



Council of the
European Union

Brussels, 13 May 2022
(OR. en)

Interinstitutional File:
2022/0155(COD)

9068/22
ADD 2

JAI 641
ENFOPOL 256
CRIMORG 69
IXIM 119
DATAPROTECT 149
CYBER 170
COPEN 182
FREMP 98
TELECOM 216
COMPET 332
MI 388
CONSOM 117
DIGIT 97
CODEC 690
IA 71

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	12 May 2022
To:	General Secretariat of the Council
No. Cion doc.:	SWD(2022) 210 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT Accompanying the document Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down rules to prevent and combat child sexual abuse

Delegations will find attached document SWD(2022) 210 final.

Encl.: SWD(2022) 210 final



EUROPEAN
COMMISSION

Brussels, 11.5.2022
SWD(2022) 210 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

Accompanying the document

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

laying down rules to prevent and combat child sexual abuse

{COM(2022) 209 final} - {SEC(2022) 209 final} - {SWD(2022) 209 final}

Executive Summary Sheet	
Impact assessment for a proposal laying down rules to prevent and combat child sexual abuse	
A. Need for action	
What is the problem and why is it a problem at EU level?	
<p>Child sexual abuse, online and offline, is a particularly serious crime that affects public security in the EU and infringes children's fundamental rights. It has wide-ranging and serious life-long consequences for victims. <u>Some child sexual abuse crimes are not adequately addressed in the EU due to challenges in their detection, reporting and action by relevant service providers, as well as insufficient prevention and assistance to victims.</u> Diverging national responses negatively affect the Internal Market. Children are exposed to increasing risks and harms online, and child sexual abuse materials are spreading online in growing quantities. The impact assessment identifies three main drivers for this problem:</p> <ol style="list-style-type: none"> 1. While some service providers take voluntary action to detect online child sexual abuse, this has proven insufficient. 2. Inefficiencies in public-private cooperation between online service providers, civil society organisations and public authorities hamper an effective fight against child sexual abuse. In particular, Member States are increasingly taking steps at national level to impose specific obligations for this manifestly illegal content, creating fragmentation in the Internal Market; 3. Member States' efforts to prevent child sexual abuse and to assist victims are limited, divergent, lack coordination and are of unclear effectiveness. 	
What should be achieved?	
<p>The general objective is to improve the functioning of the Internal Market by introducing clear, uniform and balanced EU rules to prevent and combat child sexual abuse, notably through a clarification of the role and responsibilities of online service providers. The specific objectives aim to:</p> <ol style="list-style-type: none"> 1. ensure the effective detection, removal and reporting of online child sexual abuse where they are currently missing; 2. improve legal certainty, transparency and accountability and ensure protection of fundamental rights; and 3. reduce the proliferation and effects of child sexual abuse through harmonisation of rules and increased coordination of efforts. 	
What is the value added of action at the EU level (subsidiarity)?	
<p>Given the cross-border and cross-sectorial nature of the fight against child sexual abuse and current fragmentation, a satisfactory improvement cannot be achieved by Member States acting alone or in an uncoordinated way. In addition, to facilitate Member States' efforts, EU action would reduce compliance/operational costs in particular for online service providers, improving the functioning of the internal market by reducing fragmentation. EU action would help extend national best practices and lessons learned across the EU, reduce dependence on and facilitate cooperation with third countries.</p>	
B. Solutions	
What are the various options to achieve the objectives? Is there a preferred option?	
<p>Option A: Practical measures to enhance prevention, detection, reporting and removal, and assistance to victims, and establishing an EU Centre on prevention and assistance to victims.</p> <p>Option B: Option A + legislation 1) specifying the conditions for voluntary detection, 2) requiring mandatory reporting and removal of online child sexual abuse, and 3) expanding the EU Centre to also support detection, reporting and removal.</p> <p>Option C: Option B + mandatory detection of known child sexual abuse material.</p> <p>Option D: Option C + mandatory detection of new child sexual abuse material.</p> <p>Option E: Option D + mandatory detection of grooming. This is the preferred option.</p>	
What are different stakeholders' views? Who supports which option?	
<p>Stakeholders agreed in general on the importance to step up efforts in the fight against child sexual abuse, online and offline, without duplicating or unnecessarily disrupting ongoing efforts, and welcomed the possible EU centre. Public authorities and child rights NGOs supported obligations to detect, report and remove child sexual abuse online, while service providers favoured a voluntary approach that enabled current efforts and innovation. Privacy rights NGOs stressed the importance of not weakening encryption and the need to respect the prohibition of general monitoring.</p>	

