

**Women's Aid Response
to Coimisiún na Meán Consultation
on the Draft Online Safety Code
for Video-Sharing Platform Services.**

January 2024



Women's  Aid



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Introduction

Women's Aid is a national, feminist organisation working to prevent and address the impact of domestic violence and abuse (henceforth DVA) including coercive control, in Ireland since 1974. We do this by advocating, influencing, training, and campaigning for effective responses to reduce the scale and impact of DVA on women and children in Ireland and providing high quality, specialised, integrated, support services. More information on Women's Aid is available on our website womensaid.ie.

Women's Aid welcomes the opportunity to share our views on the draft Online Safety code for Video-Sharing Platform Services (VSPS). We would be pleased to have an opportunity to discuss these with Coimisiún na Meán in more detail.

Women's Aid is very disappointed with the draft Online Safety code for VSPS. This code does not consider nor address a number of specific and prevalent forms of online harm to women and girls, including criminal harms. In relation to video sharing platforms these include in particular: availability and promotion of misogynistic and violent content, Image Based Abuse (IBA)¹, posting videos of victims of trafficking or sexual abuse and related information on them, denigrating and violent comments of videos, non-consensual posting of women's details and images on pornography and escort websites.

In relation to adults, the code only deals with content which amounts to incitement to violence or hatred on a number of protected characteristics, provocation to commit a terrorist offence, dissemination of child sex abuse material, offences concerning racism or xenophobia as well as certain commercial communications.

This is, in Women's Aid's view, wholly insufficient.

¹ Also referred to as Imaged Based Sexual Abuse (IBSA)

While the code includes protection of the general public from “*content which amounts to incitement to violence or hatred*” on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union, including on grounds of sex, this only cover a very limited amount of the online abuse women and girls are subjected to. Further, there is nothing in the code nor the guidance using this specific protection to address the prevalence of online material which promotes and glorifies violence against women and misogyny.

Considering the submissions from women’s NGOs to the previous round of consultation detailing the various types of technology facilitated gender-based violence (TFGBV)², its high prevalence and detrimental consequences both online and offline, it is discouraging to find that there is so little in the code and in guidance to prevent and address these harms.

We note that the comprehensive PA Consulting report³, which was specifically commissioned to inform Coimisiún na Meán’s approach to VSPS regulation, also confirms the high level of online abuse and its impact on women and girls. This report also finds that “Victims of intimate image abuse and cyber stalking reported higher levels of harm than victims of other types of abuse”⁴ and it is therefore **incomprehensible that the code and the guidance are silent on preventing and mitigating such harm.**

We note the terms “*Intimate image abuse*,” “*image based sexual abuse*,” “*non-consensual intimate image sharing*” or similar are not mentioned at all in the code, except in the

² In this submission we will use online Gender based violence (online GBV) and technology facilitated gender-based violence (TFGBV) interchangeably

³ See Chapters 5.7 and 5.11 of PA Consulting, Video-Sharing Platform Services Online Harms Evidence Review Provided to inform Coimisiún na Meán’s approach to VSPS regulation September 2023 https://www.cnam.ie/wp-content/uploads/2023/12/PAConsulting_Online-Harms-Evidence-Review_vFinal.pdf

⁴ Page 77, ibidem

Foreword⁵ and the Introduction⁶ where non-consensual intimate image sharing is simply named as one of the harms discussed in the PA Consulting report. No further discussion of this severe and prevalent harm is included in the draft code or guidance and there is nothing that would limit IIA, including the use AI and nudifying tools.

The overall goal of the prevention pillar of the Third National Strategy on Domestic, Sexual and Gender Based violence is:

Working towards the eradication of the social and cultural norms that underpin and contribute to gender-based violence.⁷

With so much of contemporary life occurring online, it is necessary that cultural change to eradicate gender-based violence is also addressed in this environment. Moreover, it has clearly been established that online GBV falls within the scope of both the CEDAW Convention⁸ and the Istanbul Convention⁹, to both of which Ireland is a party, so there are clear international obligations to address this form of violence against women.

Women's Aid finds that this draft code: **does little to prevent online violence against women, does not require measures for effective moderation of such content nor protects victims once harm has been done.** We therefore offer recommendations for improvement below.

⁵ Page 5 of the Consultation Document

⁶ Page 10 of the Consultation Document

⁷ Government of Ireland, ZERO TOLERANCE Third National Strategy on Domestic, Sexual & Gender-Based Violence 2022-2026, page 26

⁸ Paragraph 20 and 30 (d) of CEDAW's General Recommendation no. 35;

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/231/54/PDF/N1723154.pdf?OpenElement>

⁹ GREVIO General Recommendation No. 1 on the digital dimension of violence against women adopted on 20 October 2021; <https://rm.coe.int/grevio-rec-no-on-digital-violence-against-women/1680a49147>



Summary Table of all Recommendations

Please read full document for context and further explanation.

Recommendation 1

In **Section 4.6** include the Third National Strategy on Domestic, Sexual and Gender Based violence (and any future iterations) in the list of policies the Commission should have regards to in performing its functions.

Recommendation 2

Include in **Section 4.8** an additional objective on the lines of

-take appropriate measures to combat and prevent online gender-based violence and work towards the eradication of the social and cultural norms that underpin and contribute to it.

