasters or providers of audiovisual on-demand not to make available “anything which may reasonably be regarded as causing harm or offence” or “anything which may reasonably be regarded as tending to undermine the authority of the State”, this opinion piece contended that:

“There is clearly much to be fleshed out here before citizens can feel reassured that a monolithic commission is the appropriate arbiter for every aspect of our media and communications experience, particularly when everything we are taking on will have to fit into an EU template.”⁸³

Further, this *Irish Examiner* opinion piece asserted that “one of the major concerns” in respect of the OSMR Bill centres on the age at which children and young people are considered capable of developing their own digital identity (including social media accounts). In this respect, *the Irish Examiner* stated that:

“The Bill makes it clear that further proposals are to follow and will be informed not only by Europe but by the forthcoming Electoral Reform Bill and Gambling Bill. But if it cannot guarantee safety for children then it does not matter how shiny and large the new Media Commission is. It will not be fit for purpose. We look forward to seeing the detailed proposals.”⁸⁴

Press Ombudsman

The [Press Ombudsman](#), Peter Feeney, recently highlighted difficulties with the regulation of social media. In that context, he welcomed the publication of the Bill, whilst also highlighting that the legislative process is in its early stages:

“While all social media companies have a complaints procedure, it is not fit for purpose. Firstly, you cannot just call them up, you have to email them. That email can be picked up anywhere in the world. The response can be a very slow process ... it is critically important that social media comes under some form of regulation ... while I welcome the Bill, it is still very early days and it will be some time before this becomes legislation.”⁸⁵

NGO/Other stakeholder perspectives

Individual complaints mechanism

In a [press release](#) marking the publication of the OSMR Bill, the Chief Executive of the [Children's Rights Alliance](#),⁸⁶ Tanya Ward, described it as having the potential to:

“.. put an end to the age of self-regulation by the big tech and social media giants and create a level of accountability that is sorely needed. It could open the window to a safer online world for children and young people in this country. The political will to ensure that it does this will need to be carried from publication today through amendment stages to ensure that key gaps in the General Scheme are addressed going forward.”⁸⁷

In terms of the provisions contained within the Bill, the Children's Rights Alliance welcomed the establishment of an Online Safety Commissioner:

“It is going to be very difficult to enforce any changes in behaviour in the Wild West of the online world without appointing a sheriff. It is not news that very harmful content can circulate on online platforms and the reality of the situation is, online harms can have a devastating impact in the lives of children and young people offline as well. They want the assurance that there is someone looking out for them and their interests in the online world. There is also huge support amongst the Irish public for the establishment of an Online Safety Commissioner and one with the weight of the law behind them to hold platforms accountable.”⁸⁸

However, the absence of an individual complaints mechanism in the Bill was characterised as a gap in its provisions:

“Our line on online safety has been clear from the start – the Government needs to take a firm stand against illegal and harmful content that online platforms have allowed to fester in the age of self-regulation. The root of our concern lies with platforms alone being the sole gatekeepers of how complaints are handled and what safety codes they need to abide by. We emphasised the need for an individual complaints mechanism that would offer all individuals, but particularly vulnerable children and young people, an accessible solution when online services and platforms fail to protect them. With this mechanism, a person could raise a complaint with the Online Safety Commissioner when a platform fails to give them a satisfactory response, or any at all. An individual complaints mechanism represents a vital safety net for children and young people and would place a responsibility on platforms to make their services a safer space for children.”⁸⁹

The Children's Rights Alliance concluded by noting the opportunities offered by the OSMR Bill, whilst also highlighting what it characterises as legislative gaps:

“The OSMR Bill presents a huge opportunity to bring about the changes we have been discussing for over a decade now to make the online world safer for children. The establishment of an Online Safety Commissioner represents a huge step forward in the

protection of children and young people online. Serious political will and action will be required to ensure the shortcomings in the Bill are addressed in promised amendments. The provisions for an effective individual complaints mechanism and a Commissioner with the ability to take swift action against non-compliant platforms are key to ensure the legislation meets expectations.”⁹⁰

