

Legislation on child sexual abuse

Main messages

- On 11 May the Commission adopted a proposal for a Regulation on preventing and combating child sexual abuse. This proposal is an opportunity to make a significant, long-lasting positive change in the fight against CSA in the EU (and globally, given the cross-border nature of the crime). It has the potential to be a game changer by notably 1) ensuring that companies do their part to improve child protection and create a hostile environment for the sharing of child sexual abuse materials; 2) where necessary, mandating companies to detect, report and remove child sexual abuse online, and 3) establish an EU centre to prevent and combat child sexual abuse.
- The proposal focuses on prevention first and foremost: only where prevention measures fail to lower the risk and a significant risk remains, there is a possibility to adopt targeted and time-bound detection orders.
- The proposal is technology neutral, in that it requires relevant providers to detect and, if needed, remove online child sexual abuse on their services, be they encrypted or not. However, this must be done without creating vulnerabilities on such services that might be exploited for purposes other than online child sexual abuse.
- From our side, we will continue to work with industry on solutions to technological challenges, such as end-to-end encryption, and to support the EU Internet Forum expert process on encryption, by funding further research in this area. We want to foster the development of tools that can operate at scale.
- We will also continue to work with you and other industry partners to make sure that together we have the tools and underpinning legislation to create a safer internet for children.
- I welcome Microsoft's leadership on combating child sexual abuse, and encourage Microsoft's support for the proposed legislation.

Background

The proposal, announced in the EU Strategy for a more effective fight against child sexual abuse, was adopted on 11 May 2022.

The initiative aims to build on and complement existing policy instruments in the fight against child sexual abuse, addressing gaps in the current legislative framework. Horizontal instruments such as the eCommerce Directive or the Digital Services Act proposal address some of the problems and challenges of keeping children safe online but provide only limited and partial solutions and do not offer the possibility to put in place comprehensive and targeted measures. Sectoral instruments (such as the CSA Directive, the Europol Regulation, the interim Regulation or the ePrivacy Directive) are not able to provide a comprehensive EU-level solution to combat online child sexual abuse and sexual exploitation as they focus on particular aspects of the problem, such as harmonisation of criminal laws, improving police investigations, exchanging or processing of personal data and the protection of privacy. None of these instruments define the role of the service providers specifically enough to provide them with legal certainty on their powers and do not foresee effective obligations for the providers relevant in the fight against child sexual abuse.

The new proposal includes obligations for companies to assess the risk that their services face to be misused for the purposes of child sexual abuse online. It requires mitigating measures to lower any risk. Where those are not sufficient, competent authorities can request targeted and time-bound orders for a given service to detect and report known child sexual abuse material to public authorities. This step is necessary, as voluntary action has proven insufficient: willingness to engage in the fight against child sexual abuse

and the effectiveness of such efforts vary greatly from company to company. In addition, current action lacks harmonised safeguards, including transparency. This may interfere with users' rights, including those of privacy and data protection.

The upcoming proposal will define the role of the EU Centre to prevent and combat child sexual abuse.

European Centre to prevent and counter child sexual abuse

The need of an EU Centre, established in the EU and operating according to EU rules, featured prominently in negotiations of the interim derogation from the ePrivacy Directive as agreed in April 2021.

The centre as currently envisaged would have three major roles: support efforts on prevention, improve assistance to victims, support detection, report and remove CSA online.

The detection and reporting role is key given the international cooperation dimension. In this regard an EU Centre could:

- eliminate the need for international transfers of personal data of EU citizens
- support detection by, for example, maintaining a database of child sexual abuse hashes to reliably enable detection of child sexual abuse as defined by EU rules, rather than rely on what is criminalised under US law as is currently the case.

It will also function as an important safeguard, as a source of information on what is defined as child sexual abuse according to EU rules, ensure visibility on the effectiveness of detection measures, and transparency and accountability of the process.

The centre would serve as an expert hub for all aspects of prevention and victim support, and engage with counterparts such as NCMEC in the US, the Australian Centre to Counter Child Exploitation, and the Canadian Centre for Child Protection.

Microsoft's contribution to the fight against child sexual abuse

Microsoft has a long-standing commitment to combat child sexual abuse and has developed and shared PhotoDNA, an image-identification technology used to detect CSA material. Microsoft, in collaboration with Roblox, the Meet Group, Kik and Thorn, in 2018 started working on the development of a grooming detection tool called 'project Artemis'.

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