Recommendation 3

The definition of “Illegal content harmful to the general public” should be amended to reflect Schedule 3 of the Broadcasting Act 2009 as amended.

Recommendation 4

The definition of “Regulated content harmful to the general public” should be amended to name misogynistic content / promotion of gender-based violence.

Recommendation 5

In **Section 11.1** the code should require that Terms and Conditions should name IIA content, misogynistic content and content promoting GBV as harmful content, which the user is prohibited from uploading.



If it is not possible to detail this in the Code, it should at least be included in the Guidance.

Recommendation 6

In **Section 11** of the code include a new subsection regarding the upload of intimate images/videos stating that:

- a) VSPS must require user verification before the uploading of intimate images/videos
- b) VSPS terms and conditions must require users uploading intimate images/videos to declare they are doing so with consent of all those depicted
- c) VSPS will provide a functionality for such declaration
- d) VSPS must inform users uploading intimate images/videos that to do so without consent of those depicted, including content in violation of copyright, is a criminal offence, and that the platform will take action against users doing this.

This should apply both to VSPS whose principal purpose is to provide access to pornography and to VSPS where this is not the principal purpose.

Recommendation 7

In **Section 11.9** the code should explicitly name Intimate Image Abuse (IIA) and misogynistic content as content that is an infringement of the VSPS Terms and Conditions, which can be reason for termination or suspension of the account.

Recommendation 8

In **Section 11.10**:

- a) IIA and misogynistic content should be named as content that can warrant suspension or termination of the account.

b) specifications on when to suspend or terminate an account should be included and be graduated according to the level of harm caused.

c) the code should also include a provision to require that VSPS prevent the user of a suspended or terminated account from opening a new one.

Recommendation 9

In S11.11 and 11.12 name IIA in the list of content that users can flag or report

Recommendation 10

In **Section 11.14** the code should provide minimum timeframes for response to reports/flagging, which can be different depending on the type of content and level of harm.

Recommendation 11

An additional clause should be inserted under **Section 11.15** to require VSPS to provide reports on their response to reports/flagging of illegal and/or harmful content, disaggregated by type of content, including action taken and timeframes.

Online GBV content and IIA should be categories of content separately reported on. Platforms should also report on number of moderators and their specific GBV training.

Recommendation 12

a) An additional clause should be inserted under **Section 11** for the code to provide that when there is flagging of IIA material, the material must be taken down or blocked asap, within **hours**, pending a more detailed examination of the material legitimacy

- b) The code should require VSPS to keep an update and localised (country level) list of relevant support services and ensure users can easily access and find information on supports available
- c) An additional clause should be inserted under **Section 11** to ensure appropriate collaboration with Police, including provision of evidence of IIA
- d) Include a provision to ensure that VSPS must provide a variety of reporting mechanisms, so as to be accessible to all users.
- e) The code should require platforms to provide easy access to human moderators
- f) The code should require that moderators are trained on GBV and IIA
- g) Existing provisions and procedures in relation to CSA need to be referenced in the code.

Recommendation 13

That **Section 11.18** and **11.20** of the code should include a requirement on VSPS to provide to the Commission all necessary data to evaluate their age verification systems.

Recommendation 14

In **Section 11.24** add a new provision, requiring that VSPS set initial safety and privacy setting for minors at maximum safety and privacy by default. This should also be the case where age is not known.

Recommendation 15

The Sections of the code relating to complaints need to be strengthened by:

- a) In **Section 11.29** include “content upload” in the last line

- b) In **Section 30** include specific minimum timeframe for complaint handling
- c) require Platforms to acknowledge receipt of complaints and inform users of an appeal mechanism if required
- d) where the complaints relate to IIA, Platforms should be required to take measures to protect the victim (including taking down of material during the complaint process, not sharing their contacts to the alleged perpetrator, referring to them to support services).

Recommendation 16

Include under **Section 13.2** a requirement that the Annual Media Literacy Plan of VSPS should include awareness raising on GBV, including supports available and how to combat it.

Recommendation 17

Amend **Section 13.4** to add minimum specifications for complaint handling reports including separate reporting of online GBV/IIA.

Recommendation 18

Women's Aid recommends that:

- a) measures to address algorithms which exacerbate the spread of harmful content (including harm to individuals portrayed **in** the content such as through IIA) proposed in the Draft Supplementary Measures are finalised and included in the code as soon as possible
- b) the code should include a requirement on platforms to collaborate with each other in relation to the same harmful content being uploaded on multiple platforms to minimise distress for users and victims of abuse.

c)the code should include a requirement on platforms to work with hotline.ie and equivalent services in other jurisdictions in relation to removal of CSA and IIA content.

Recommendations for the new iteration of the Code.

1. Safety impact statements should be extended to protect women and girls from technology facilitated gender-based abuse.
2. Safety impact statements should be provided to the Commission and made available to the general public.
3. The requirement of safety by design should include that appropriate measures are taken to address the risks and harms identified in impact statements, in relation to opposing the spreading and amplifying of harmful content and the malicious use of new tools to particularly abuse women and girls.
4. The requirement on Video-sharing platform service providers to publish an online safety support plan should cover all users impacted by harmful content, especially women and girls impacted by online GBV and IIA, and not be limited by the proposed wording and the limitations of this code.
5. The proposed new code and guidance should make clear that the proposed measure regarding recommender system safety apply both to children and the general public.