Similarly, CyberSafeKids was reported as welcoming the revised OSMR Bill and the incorporation of a number of PLS recommendations. However, Alex Cooney, CEO of CyberSafeKids, characterised the inclusion of an individual complaints mechanism in the Bill as “imperative”:

“This mechanism will provide a vital safety net for all online users, but particularly the most vulnerable including children, to get harmful content removed in a timely manner ..”⁹¹

The [ISPCC](#) “cautiously welcomed” the OSMR Bill in a [press release](#) marking its publication. However, like the Children’s Rights Alliance, the ISPCC also referenced the lack of an individual complaints mechanism in the Bill. In this context, John Church, Chief Executive of ISPCC, noted that:

“Key stakeholders, including ISPCC, went to great lengths in highlighting this substantial flaw in the General Scheme of the bill, including sharing a legal opinion obtained by us clearly showing that the Government is legally obliged to provide for such a system.

Children and young people have a right to be safe and a right to be heard. Yet, we know these rights are being systematically violated online. Ireland has a bleak history of not listening to children and young people and not acting in their best interests. It is reprehensible thus to see that these failures are continuing into 2022, with the Government approving the publication of such a bill without provision for an individual complaints mechanism. Rather than ensuring those who experience cyberbullying will have access to meaningful redress, this legislation will instead facilitate their continued harm unless and until it includes such a procedure.”⁹²

Nonetheless, the ISPCC acknowledged that the Minister for Tourism, Culture, Arts, Sport and Media, Catherine Martin TD, has committed to establishing an expert advisory group to consider this:

“Whilst the bill does not include the provision of an individual complaints mechanism, which ISPCC has campaigned for over many years as a means of ensuring children and young people who suffer the devastating impacts of cyberbullying can have their experiences heard and addressed appropriately, the Minister has chosen to establish an expert advisory group to examine the issue and report back to her with recommendations on how best to address the matter.”⁹³

Marketing of unhealthy food aimed at children

Commenting on the publication of the OSMR Bill, Kathryn Reilly, Policy Manager with the [Irish Heart Foundation](#) highlighted a further perceived legislative gap, namely the lack of explicit provisions in the Bill restricting the marketing of unhealthy food aimed at children:

“The new Bill fails to curb the digital marketing of unhealthy food to children ... With the Online Safety and Media Regulations Bill, the Oireachtas has a once in a decade opportunity to protect children’s health and to be part of momentum across Europe to tackle marketing to children ... A junk food ad ban in the Online Safety and Media Regulation Bill would have been a seismic shift to put public health above private profits ..”⁹⁴

Specifically, she contended that the sections of the Bill dealing with media codes and online safety codes do not explicitly ban such advertising aimed at children:

“These provisions do not go far enough. They don’t adequately reflect the recommendation of the Oireachtas Committee. These alone will not suffice. Children must be explicitly protected from these forms of advertising and they must be named in the Bill.”⁹⁵

In this regard, she advised that the Irish Heart Foundation are seeking amendments to the Bill to reflect this:

“There have been two Oireachtas reports in the last three years calling for statutory regulation in this area, and there is a clear public demand for this advertising and marketing to stop – legislators must now ensure this recommendation is in the Bill as it progresses through the Oireachtas this year. We will be seeking amendments in this area and hope that the Committee members who made the recommendation, as well as the wider Oireachtas, support them ..”⁹⁶

Harmful online content

Whilst welcoming the publication of the Bill, the Executive Director for [Samaritans Ireland](#), Niall Mulligan, highlighted some concerns in respect of the provisions in the Bill related to harmful online content:

“While we positively note the removal of the word ‘intent’ from considerations of harmful online content, we have remaining concerns around Section 44 139A.(3)(c)(d). The phrasing in these lines still carry the potential to stigmatise those individuals with self-harm or suicidal thoughts and/or experiences who may post content as part of their own recovery that could be harmful to others. We encourage the legislative focus remain on the content itself and not the poster who uploaded it.”⁹⁷

Further, he also highlighted concerns in respect of the wellbeing of platform moderators:

“We also feel the lack of any reference to those who moderate the content on behalf of platforms to make the internet safer is a missed opportunity. The guidance Samaritans has developed as part of our Online Excellence programme includes measures to protect the wellbeing of staff with a high exposure to difficult content – we feel this would be an important issue to include in the compliance monitoring for Designated Service Providers.”⁹⁸

Industry perspective

Commenting on the publication of the OSMR Bill, the Ibec group representing the technology sector, Technology Ireland, “expressed concern” about the timeline of the Bill and called for “urgent progress” on the implementation of the AVMSD, as well as alignment with Digital Services Act requirements.⁹⁹ Director of Technology Ireland, Una Fitzpatrick, stated that:

“Technology Ireland and its members have been consistent in supporting the goals of the OSMR Bill in providing a systemic approach in regulating online platforms and digital services. However, this Bill was first announced in January 2020 and the delay in getting to this stage does not reflect the urgency of establishing the Media Commission and implementing the Audio Visual and Media Services (AVMS) Directive. Ireland will be among

the last EU member states to implement the online safety framework provided for in the AVMS Directive.”¹⁰⁰

Noting that the EU’s proposed harmonised approach to online safety through the DSA is approaching finalisation, she expressed concern about the compatibility of provisions in the OSMR Bill with the DSA¹⁰¹:

“Based on the current expected timelines, the DSA will be finalised before this Bill is enacted and it remains unclear as to how some provisions in this Bill will be compatible with that.”¹⁰²

Conclusion

This *L&RS Note* is intended to introduce Members of the Oireachtas to the background and policy issues regarding the main changes proposed by the OSMR Bill. It summarises the policy context of proposed changes on online safety and the transposition of the revised provisions of the AVMSD. It also considers previous reports on digital safety, including the 2014 [report](#) of the ICGAG and the 2016 [report](#) of the LRC, as well as documents such as the [Action Plan on Online Safety](#). The particular policy issues considered in this *L&RS Note* relate to the development of a regulatory environment for online safety. While a number of legal and regulatory provisions already exist, such as those aimed at harassment, criminal damage and defamation, the creation of a regulator for online safety has been a central feature of this debate in recent years.

This *L&RS Note* also outlines the transposition of the AVMSD and relevant considerations in relation to the audiovisual media services industry, new provisions relating to VSPPs and provisions on the share and prominence of European works. A further consideration is the imposition of a European works levy on media service providers, which is envisaged by the Bill.

In addition to this policy background, this *L&RS Note* also outlines considerations concerning the development of the Bill, the PLS [report](#) of Joint Committee on Tourism, Culture, Arts, Sport and Media and commentary following the publication of the Bill last month. In particular, the establishment of an expert group to examine the viability of an individual complaints mechanism raises the possibility of further amendments in this regard at Committee stage. The group, which was established on 24 January 2022, is expected to report within 90 days of its establishment.

Forthcoming *L&RS Notes* in this series will present empirical resource data in respect of the societal context of the Bill and introduce the current legal and regulatory framework in this area (Parts 2 and 3 respectively).

L&RS Note series on the OSMR Bill

As highlighted above, this L&RS Note series is intended to complement the upcoming Bill Digest in aiding Members in their consideration of the OSMR Bill. The Bill Digest itself will focus on the principal provisions of the Bill.

References

¹ Source: Oireachtas Library & Research Service, 2020, [L&RS Note: Online harms – what are the legal issues?](#), at p.2.

² According to *Murdoch and Hunt's Encyclopedia of Irish Law*, Bloomsbury Professional, 2021, a Norwich Pharmacal Order is “[a]n order of the court which requires the respondent to disclose information or documents to the applicant; also referred to as ‘sole discovery’ and it is available pursuant to the inherent jurisdiction of the High Court. It is generally expected that the applicant’s ultimate objective is to use the information for the purposes of instituting proceedings”.

³ [Directive 2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') [2000] OJ L 178/1 (accessed 15 February 2022).

