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Innspill til EU-høring om bekjempelse av seksuelt misbruk av barn på nett

Det vises til Justis- og beredskapsdepartementets bestilling av 17. mars 2021 der det bes om innspill til EU-høring om bekjempelse av seksuelt misbruk av barn på internett, samt tilhørende oversendelsesbrev fra Politidirektoratet av 19. mars 2021 med frist for merknader satt til 31. mars 2021.

Nedenfor følger Kripос' innspill til høringen. Innspillene er formulert på engelsk, som forutsatt i bestillingen.

1. Propose the necessary legislation to tackle child sexual abuse online effectively

NCIS Norway supports the need for a new EU legislation to tackle child sexual abuse online effectively.

The legislation should provide legal certainty for all stakeholders involved in the fight against child sexual abuse online and it must remain agnostic to future technological developments. The legislation should aim to achieve reduction of the number of instances of child sexual abuse online, and a reduction of the amount of known and new child sexual abuse material distributed through all parts of the internet.

At present, the mobility of users and data on the Internet is challenging for law enforcement, as necessary evidence is more often than not stored in other countries than where the victims and offenders reside.

More specifically the legislation should:

- **require relevant online services providers to detect child sexual abuse material, obligate them to report to public authorities and remove access to and/or remove at source such material**
- **ensure evidence collection across national states and that legally obtained court orders and documents are respected and actionable in another EU member country**

Norwegian internet service providers have no duty to report storage or distribution of sexualised depictions of children through use of their services. Several Norwegian cases involving online and offline sexual abuse have been uncovered as a result of the reporting duties that service providers in other countries are subject to.

European service providers should be made part of the effort to uncover persons who handle sexual abuse material, through a mandatory obligation to report such matters to public authorities¹.

The legislation should oblige online service providers to detect, remove and report known and new child sexual abuse material, if made aware of or realize the presence of such data. Online service providers should be legally obligated to attempt to detect and required to report child sexual abuse online, live distant child sexual abuse and other real-time offences.

Relevant online service providers who offer encrypted services should be obliged to maintain a technical capability to proactively detect, remove and report child sexual abuse online in their services and platforms.

The legislation should apply to all services providers that offer services or have users within the EU, regardless of the physical location of the provider. Companies should be subject to financial sanctions if they fail to meet the legal obligations related to the detection, reporting and removal of child sexual abuse online

- **require internet service providers (ISPs) to store the link between subscriber and IP address**

Norwegian internet service providers are not required to store the link between subscriber and IP address. This means that some providers do not store this information, or they do not store sufficient details to allow identification of individual subscribers. This makes it difficult, and often impossible, for the police to identify people who commit or are subjected to online sexual abuse.

In cases where the police receive information that someone is using a specific IP address to offer live distant sexual abuse of children, the fact that there are insufficient rules requiring the storage of IP address information may make it impossible for the police to identify those involved, or require a great deal of extra time and effort.

- **require providers of shared IP Internet access to log subscriber/internal IP address/external IP address information**

Many ISPs apply technology which allows multiple subscribers to use the same IP address simultaneously. This is particularly the case for some mobile network internet providers. If the police know which IP address was used to commit the abuse, but there is insufficient information stored to identify each of the subscribers using the IP address

¹ <https://www.politiet.no/globalassets/04-aktuelt-tall-og-fakta/seksuelle-overgrep-mot-barn/online-sexual-exploitation-of-children-and-young-people.pdf>

at the same time, the police will have to make enquiries directed at a greater number of persons than necessary. The ultimate consequence may be that the police fail to identify the user.²

- **require virtual private network (VPN) providers to log identifying user data**

If the police are informed of an IP address that has been used to share sexual abuse material, exploit or abuse children, the police will need to depend on the VPN service providers having logged user information.

Providers and sub-providers of VPN services are not subject to regulations. VPN providers often claim that they do not log subscriber information, and that they therefore have no data to hand over to the authorities.³ In some cases, the lack of logging subscriber data is a selling point for the services. In order to reply to requests for data from the police VPN providers should be obligated to store information regarding subscribers and the entry and exit IP addresses used.