Consultation on Online Safety Code

1. Comments on Sections 1 - 9 of the draft Code.

Section 4.6

Women's Aid suggests adding the **Third National Strategy on Domestic, Sexual and Gender-based violence** to the list of policies which the Commission should have regards to in performing its functions.

Domestic, sexual and gender-based violence is recognised as being at extremely high and concerning levels in Ireland. Technology facilitated/online violence is part of this issue, with victims often experiencing both online and offline forms of violence.

The Third National Strategy on Domestic, Sexual and Gender Based violence recognises the digital dimension of GBV and includes in the Prevention pillar the following objective:

“Make digital and media spaces safer as well as creating awareness of the harm caused by online abuse, pornography and of prostitution and commercial sexual exploitation”¹⁰

It is therefore relevant to the Code and should inform it.

Recommendation 1

In **Section 4.6** include the Third National Strategy on Domestic, Sexual and Gender Based violence (and any future iterations) in the list of policies the Commission should have regards to in performing its functions

¹⁰Government of Ireland, ZERO TOLERANCE Third National Strategy on Domestic, Sexual & Gender-Based Violence 2022-2026, page 26

Section 4.8

Women's Aid believes an additional objective should be included, namely, to prevent online GBV and protect women and girls from it, in line with the State's obligations under the CEDAW and the Istanbul Conventions. This should also align with the overarching goal of the Prevention pillar of the Third National Strategy on Domestic, Sexual and Gender Based violence, *working towards the eradication of the social and cultural norms that underpin and contribute to gender-based violence.*¹¹

Recommendation 2

Include in **Section 4.8** an additional objective on the lines of

-take appropriate measures to combat and prevent online gender-based violence and work towards *the* eradication of the social and cultural norms that underpin and contribute to it.

2. Views on the proposal to include user-generated content that is indissociable from user-generated videos in the definition of content to be covered by the Code.

Women's Aid agrees with this proposal, as explained in our submission to the previous consultation¹².

Where personal information of victims is also shared together with intimate images/videos shared without consent (for example name, address, social media profiles)

¹¹ibidem

¹²Women's Aid Submission to Coimisiún na Meán's Call For Inputs: Developing Ireland's First Binding Online Safety Code for Video-Sharing Platform Services, August 2023, Question 7 Page 16
<https://www.womensaid.ie/app/uploads/2023/08/Submission-to-Coimisiun-na-Means-Call-For-Inputs-August-2023.pdf>

it is extremely important they are also deleted as a matter of priority when the videos are taken down.

3. Views on the definitions of “illegal content harmful to children” and “regulated content harmful to children”.

Women's Aid agrees with these definitions. In particular, we appreciate the inclusion of pornography in the category of “*regulated content harmful to children*”, given the amount of research evidencing the harm pornography does to children and young people and its negative impact on respectful relationships and gender equality, as summarised in the PA Consulting Report.¹³

4. Views on the other definitions of illegal content and regulated content.

Section 10 definitions “illegal content harmful to the general public”

Women's Aid is very concerned that the definition of “illegal content harmful to the general public” in S10 Definitions and in Table B is far too limited.

We note the absence in this definition of illegal content **which is instead named in the Broadcasting Act 2009 as amended by the Online Safety and Media Regulation Act 2022**. According to S139A(1) and (2)(a) of this Act, a number of other offences, which are specified in Schedule 3, should also be included under illegal content harmful to the general public, including but not limited to offences under the Domestic Violence Act 2018 and the Harassment, Harmful Communications and Related Offences Act 2020.

The lack of the following offences in this definition is of particular relevance to Women's Aid's work:

¹³See Chapter 5.6 PA Consulting, *op. cit*



Domestic Violence Act 2018

37. Online content by which a person publishes or broadcasts information, or a photograph, depiction, or other representation, contrary to section 36 (1) of the Domestic Violence Act 2018 (publication or broadcast of material likely to lead to the identification of persons concerned in proceedings).

Harassment, Harmful Communications and Related Offences Act 2020

38. Online content by which a person distributes or publishes or threatens to distribute or publish an intimate image, contrary to section 2 (1) of the Harassment, Harmful Communications and Related Offences Act 2020 (distribution etc. of image without consent and with intent to cause harm etc.).

39. Online content by which a person distributes or publishes an intimate image, contrary to section 3 (1) of the Harassment, Harmful Communications and Related Offences Act 2020 (distribution etc. of image without consent and so as seriously to interfere with peace and privacy or to cause alarm, distress, or harm).

40. Online content by which a person—

(a) distributes or publishes a threatening or grossly offensive communication about another person, or

(b) sends a threatening or grossly offensive communication to another person, contrary to section 4 (1) of the Harassment, Harmful Communications and Related Offences Act 2020 (distribution etc. of communication with intent to cause harm).

41. Online content by which a person publishes or broadcasts information, or a photograph or other representation, likely to enable the identification of the alleged victim of an offence under section 2 or 3 of the Harassment, Harmful

Communications and Related Offences Act 2020, contrary to section 5(1) of that Act¹⁴.