⁴ Source: Department of Communications, Climate Action & Environment, [Annual Report 2017](#), p.28

⁵ Source: Department of Communications, Climate Action & Environment, [Ministerial Brief 2018](#), p.256

⁶ Source: Department of Communications, Climate Action & Environment, [Annual Report 2017](#), p.28

⁷ Source: [Action Plan for Online Safety 2018-2019](#), p.15

⁸ Source: [Action Plan for Online Safety 2018-2019](#), p.15

⁹ Source: [Action Plan for Online Safety 2018-2019](#), p.8,9

¹⁰ Source: [Be Safe Online \(www.gov.ie\)](#) (accessed 20 January 2022)

¹¹ The Department notes that there has been criticism of the inclusion of industry representatives, particularly those of major online platforms, as members of the Council. The Department response to this criticism is that “it is important to note that the Taoiseach has made it clear that industry needs to be part of the solution to the issues involved in the wide ranging subject of online safety”. [Source: [Report of a National Survey of Children, their Parents and Adults regarding Online Safety \(www.gov.ie\)](#), p.253]

¹² For each child that participated in the survey, a parent was also interviewed about their own internet use, their digital parenting practices and their needs for information and support in respect of online safety. [Source: [Report of a National Survey of Children, their Parents and Adults regarding Online Safety \(www.gov.ie\)](#), p.9]

¹³ Source: [National Advisory Council for Online Safety \(NACOS\) \(www.gov.ie\)](#)

¹⁴ Source: Department of Communications, Energy and Natural Resources (2014), [Report of the Internet Content Advisory Group](#), Dublin, p.5

¹⁵ Ibid.

¹⁶ Ibid, at pp.8-11.

¹⁷ Ibid, at p.42.

¹⁸ Ibid, at p.45.

¹⁹ Ibid, at pp.45-46.

²⁰ Source: Department of Justice, [Cybercrime](#) (webpage) (accessed 14 February 2022).

²¹ Source: Law Reform Commission, [Report on Harmful Communication and Digital Safety](#), LRC 116 – 2016 (accessed 14 February 2022).

²² Ibid at p.1.

²³ Ibid at pp.155-159.

²⁴ Ibid at p.42.

²⁵ Ibid at pp.42-43.

²⁶ Ibid at p.40.

²⁷ Source: Joint Committee on Children and Youth Affairs (32nd Dáil), [Report on Cybersecurity for Children and Young Adults](#), March 2018, at pp.4-6. See Recommendations 2 and 14.

²⁸ Ibid. See Recommendations 5 to 11.

²⁹ Ibid, at p.5, Recommendation 15.

³⁰ Ibid, at p.6, Recommendation 16.

³¹ Ibid, at p.6, Recommendation 17.

³² Ibid, at p.6, Recommendation 18.

³³ Recital 1, [Directive 2010/13/EU](#) of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) [2010] OJ L 95/1 (accessed 14 February 2022).

³⁴ [European Communities \(Audiovisual Media Services\) Regulations 2010](#), S.I. No. 258/2010. These Regulations reference Directive 89/552/EEC and its amending Directive 2007/65/EC. Both of these Directives were codified by the AVMSD and are no longer in force. See also E Carolan and A O'Neill, *Media Law in Ireland*, Bloomsbury Professional, 2nd ed, 2009, at [8.209]-[8.213].

³⁵ [Directive \(EU\) 2018/1808](#) of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities [2018] OJ L 303/69 (accessed 14 February 2022).

³⁶ ERGA was originally established by Commission Decision of 3.2.2014 on establishing the European Regulators Group for Audiovisual Media Services, C(2014) 462 final, available at [Commission Decision on establishing the European Regulators Group for Audiovisual Media Services](#) (webpage) (accessed 10 February 2022).

³⁷ See [Register of Commission expert groups and other similar entities](#) (webpage) (accessed 10 February 2022).

³⁸ [Directive 2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') [2000] OJ L 178/1 (accessed 15 February 2022); [Directive 2011/93/EU](#) of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA [2011] OJ L 335/1 (accessed 15 February 2022).

³⁹ Recital 5, [Directive \(EU\) 2018/1808](#) of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities [2018] OJ L 303/69 (accessed 14 February 2022).

