

The EU's Agenda for Children

Two strategies

- On 24th March 2021 the EU adopted a new [strategy on the rights of the child](#). One of its six thematic areas and action points asserted *“The right of children to safely navigate the digital environment and harness its opportunities.”*
- The EU is also formulating a new [strategy for a more effective fight against child sexual abuse](#).

Related legislative initiatives

There is the unresolved matter of the [interim derogation](#). This will have a profound impact on both strategies mentioned above but, in addition, there are five other measures currently under consideration by EU institutions. Parts of these will, likewise, have an enormous influence on the EU's ability to deliver on the promises made to children and families in the two strategies.

There are common threads which need to be considered in respect of each of them.

The five measures

[Digital Services Act](#), [Digital Markets Act](#), [e-Privacy Directive](#), [NIS2](#), [Changes to Europol's Mandate](#)

Accountability

It is essential to establish a transparency and inspection regime which will reassure all end users, particularly children, parents, teachers, Governments and law enforcement that on the internet the law is routinely honoured and observed rather than being routinely ignored or broken. Only by creating the right level of accountability can we generate trust.

Liability

Being mindful of available technology, entities operating online should only retain immunity from civil or criminal liability if they can show they have taken all reasonable and proportionate steps to anticipate and mitigate to the greatest extent possible the potential for their platform or services to be misused in ways which harm children.

Security by design, privacy by default

For too long the dominant culture of many internet businesses has been *“move fast and break things”*. This may have made some sense in the early days of the internet but not any more. Unless a business is confident, and can demonstrate, its product or service is unlikely to be used by children it should be obliged to ensure from the moment of first use it is set to the highest level of security. All data processing activities must respect a child’s privacy and her or his protected status. Typically, this will only happen if the designers of the product or service are mindful of their obligations to children at the earliest stages of the development process. Children’s rights should never be an afterthought.

Privacy must not become a shield for criminals

Flaws in the GDPR have been exploited in ways that were never intended or foreseen. For example, web sites continue to distribute child sex abuse materials only because ICANN, Registries and Registrars have made it difficult to access information about who owns or manages a web site and even where that information is readily obtainable it might be so inaccurate as to be useless in terms of identifying the criminals responsible. This must be rectified.

End the misinformation about child protection tools

A great deal of misinformation has been circulated about how child protection tools actually work. This has hugely hindered the debate about the way forward on the interim derogation and the legislative measures referred to earlier. Any entity wishing to provide encrypted services must be able to show they still have the means to ensure they are not becoming passive accomplices to crimes against children.

A new European Centre

EU Member States are hugely reliant on a single organization, the National Center for Missing and Exploited Children, in a single country, the USA, for the vast bulk of leads received by law enforcement about online crimes against children. Strategically this is unwise and unsustainable. In addition, there is no acknowledged European or global Centre of Excellence which can pull together and disseminate examples of best practice in child protection and victim support. The European Centre anticipated in the proposed new strategy to combat child sexual abuse must become an engine for progressive change, working within and helping to enhance the existing ecosystem of online child rights stakeholders.

Yours sincerely,



Robbert van den Berg
Executive Director
ECPAT International