We note that in *The Annex*, relevant offences under the Harassment, Harmful Communications and Related Offences Act 2020 are rightly included in **Table A illegal content harmful to children**, but inexplicably they are not included in **Table B illegal content harmful to the general public**, as though these behaviors were not also criminal offences when committed against adults when they are.

Other relevant offences identified in Schedule 3 of the Broadcasting Act 2009 as amended include inter alia offences prohibiting the identifications of victims of rape, female genital mutilation and trafficking, online threats to kill, harassment and stalking, none of which are in the code as far as the general public is concerned.

It is incomprehensible and extremely discouraging that such criminal offences are not included in the code in relation to adults, when they are included in the Broadcasting Act as amended.

Recommendation 3

The definition of “Illegal content harmful to the general public” should be amended to reflect Schedule 3 of the Broadcasting Act 2009 as amended.

Section 10 Definitions Regulated Content Harmful to the General Public.

This definition is as follows:

content containing incitement to violence or hatred directed against a group of persons or a member of a group based on any of the grounds referred to in Article

¹⁴Schedule 3, Broadcasting Act 2009 as amended.

21 of the Charter of Fundamental Rights of the European Union, namely sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, sexual orientation.

Women's Aid appreciates that this definition includes hatred directed towards a group of persons or a member based on sex. However, given the disproportionate abuse directed at women online, the extent of technology facilitated gender-based violence and the pervasive harms that this causes¹⁵, we believe that content promoting gender-based violence and/or misogynistic content (for example incel content, or channels where perpetrators of domestic and sexual abuse seek suggestions to help them abuse) should be named in this definition.

While Women's Aid appreciates that the Commission "will also consider the potential relevance of the DSA in relation to content that promotes discriminatory attitudes in collaboration with the European Commission and its counterparts in other Member States"¹⁶ and hopes these discussions may include misogynistic content, we believe that the cultural change needed to eliminate gender based violence should include the online world and that Ireland could be a leader in this direction in Europe without further delays.

Recommendation 4

The definition of "Regulated content harmful to the general public" should be amended to name misogynistic content / promotion of gender-based violence.

¹⁵See Women's Aid Submission to Coimisiún na Meán's Call for Inputs: Developing Ireland's First Binding Online Safety Code for Video-Sharing Platform Services, August 2023, and PA Consulting, Video-Sharing Platform Services Online Harms Evidence Review Provided to inform Coimisiún na Meán's approach to VSPS regulation September 2023, for further information.

¹⁶Consultation Document page 14

5. Comments on any other definitions provided in the draft Code?

No

6. Views on the obligations in the draft Code that relate to what a VSPS provider must include in its terms and conditions.

Section 11.1

Women's Aid agrees that the Terms and Conditions should prohibit the uploading of illegal and harmful content, providing that the relevant definitions are amended as outlined in Question 4 above.

To create awareness of non-consensual sharing of intimate images as harmful content, it is important that IIA is specifically named and made visible in the Terms and Conditions, and it is not "hidden" in the generic category of illegal content. Terms and Conditions should also explicitly **name** IIA content as a type of content that it is prohibited to upload.

We agree that content that incites violence or hatred on the basis of a protected characteristic should be prohibited from being uploaded and believe that misogynistic content and content promoting GBV should be named as prohibited content inciting hatred on the basis of sex.

Recommendation 5

In **Section 11.1** the code should require that Terms and Conditions should name IIA content, misogynistic content and content promoting GBV as harmful content, which the user is prohibited from uploading.

If it is not possible to detail this in the Code, it should at least be included in the Guidance.

Section 11.3

Women's Aid strongly agrees with the obligation on VSPS to provide robust and effective measures to prevent children accessing pornography. We also believe that protection should not be limited to children but also to people whose intimate images/videos are uploaded to pornography (or other) sites, without their consent and at times also without their knowledge.

We note with concern that there is nothing in this code preventing the uploading to pornography or other sites of intimate videos shared without consent, notwithstanding that sharing of intimate images without consent is an offence in Ireland.¹⁷

The sharing of such images/videos (including altered/faked ones) is increasingly common and extremely harmful¹⁸ and Women's Aid is disappointed that the draft code does not have robust provisions to prevent this crime.

The code should prevent the uploading or sharing of intimate videos (including deep fakes) **unless consent has been verified prior to the uploading/sharing**. This means that anonymous accounts should not be able to upload or share this type of content and that users will have to confirm they are sharing **with** consent.

We note that this code requires VSPS to include in the terms and conditions of the service an obligation for users to declare when they are uploading user-generated videos that contains audiovisual commercial communications (S12.4). We also note the code requires VSPS to put in place a functionality for users who upload user-generated videos to declare whether such user-generated videos contain audiovisual commercial communications as far as they know or can be reasonably expected to know. (S12.10)

¹⁷Sections 2(1), 3 (1) and 4(1) of the Harassment, Harmful Communications and Related Offences Act 2020

¹⁸See Women's Aid Submission to Coimisiún na Meán's Call for Inputs: Developing Ireland's First Binding Online Safety Code for Video-Sharing Platform Services, August 2023

If it is possible to require users to declare the uploading of commercial communications and to provide them with an appropriate functionality to do so, it should also be possible to require users to declare they are uploading intimate videos **with** consent of the people depicted and to provide them with an appropriate functionality for such declaration.