⁴⁰ Section 139G of the 2009 Act, as envisaged by section 44 of the OSMR Bill. The Bill uses the term 'video-sharing platform service'.

⁴¹ Section 139L of the 2009 Act, as envisaged by section 44 of the OSMR Bill.

⁴² [Section 26\(1\) of the Finance Act 2018](#) amended section 481 of the 1997 Act to include this requirement. See also Paschal Donohue TD, Minister for Finance, [Tax Reliefs](#), Response to Parliamentary Question Nos. 96 and 380, *Dáil Éireann Debate*, 31 March 2021.

⁴³ See Broadcasting Authority of Ireland, [Sound & Vision 4](#) (webpage) (accessed 3 February 2022).

⁴⁴ See Screen Ireland, [Funding](#) (webpage) (accessed 3 February 2022).

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- ⁴⁵ Source: Olsberg SPI with Nordicity, [Economic Analysis of the Audiovisual Sector in the Republic of Ireland](#), December 2017 (accessed 10 February 2022).
- ⁴⁶ Source: Indecon, Analysis to Inform Potential National Media Creative Content Fund, included with the [Joint Creative Audiovisual Sectoral Group Submission to the Future of Media Commission](#) (accessed 2 February 2022), at p.3 of the Submission to the Joint Committee on Tourism, Culture, Arts, Sport and Media.
- ⁴⁷ Source: Olsberg SPI with Nordicity, [Economic Analysis of the Audiovisual Sector in the Republic of Ireland](#), December 2017, at p.26 (accessed 10 February 2022).
- ⁴⁸ Ibid at pp.36-37.
- ⁴⁹ Ibid at pp.52-53.
- ⁵⁰ Source: Department of Culture, Heritage and the Gaeltacht, [Audiovisual Action Plan – Creative Ireland Programme Pillar 4](#), June 2018 (accessed 2 February 2022).
- ⁵¹ Source: Indecon, Analysis to Inform Potential National Media Creative Content Fund, included with the [Joint Creative Audiovisual Sectoral Group Submission to the Future of Media Commission](#) (accessed 2 February 2022), Executive Summary at pages v to xiii.
- ⁵² Source: Indecon, Analysis to Inform Potential National Media Creative Content Fund, included with the [Joint Creative Audiovisual Sectoral Group Submission to the Future of Media Commission](#) (accessed 2 February 2022). A copy of the Joint Creative Audiovisual Group's submission to the Joint Committee on Tourism, Culture, Arts, Sport and Media is also included.
- ⁵³ Ibid. This table is based on data drawn from six scenarios set out in the report.
- ⁵⁴ Source: European Commission, [Guidelines pursuant to Article 13\(7\) of the Audiovisual Media Services Directive on the calculation of the share of European works in on-demand catalogues and on the definition of low audience and low turnover](#), 7 July 2020, OJ C 223/10 (accessed 2 February 2022).
- ⁵⁵ Source: European Commission, [Audiovisual Media: Commission opens infringement procedures against 23 Member States for failing to transpose the Directive on audiovisual content](#) (press release), 23 November 2020 (accessed 1 February 2022).
- ⁵⁶ Source: European Commission, [Stepping up legal action: Commission urges 19 Member States to implement EU digital and media laws](#) (press release), 23 September 2021 (accessed 1 February 2022).
- ⁵⁷ Source: European Commission, [Stepping up legal action: Commission urges 19 Member States to implement EU digital and media laws](#) (press release), 23 September 2021 (accessed 1 February 2022).
- ⁵⁸ Catherine Martin TD, Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, [Response to Parliamentary Question No.13, Online Safety](#), Written Answer, *Dáil Éireann Debate*, 5 October 2021.
- ⁵⁹ Source: [Regulatory Impact Assessment, Online Safety and Media Regulation Bill](#), p.11.
- ⁶⁰ Source: [Regulatory Impact Assessment, Online Safety and Media Regulation Bill](#), p.4.
- ⁶¹ Source: [Joint Committee on Tourism, Culture, Arts, Sport and Media - Report of the Joint Committee on the Pre-Legislative Scrutiny of the General Scheme of the Online Safety and Media Regulation Bill - November 2021 \(oireachtas.ie\)](#), p.16.
- ⁶² A planned stakeholder workshop on the regulatory framework for online safety due to be held in March 2020 was postponed due to the emergency measures necessary in response to the COVID-19 pandemic.
- ⁶³ [Summary of the virtual workshop on the regulatory framework for online safety](#), 18 June 2020, p.4,6
- ⁶⁴ Source: [Joint Committee on Tourism, Culture, Arts, Sport and Media - Report of the Joint Committee on the Pre-Legislative Scrutiny of the General Scheme of the Online Safety and Media Regulation Bill - November 2021 \(oireachtas.ie\)](#) p.16,17
- ⁶⁵ Source: [Press Release - Minister Martin presses forward with vital online safety law to establish new regulator \(www.gov.ie\)](#), 12 January 2022 (accessed 19 January 2022)