C. Impacts of the preferred option
What are the benefits of the preferred option (if any, otherwise of main ones)?
<p>The initiative is expected to reduce fragmentation in the Single Market and improve legal certainty, improve the identification, protection and support of victims of child sexual abuse, and ensure effective prevention and facilitate investigations.</p> <p>By combatting and preventing child sexual abuse, the protection of the rights of the child would be improved as the proliferation and effects of child sexual abuse would decrease, including the economic burden due to health, employment and other direct costs, as well as the loss of productivity.</p>
What are the costs of the preferred option (if any, otherwise of main ones)?
<p>The main costs in the preferred option are those of:</p> <ul style="list-style-type: none"> • service providers, to comply with the obligations to detect, report and remove child sexual abuse online (estimated at one-off costs of EUR 1.6 billion and annual costs of EUR 1.5 billion); • public authorities, to deal with the increase in reports (estimated at one-off costs of EUR 5.4m and annual costs of EUR 825.6m); • the EU centre (estimated at one-off costs of EUR 5m and annual costs of EUR 25.7m).
What are the impacts on SMEs and competitiveness?
<p>The most significant impacts on SMEs arise from the obligation to detect, report and remove child sexual abuse online found in their services. The economic impact will be mitigated by the free access to technology to detect, report and remove, which the EU centre will facilitate. Uniform rules related to the fight against child sexual abuse will help SMEs operate across the Single Market, helping scale-ups and innovators, while facilitating a safer online environment for children.</p>
Will there be significant impacts on national budgets and administrations?
<p>The number of reports of child sexual abuse is expected to increase as a result of the initiative. This will generate costs for public authorities, notably on investigations.</p> <p>On the other hand, the EU centre will help public authorities in their prioritisation efforts in investigations through an increased quality of reports and enable a more efficient use of resources and expertise available in the EU, also on prevention and assistance to victims. In these areas, the centre will facilitate coordination among Member States, which will avoid duplication of efforts.</p>
Will there be other significant impacts?
<p>The preferred option seeks to protect all fundamental rights at stake, including the fundamental rights to human dignity and to the integrity of the person, the prohibition of inhuman or degrading treatment, as well as the rights of the child (including the children's rights to respect for private and family life and to protection of personal data). At the same time, the preferred option would have an impact on the fundamental rights of all users of the services concerned, in particular the rights to respect for privacy (including of communications, as part of the broader right to respect for private and family life), to protection of personal data and to freedom of expression and information. The legislation should include safeguards that take into account the varying level of intrusiveness depending on the nature of the online services, to achieve a fair balance of the various fundamental rights and the ability to offer a more adequate response to child sexual abuse in light of both the current and the evolving risks, in particular those emerging in a highly dynamic digital environment.</p>
Proportionality?
<p>The legislation pursues the legitimate purpose of more effectively tackling child sexual abuse online, including better protection of child victims through more effective detection, reporting and removal, and includes the necessary conditions and safeguards. The preferred option does not go beyond what is necessary to achieve the general and specific objectives identified for EU intervention. In particular, it ensures respect for the prohibition of general monitoring and a fair balance between the various rights at stake.</p>
D. Follow up
When will the policy be reviewed?
<p>The outcome of the implementation of the preferred option will be monitored through performance indicators that public authorities, service providers and the EU centre would collect. Based on these indicators, the Commission will prepare an implementation report every 5 years, and an evaluation every 5 years.</p>