Recommendation 6

In **Section 11** of the code include a new subsection regarding the upload of intimate images/videos stating that:

- a) VSPS must require user verification before the uploading of intimate images/videos
- b) VSPS terms and conditions must require users uploading intimate images/videos to declare they are doing so with consent of all those depicted
- c) VSPS will provide a functionality for such declaration
- d) VSPS must inform users uploading intimate images/videos that to do so without consent of those depicted, including content in violation of copyright, is a criminal offence, and that the platform will take action against users doing this.

This should apply both to VSPS whose principal purpose is to provide access to pornography and to VSPS where this is not the principal purpose.

Section 11.9

This Section requires VSPS to include in their Terms and Conditions information regarding the possible termination or suspension of accounts which have infringed the Terms and Conditions in relation to illegal and regulated content.

Women's Aid believes that Terms and Conditions should also make clear the platforms' commitment to combat the spread of online GBV and misogyny and include that such content will be an infringement of Terms and Conditions possibly giving rise to termination or suspension of the account.

Recommendation 7

In **Section 11.9** the code should explicitly name Intimate Image Abuse (IIA) and misogynistic content as content that is an infringement of the VSPS Terms and Conditions, which can be reason for termination or suspension of the account.

7. Views on the requirement in the draft Code for a VSPS provider to suspend or terminate an account in certain circumstances.

Please note previous recommendations regarding content definitions in Question 4 above also apply here. As in previous questions IIA and misogynistic content should be explicitly named as content warranting suspension or termination of the account.

Women's Aid agrees with this requirement; however, the code should be more specific, especially in relation to the word "*repeatedly*". We submit that when infringement of the terms and conditions are very harmful, suspension or termination of the account could be warranted after just one infringement. More detailed specifications in this respect should be provided in the code or at a minimum in the guidance.

Moreover, measures need to be taken to ensure the user cannot simply start a new account under a different name.

Recommendation 8

In **Section 11.10**:

- a) IIA and misogynistic content should be named as content that can warrant suspension or termination of the account
- b) specifications on when to suspend or terminate an account should be included and be graduated according to the level of harm caused.
- c) the code should also include a provision to require that VSPS prevent the user of a suspended or terminated account from opening a new one.

8. Views on the requirements in the draft Code in relation to reporting and flagging of content.

Women's Aid believes that when online GBV content or IIA is reported/flagged, there needs to be robust and **quick** response from VSPS.

We note relevant GREVIO recommendations requiring State parties to:

- *incentivise internet intermediaries including ISPs, search engines and social media platforms to ensure robust moderation of content that falls within the scope of the Istanbul Convention through removal of account or content, in multiple languages on the basis of transparent principles that protect the human rights of all, including women's right to live free from violence and to provide easily accessible user guidance to flag abusive content and request its removal¹⁹.*

¹⁹Recommendation 53 (g), GREVIO General Recommendation No. 1 on the digital dimension of violence against women adopted on 20 October 2021, <https://rm.coe.int/grevio-rec-no-on-digital-violence-against-women/1680a49147>

- *take measures to put an end to impunity for digital acts of violence against women by encouraging the responsibility of all relevant actors, including ICT companies and internet intermediaries, in particular through robust content moderation and removal; and by encouraging media companies to work collaboratively with law-enforcement agencies²⁰.*

Section 11.11 and 11.12

Please note previous recommendations regarding content definitions in Question 4 above also apply here. Moreover, it is extremely important that non-consensual sharing of intimate images or IIA is specifically named in these Sections, so that victims of this crime know they have a right to report this content and requests its removal, and so that they are informed of the actions which have been taken as a consequence of their reporting/flagging.

Recommendation 9

In **Section 11.11** and **11.12** name IIA in the list of content that users can flag or report

Section 11.14

Women's Aid disagrees with the code permitting Video-sharing platform service providers to set their own targets with respect to the timelines and accuracy of reporting and flagging mechanisms.

We note that there is a significant level of dissatisfaction with Platforms response timeframes (or lack of response altogether) and would argue that **minimum timelines** should be set in the code. Our experience, with women contacting platforms to have

²⁰Recommendation 55 (f) Ibidem

material taken down, is that it can be frustrating and traumatizing, with women not knowing what to do, who to contact /reporting channels, not getting responses, not knowing timeframes for actions or their rights. This is confirmed by research including the PA Consulting report²¹.

Section 11.15

Moreover, to increase transparency on how VSPS deal with reports/flagging of illegal and/or harmful content, the code should require VSPS to report quarterly on how many reports led to removal /blocking of content, suspension or account or other action, what type of content was removed and in which timeframe.

Recommendation 10

In **Section 11.14** the code should provide minimum timeframes for response to reports/flagging, which can be different depending on the type of content and level of harm.

Recommendation 11

An additional clause should be inserted under **Section 11.15** to require VSPS to provide reports on their response to reports/flagging of illegal and/or harmful content, disaggregated by type of content, including action taken and timeframes.

Online GBV content and IIA should be categories of content separately reported on. Platforms should also report on number of moderators and their specific GBV training.

²¹See page 58, and page 8, PA Consulting, op. cit.