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- ⁶⁶ Source: [Press Release - Minister Martin presses forward with vital online safety law to establish new regulator \(www.gov.ie\)](#), 12 January 2022 (accessed 19 January 2022)
- ⁶⁷ Source: [Speech - Publication of Online Safety and Media Regulation Bill](#), 12 January 2022 (accessed 19 January 2022)
- ⁶⁸ Source: [Speech - Publication of Online Safety and Media Regulation Bill](#), 12 January 2022 (accessed 19 January 2022)
- ⁶⁹ Source: [Speech - Publication of Online Safety and Media Regulation Bill](#), 12 January 2022 (accessed 19 January 2022)
- ⁷⁰ Source: [Speech - Publication of Online Safety and Media Regulation Bill](#), 12 January 2022 (accessed 19 January 2022)
- ⁷¹ Source: [Press Release - Minister Martin presses forward with vital online safety law to establish new regulator \(www.gov.ie\)](#), 12 January 2022 (accessed 19 January 2022)
- ⁷² Source: [Speech: Publication of Online Safety and Media Regulation Bill](#), 12 January 2022 (accessed 19 January 2022)
- ⁷³ Membership of the expert group can be found at the following link: [Minister Martin establishes online safety expert group on individual complaints \(www.gov.ie\)](#)
- ⁷⁴ Source: [Press Release - Minister Martin establishes online safety expert group on individual complaints](#), 24 January 2022 (accessed 24 January 2022)
- ⁷⁵ Source: [Press Release - Minister Martin establishes online safety expert group on individual complaints](#), 24 January 2022 (accessed 24 January 2022)
- ⁷⁶ Source: Catherine Martin TD, Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, [Ceisteanna ar Sonraíodh Uain Dóibh - Priority Questions](#), *Dáil Éireann Debate*, 20 January 2022.
- ⁷⁷ Ibid.
- ⁷⁸ Source: Government of Ireland, [Minister Martin establishes online safety expert group on individual complaints](#) (press release), 24 January 2022 (accessed 2 February 2022).
- ⁷⁹ Source: [Press Release - Joint Committee on Tourism, Culture, Arts, Sport and Media to discuss EU Digital Services Package and the Online Safety and Media Regulation Bill](#), 18 January 2022 (accessed 19 January 2022)
- ⁸⁰ Joint Committee on Tourism, Culture, Arts, Sport and Media, [EU Digital Services Package and the Online Safety and Media Regulation Bill: Discussion](#), *Committee Debate*, 19 January 2022.
- ⁸¹ Source: [The Irish Times view on online safety: calling time on self-regulation](#), 13 January 2022 (accessed 19 January 2022)
- ⁸² Source: [The Irish Times view on online safety: calling time on self-regulation](#), 13 January 2022 (accessed 19 January 2022)
- ⁸³ Source: [Irish Examiner view: Wide-ranging Bill needs great scrutiny](#), 17 January 2022 (accessed 18 January 2022)
- ⁸⁴ Source: [Irish Examiner view: Wide-ranging Bill needs great scrutiny](#), Irish Examiner, 17 January 2022 (accessed 18 January 2022)
- ⁸⁵ Source: [Press Ombudsman in new warning over social media](#), RTÉ, 14 January 2022 (accessed 18 January 2022)
- ⁸⁶ The #123OnlineSafety national campaign, co-ordinated by the Children's Rights Alliance, has 16 member organisations including: Alcohol Action Ireland, Barretstown, Barnardos, BeLonG To, CyberSafeKids, Dublin Rape Crisis Centre, Foróige, Irish Heart Foundation, ISPC, National Youth Council of Ireland, One in Four, Psychological Society of Ireland, Rape Crisis Network Ireland, Scouting Ireland, SpunOut.ie and Young Social Innovators. [Source: [Press Release - "Online Safety Bill can open the window to a safer online world](#)