2. Work towards the possible creation of a European centre to prevent and counter child sexual abuse

NCIS Norway supports the creation of a European centre to prevent and counter child sexual abuse online and offline, ensuring coordination to maximise the efficient use of resources and avoiding duplication of efforts.

A European centre should be a EU financed body or a public-private partnership organisation. The centre should be led by Europol to ensure a law enforcement perspective and mandate. Abuse of children and depictions thereof are considered evidence in a past, present or future criminal case and must be handled in accordance with evidence rules and regulations.

The European centre should:

- **receive reports in relation to child sexual abuse, ensure the relevance of such reports, determine jurisdiction(s), and forward them to law enforcement for action**
- **receive reports in relation to child sexual abuse, ensure the relevance of such reports, determine jurisdiction(s), possibly enrich the information and forward them to relevant law enforcement for action**

The centre should aim to ensure transparency and accountability regarding actions of service providers to detect, report and remove child sexual abuse online in their services. This should be done through ensuring that online service providers implement robust

² <https://www.politiet.no/globalassets/04-aktuelt-tall-og-fakta/seksuelle-overgrep-mot-barn/online-sexual-exploitation-of-children-and-young-people.pdf>

³ <https://www.politiet.no/globalassets/04-aktuelt-tall-og-fakta/seksuelle-overgrep-mot-barn/online-sexual-exploitation-of-children-and-young-people.pdf>

technical and procedural safeguards, ensure that the tools employed are sufficiently accurate and not used for purposes other than the fight against child sexual abuse.

The centre should also draft model codes of conduct for service providers' measures to detect, report and remove child sexual abuse online. Furthermore, it should forward information to relevant law enforcement organizations about service providers whose measures to detect, report and remove child sexual abuse online, including associated technical and procedural safeguards, are inferior to legal requirements, in order to sanction these providers.

In addition, the centre should publish aggregated statistics regarding the number and types of reports of child sexual abuse online received.

- **Maintain a single EU database of known, verified and categorized child sexual abuse material to facilitate its detection in services providers systems**
- **Generate, maintain and make available, with proper security measures, hash lists of verified child abuse material for implementation by service and services providers for prevention purposes**

This will be important for the accuracy of the tools employed by the companies to detect child sexual abuse material. The quality of such a database is essential.

- **coordinate and facilitate the takedown of child sexual abuse material identified through the efforts of law enforcement and hotlines and ensure the compliance of the affected host going forward**

This means that the centre will have to cooperate closely with law enforcement organizations in the member countries – in addition to various hotline networks.

- **support preventive measures**

The centre should support Member States in putting in place usable, rigorously evaluated and effective multi-disciplinary prevention measures to decrease the prevalence of child sexual abuse in the EU. The centre should also serve as a hub for connecting, developing and disseminating research and expertise, facilitating the communication and exchange of best practices between practitioners and researchers, and help develop state-of-the-art research and knowledge, including better prevention-related data.

The centre should support Member states with the development and implementation of technical measures to limit the amount of child abuse material and child sexual abuse in member countries and the world in general, by coordinating, supporting, distributing, informing and instruct the use of technical preventive solutions.

The above would make the centre capable of providing input to policy makers at national and EU level on prevention gaps and possible solutions to address them.

- **support efforts to assist victims of child sexual abuse in the EU and elsewhere**

The centre should support the exchange of best practices on protection measures for victims and carry out research and serve as a hub of expertise on assistance to victims of child sexual abuse. It should also support evidence-based policy on assistance and

support to victims and ensure a victim centric perspective to policy making at EU and national level.

With the very diverse usage of the Internet, and the fragmentation of evidence storage in criminal cases across the world, the police will be further disadvantaged in child sexual abuse/exploitation and child abuse material distribution cases in the future. A centre that can focus intelligence and evidence collection, serve as a clearinghouse for tip offs and information from the public, act as a knowledge base for prevention and investigative efforts and an instigator of legislation implementation and compliance will be essential to the level of success in future child abuse cases. Given that children are necessarily abused in such cases further underlines the importance of better multinational cooperation.

Med hilsen

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Dokumentet er elektronisk godkjent uten signatur.

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