Gaps Regarding Reporting and Flagging not Addressed in the Code.

Women's Aid is extremely concerned that neither the code nor the guidance includes specific measures in relation to the flagging or reporting of IIA material and the need to take down/ block access to such material **immediately**. In such cases **time is of the essence** to prevent the material going viral and its uncontrollable spread across the internet and social media, causing exponentially increasing harm.

The code should stipulate that on receiving reports of intimate images or videos shared without consent, the Platform should immediately take them down pending any more detailed examination of the material in question. It can be reinstated if it is found that it is 'legitimate' content.

The code should also include liaising with Police (for example retaining and providing evidence platforms have in their systems) where appropriate.

Moreover, Platforms should be required to suggest relevant localised support services to victims of IIA in a safe way.

The code is silent on the need to provide a variety of flagging/reporting mechanisms, so that reporting/flagging is accessible to **all** users. For example, there may be a need for different languages or for different input methods, including offline reporting and facilitation of disabled people.

Finally, users who are subjected to online GBV or IIA may be dealing with abuse on several different platforms as well as in the offline world. Their situation may be incredibly stressful and complicated. It is vital that that their reports are not simply dealt with by automated decisions and that there are clear ways for the users to contact a human moderator if they are dissatisfied with the way automated moderation dealt with content and have the automated decision reviews within strict timeframes. Human moderators must be appropriately trained on GBV and IIA

In relation to CSA content, existing provisions, and procedures to take down such material and report to Police should be referenced in the Code.

Recommendation 12

- a) An additional clause should be inserted under **Section 11** for the code to provide that when there is flagging of IIA material, the material must be taken down or blocked asap, within **hours**, pending a more detailed examination of the material legitimacy
- b) The code should require VSPS to keep an update and localised (country level) list of relevant support services and ensure users can easily access and find information on supports available
- c) An additional clause should be inserted under **Section 11** to ensue appropriate collaboration with Police, including provision of evidence of IIA
- d) Include a provision to ensure that VSPS must provide a variety of reporting mechanisms, so as to be accessible to all users.
- e) The code should require platforms to provide easy access to human moderators
- f) The code should require that moderators are trained on GBV and IIA
- g) Existing provisions and procedures in relation to CSA need to be referenced in the code.

9. Views on the requirements in the draft Code in relation to age verification.

Women's Aid agrees there should be requirement for age verification, but we are unable to comment on which would be the best method.



However, we are surprised that under S11.18 and 11.20 VSPS will evaluate the accuracy and effectiveness of their age verification systems themselves and recommend there should also be external and independent evaluation. VSPS should be required in the code to provide all necessary data for such evaluation to the Commission (and researchers).

Recommendation 13

That **Section 11.18** and **11.20** of the code should include a requirement on VSPS to provide to the Commission all necessary data to evaluate their age verification systems.

10. Views on the requirements in the draft Code in relation to content rating?

No Comment.

11. Views on the requirements in the draft Code in relation to parental controls.

To ensure that children who are new users of a platform are protected from the start of their engagement with it, safety and privacy setting should be set to maximum safety and privacy by default, with the option of parental controls to adjust as needed.

Recommendation 14

In **Section 11.24** add a new provision, requiring that VSPS set initial safety and privacy setting for minors at maximum safety and privacy by default. This should also be the case where age is not known.



12. Views on the requirements in the draft Code in relation to complaints.

Section 11.29

Users should also be able to make a complaint in relation to VSPS implementation or lack thereof of their obligations relating to **illegal and regulated content upload**, where such uploading is being allowed by the VSPS contrary to the code or indeed legislation.

Section 11.30

Women's Aid believes that there should be minimum standards for complaint handling timeframes and simply stating that complaint handling should be "timely" is not sufficient. We note that 'timely' is not further defined in the draft Guidance either and is therefore left to the VSPS Platforms to define themselves which is unsatisfactory.

Gaps in Relation to Complaints

The code does not mandate a response from the platforms acknowledging receipt of complaint and informing the users about what would happen next.

There needs to be an appeal process where the appeal should be examined by a trusted independent service in the trusted flaggers scheme (when operational) or the Online Safety Commissioner.

The code does not address specific procedures for complaints in relation to Intimate Image Abuse (IIA) content, in particular; the need to protect the victim from the perpetrator and assist them in finding supports and the need to block/take down material during the complaint process to prevent it spreading.

Recommendation 15

The Sections of the code relating to complaints need to be strengthened by:

- a) In **Section 11.29** include “content upload” in the last line
- b) In **Section 30** include specific minimum timeframe for complaint handling
- c) require Platforms to acknowledge receipt of complaints and inform users of an appeal mechanism if required
- d) where the complaints relate to IIA, Platforms should be required to take measures to protect the victim (including taking down of material during the complaint process, not sharing their contacts to the alleged perpetrator, referring to them to support services).

13. Other comments on the requirements in section 11 of the draft Code

No other comment

14. Views on the requirements in the draft Code in relation to audiovisual commercial communications which are not marketed, sold, or arranged by the VSPS provider.

Not relevant to Women's Aid's remit

15. Views on the requirements in the draft Code in relation to audiovisual commercial communications which are marketed, sold, or arranged by the VSPS provider.