[for children but will require serious political will and action to do so,” say children’s campaign group](#), Children’s Rights Alliance, 12 January 2022 (accessed 18 January 2022)]

⁸⁷ Source: [Press Release - “Online Safety Bill can open the window to a safer online world for children but will require serious political will and action to do so,” say children’s campaign group](#), Children’s Rights Alliance, 12 January 2022 (accessed 18 January 2022)

⁸⁸ Source: [Press Release - “Online Safety Bill can open the window to a safer online world for children but will require serious political will and action to do so,” say children’s campaign group](#), Children’s Rights Alliance, 12 January 2022 (accessed 18 January 2022)

⁸⁹ Source: [Press Release - “Online Safety Bill can open the window to a safer online world for children but will require serious political will and action to do so,” say children’s campaign group](#), Children’s Rights Alliance, 12 January 2022 (accessed 18 January 2022)

⁹⁰ Source: [Press Release - “Online Safety Bill can open the window to a safer online world for children but will require serious political will and action to do so,” say children’s campaign group](#), Children’s Rights Alliance, 12 January 2022 (accessed 18 January 2022)

⁹¹ Source: [Online Safety Bill approved but stakeholders call for further measures](#), Silicon Republic, 14 January 2022 (accessed 19 January 2022)

⁹² Source: [Press Release - ISPCC Cautiously Optimistic As Online Safety Commissioner To Be Established](#), ISPCC, 12 January 2022 [accessed 18 January 2022]

⁹³ Source: [Press Release - ISPCC Cautiously Optimistic As Online Safety Commissioner To Be Established](#), ISPCC, 12 January 2022 (accessed 18 January 2022)

⁹⁴ Source: [Irish Heart New Online Safety Bill fails to protect children’s health](#), Irish Heart Foundation, 17 January (accessed 18 January 2022)

⁹⁵ Source: [Irish Heart New Online Safety Bill fails to protect children’s health](#), Irish Heart Foundation, 17 January (accessed 18 January 2022)

⁹⁶ Source: [Irish Heart New Online Safety Bill fails to protect children’s health](#), Irish Heart Foundation, 17 January (accessed 18 January 2022)

⁹⁷ Source: [Press Release - Samaritans Ireland welcomes publication of the Online Safety and Media Regulation Bill](#), 24 January 2022 (accessed 8 February 2022)

⁹⁸ Source: [Press Release - Samaritans Ireland welcomes publication of the Online Safety and Media Regulation Bill](#), 24 January 2022 (accessed 8 February 2022)

⁹⁹ Source: [Press Release - Sector concerned by lack of urgency in timeline for OSMR](#), 12 January 2022 (accessed 15 February 2022)

¹⁰⁰ Source: [Press Release - Sector concerned by lack of urgency in timeline for OSMR](#), 12 January 2022 (accessed 15 February 2022)

¹⁰¹ Concern about potential clashes between the OSMR Bill and the DSA was also expressed by Facebook Ireland in its PLS submission to the Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht. [Source: [Facebook Ireland Limited’s Submission to the Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht on the General Scheme of the Online Safety and Media Regulation Bill \(oireachtas.ie\)](#), 8 March 2021, (accessed 19 January 2022)]

¹⁰² Source: [Press Release - Sector concerned by lack of urgency in timeline for OSMR](#), 12 January 2022 (accessed 15 February 2022)

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