Not relevant to Women's Aid's remit.



16. Views on the requirements in the draft Code in relation to user declarations that user-generated content contains an audiovisual commercial communication.

Not relevant to Women's Aid's remit.

17. Do you have any other comments on the requirements in section 12 of the draft Code in relation to audiovisual commercial communications?

Not relevant to Women's Aid's remit.

18. Views on the requirements in the draft Code in relation to media literacy measures.

Section 13.2

Given the prevalence and severe impact of online GBV; Women's Aid believes that media literacy should include awareness raising on the harms of online gender-based violence, how to oppose it and supports available.

We note GREVIO recommendation 51(i), which states

...Internet intermediaries as well as technology companies should be incentivised to co-operate with NGOs working on violence against women in their awareness-raising and other efforts²²;

²²Recommendation 51 (i), GREVIO General Recommendation No. 1 on the digital dimension of violence against women adopted on 20 October 2021

Recommendation 16

Include under **Section 13.2** a requirement that the Annual Media Literacy Plan of VSPS should include awareness raising on GBV, including supports available and how to combat it.

19. Views on the requirements in the draft Code in relation to ensuring the personal data of children is not processed for commercial purposes.

Women's Aid agrees with this proposed section of the code.

20. Views on the requirements in the draft Code in relation to reporting in relation to complaints.

Women's Aid agrees that there should be a requirement for VSPS to report on their complaint handling systems. The draft code is not specific enough on what needs to be reported. Women's Aid believe the reports should include information on the number and type of complaints, action taken and timeframes. Moreover, it is important that online GBV/IBSA complaints are reported on separately to ensure data capture.

Platforms should also report on the number of complaint handlers who have received specific training on trauma informed response to complaints and specifically: training on the forms and impacts of Gender Based Violence and abuse.

Recommendation 17

Amend **Section 13.4** to add minimum specifications for complaint handling reports including separate reporting of online GBV/IIA.



21. Do you have any other comments on the requirements in section 13 of the draft Code?

No

22. Do you have any comments on this section of the Draft Code?

No

23. Comments on the Annex

Women's Aid disagrees with the very limited definition of Illegal content harmful to the general public in Table B, as previously explained in Question 4.

24. Comments on any section or aspect of the draft Code, including with reference to section 139M of the Act in relation to the matters the Commission is required to consider in developing an online safety code?

- As mentioned in the Introduction, the code does not seem to respond appropriately to the high level and severe risk of harm in relation to technology facilitated gender-based violence, including, inter alia, the promotion of misogynistic content and intimate image abuse.
- The code does not seem to address how some algorithms used by VSPS may exacerbate the impact of harmful content by recommending further harmful content to users or by making harmful content go viral. For example, algorithms may recommend repeated viewing of misogynistic and gender-based violence promoting content or may recommend Intimate Image Abuse (IIA) content and contribute to its rapid spread.

Women's Aid acknowledged that measures on recommender algorithms are being considered in the Draft Supplementary Measures and encourage the speedy introduction of such measures.

- The code does not address the need for Platforms to collaborate with each other both with technology and coordinated responses to create a seamless response that will minimize any need for an individual to have to engage multi-laterally with different platforms in respect of the same complaint. For example, IIA content can be distributed or shared on different platforms, and it is extremely distressful, traumatising and time consuming for a victim to have to deal with it again and again – often experiencing very inadequate responses.
- The code should also include a commitment to work with hotline.ie and equivalent services in other jurisdictions in relation to removal of CSA and IIA content.

Recommendation 18

Women's Aid recommends that:

- a) measures to address algorithms which exacerbate the spread of harmful content (including harm to individuals portrayed in the content such as through IIA) proposed in the Draft Supplementary Measures are finalised and included in the code as soon as possible
- b) the code should include a requirement on platforms to collaborate with each other in relation to the same harmful content being uploaded on multiple platforms to minimise distress for users and victims of abuse.
- c) the code should include a requirement on platforms to work with hotline.ie and equivalent services in other jurisdictions in relation to removal of CSA and IIA content.

Consultation on Statutory Guidance

25. Final comments on this draft Guidance, including in relation to the matters required to be considered by the Commission at section 139ZA of the Act.

- Overall, the Guidance remains very high level and is not very specific. If the draft remains as currently proposed this, in Women's Aid view, will be a failed opportunity to strengthen and clarify VSPS commitment to oppose online GBV, and reduce harm to victims/survivors of online abuse who are aged 18 and above.

Many of the recommendations we made in relation to the Code would also be applicable to the Guidance, but it would be Women's Aid preference that they are addressed in the Code. However, we have the following additional suggestions in relation to the Guidance:

Recommendations for the Draft Guidance:

Terms and Conditions

- The Guidance should specify that platforms should state in their Terms and Conditions that content promoting misogyny and GBV will not be tolerated and that there will be consequences for users doing so.
- The Guidance should specify that platforms Terms and Conditions should warn users that IIA is a criminal offence* (*in jurisdictions - such as Ireland – where this is the case).
- The Terms and Conditions should also address the way multiple forms of discrimination intersect and intensify the negative impact of abuse in the experiences of marginalized individuals and groups.

Reporting and flagging

- The Guidance should include detailed steps on how to act when IIA and CSA content has been reported or flagged. This includes immediate taking down or blocking of such material, as the first action, pending a review and final decision which might take more time.
- In the case of IIA, given the harm it can cause going viral, a precautionary approach should be followed by which content is blocked or taken down immediately, when a person depicted in the video image state, they do not consent to it being available. The Guidance should recognize and state that consent **can** be **coerced** and can also be **revoked**, so it is immaterial whether they consented or not in the past, and that where an individual (of any age) is subject to coercion and exploitation that consent may 'appear to be given' in uploading of content – as has been evidenced for example (but not limited to) in abusive intimate relationships or cases of trafficking. Therefore, it is vital that platforms recognize this and respond swiftly, and without question, to any subsequent complaint regardless of whether there was any initial indication of 'consent'.
- The Guidance should also include steps to report content to the Police where appropriate and any steps in relation to retaining evidence for investigations of IIA and CSAM
- The Guidance should also suggest different reporting mechanisms for VSPS to make available to users, including offline options, to ensure that reporting and flagging is accessible to all users, considering language barriers, disabilities etc.
- The Guidance should cover how to prioritise reports to be acted upon. For example, where personal information is also shared with the IIA image/video (for example name, address, social media profiles) or where the person is easily



identifiable (for example clearly visible face), this should be prioritised. Where the content shared is a recording of rape/sexual abuse and/or involves children, this would be an absolute priority.

Media literacy

As mentioned in Question 18 above, Women's Aid believes that media literacy should include awareness raising on the harms of online gender-based violence, how to oppose it and supports available. If this requirement cannot be included in the code, it should be at least included in the Guidance.

Moreover, the Guidance should suggest that VSPS collaborate with relevant NGOs to find ways to prevent and address online GBV.

Consultation on the application of the Code to the category of video-sharing platform services

26. Do you have any comments on the proposed application of this draft Code to the category of video-sharing platform services?

N/A

27. Do you have any comments on the proposed application of this draft Code to named individual video-sharing platform services?

N/A

Proposed Supplementary Measures and Related Guidance

28. Is there anything you consider the Commission needs to be aware of in relation to the draft supplementary measures and draft supplementary guidance as it further develops its thinking in these areas and seeks to effectively fulfill its mandate in relation to online safety?

Women's Aid offers the following suggestions in relation to the proposed supplementary measures:

1.1 Safety by Design

Women's Aid agrees with the proposed measure to require safety impact assessments that are effective in identifying and mitigating safety issues relating to the physical, mental, and moral development of minors, the protection of minors from sexual abuse, and the protection of the general public from racism, xenophobia and incitement to hatred or violence on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union.

Women's Aid believes that such impact statements should be extended to protecting the general public from the impact of technology facilitated gender-based abuse as well and should cover existing and new functions as they are developed. These assessments should be provided to the Commission automatically and be made available to the general public.

Safety by design however is not limited to impact statements, but should also include for example measures to ensure users' settings are set to safety and privacy by default, ensuring algorithms do not promote or amplify harmful content, reduce the risk harmful

content spreading across different platforms, ensure new technology cannot be used to cause harm to women and girls (e.g. nudifying, deep fakes etc....)²³

Recommendations for the New Iteration of the Code

1. Safety impact statements should be extended to protect women and girls from technology facilitated gender-based abuse.
2. Safety impact statements should be provided to the Commission and made available to the general public.
3. The requirement of safety by design should include that appropriate measures are taken to address the risks and harms identified in impact statements, in particular in relation to opposing the spreading and amplifying of harmful content and the malicious use of new tools to particularly abuse women and girls.

1.2 Online Safety Supports

The Consultation Document suggest the following measure for inclusion in a future iteration of the Online Safety Code²⁴

*Video-sharing platform service providers shall publish an online safety support plan containing appropriate and effective measures to support the welfare of users impacted **by content covered by this Code.***

Women's Aid agrees with the proposed measure to require Video-sharing platform service providers to publish an online safety support plan regarding the welfare of users impacted by harmful content, **however** these plans should also cover **harmful content at**

²³See Violence Against Women and Girls (VAWG) Code of Practice

²⁴Online Safety Code Consultation Document, page 76, bold added

the moment not covered by the Code (which is quite limited), such as online gender-based violence and **particularly** Intimate Image Abuse/Image Based Sexual Abuse.

We are concerned that the proposed wording of this measure will not cover many forms of online gender-based violence and specifically IIA, which is an offence in Ireland. It is vital that individuals of any age who are subjected to IIA, cyber-harassment, cyber-stalking, or other forms of online gender-based violence are provided with supports, including referring to specialist organisations, providing support material and information, funding initiatives to support users and contacting authorities where there is an imminent and serious risk to life.

Recommendations for the new iteration of the code

4. The requirement on Video-sharing platform service providers to publish an online safety support plan should cover all users impacted by harmful content, especially women and girls impacted by online GBV and IIA, and not be limited by the proposed wording and the limitations of this code.

1.3 Recommender System Safety

Women's Aid strongly agrees with the proposed measure regarding recommended system safety which should cover children **and** the general public also.

Recommendations for the new iteration of the code

5. The proposed new code and guidance should make sure the proposed measure regarding recommender system safety applies both to children and the general public.

ENDS