

Interim Regulation on Combating Online CSA – Feedback

Call to Adopt Temporary Derogation, Allowing for Protection of Children Online to Continue

February 2024

The Computer & Communications Industry Association (CCIA Europe) welcomes this opportunity to provide feedback to the European Commission on its proposal for a Regulation amending Regulation (EU) 2021/1232 of the European Parliament and of the Council on a temporary derogation from certain provisions of Directive 2002/58/EC for the purpose of combating online child sexual abuse ('Interim Regulation' going forward).¹

CCIA Europe considers it fundamental that all players do their part to ensure the online environment becomes safer and more protective of children, making sure that offenders are investigated and prosecuted while also safeguarding Europeans' privacy and human rights.

Below you will find our main recommendations regarding the Interim Regulation proposal:

- I. Swiftly adopt the proposed extension
- II. Continue working on a long-term framework to effectively protect children online

I. Swiftly adopt the proposed extension

CCIA Europe welcomes the proposed amendment of Regulation 2021/1232 and the suggested extension of its period of application put forward by the Commission, as this is an important way forward for child sexual abuse to be combatted in an effective manner.

The proposed extension will allow providers of interpersonal communications services (ICSs) to continue with the processing of personal and other data for the sole purpose of detecting, reporting, and removing online child sexual abuse (CSA) from their services, as well as guarantee legal certainty.

ICS providers' proactive work has proven to be an effective way of tackling CSA, as also recognised by the European Commission's implementation report on the e-Privacy Directive temporary derogation,² which notes that "voluntary reporting contributed significantly to the protection of a large number of children, including from ongoing abuse."

¹ Proposal for a Regulation amending Regulation (EU) 2021/1232 of the European Parliament and of the Council on a temporary derogation from certain provisions of Directive 2002/58/EC for the purpose of combating online child sexual abuse: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A777%3AFIN>

² Report from the Commission to the European Parliament and the Council on the implementation of Regulation (EU) 2021/1232 of the European Parliament and of the Council of 14 July 2021 on a temporary derogation from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number-independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse: <https://home-affairs.ec.europa.eu/system/files/2023-12/Implementation%20report%20on%20the%20e-Privacy%20Directive%20temporary%20derogation.pdf>

The proposal for a Regulation of the European Parliament and the Council laying down rules to prevent and combat child sexual abuse³ (CSA Regulation) aims at establishing a new long-term EU framework for the fight against child sexual abuse. However, the negotiations on this CSA Regulation are not advancing fast enough for the rules to be in place before the current temporary derogation expires on 3 August 2024. Hence, the proposed extension of at least two years would allow ICS providers to continue their proactive voluntary work until the negotiations on the long-term Regulation conclude and the overall framework has been put in place.

CCIA Europe particularly welcomes the swift agreement by Member States on the Council's negotiating mandate for the Interim Regulation in December⁴ as well as the negotiating mandate adopted by the European Parliament.⁵ However, CCIA Europe warns that the duration of the extension proposed by Parliament might prove not to be sufficient for the long-term framework to be put in place in time.

Speedy action is needed in order for the extension to be approved before the expiration of the current temporary derogation in August 2024, which is why co-legislators need to do their utmost to quickly adopt the proposed extension. CCIA Europe urges the co-legislators to adopt the Interim Regulation well before the end of their current mandate. Indeed, swift action is needed to avoid the risk of a regulatory vacuum between early August and the entry into force of the new rules protecting children in the online space.

II. Continue working on a long-term framework to effectively protect children online

While the extension of the Interim Regulation is an essential stopgap, it can only act as a temporary solution to bridge the period between August 2024 and the implementation of the long-term CSA Regulation. CCIA Europe strongly encourages the EU co-legislators to continue to focus on making progress on the long-term framework. In this context, in order for the CSA Regulation to be truly effective, a viable solution also needs to be introduced to guarantee a legal basis that will allow ICS providers to continue processing communications data, with the purpose of preventing, detecting, reporting, and removing child sexual abuse from their services.

The European Parliament's negotiating position was approved in November 2023,⁶ and while making significant improvements to certain parts of the proposed Regulation,⁷ it still

³ Proposal for a Regulation laying down rules to prevent and combat child sexual abuse, adopted by the European Commission on 11 May 2022:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2022%3A209%3AFIN>

⁴ Council's press release 'Child sexual abuse: Council paves the way for prolonging protection measure':

<https://www.consilium.europa.eu/en/press/press-releases/2023/12/20/child-sexual-abuse-council-paves-the-way-for-prolonging-protection-measure/>

⁵ European Parliament's press release 'Child sexual abuse online: MEPs ready to start negotiations on temporary extension':

<https://www.europarl.europa.eu/news/en/press-room/20240207IPR17513/child-sexual-abuse-online-meps-ready-to-start-negotiations-on-extension>

⁶ European Parliament report on the proposal laying down rules to prevent and combat child sexual abuse:

https://www.europarl.europa.eu/doceo/document/A-9-2023-0364_EN.pdf

⁷ CCIA Europe's press release following the adoption of the European Parliament negotiating mandate on the CSA Regulation:

<https://ccianet.org/news/2023/11/fighting-csa-european-parliament-position-marks-significant-improvement/>

does not address the need for ICS providers to be able to process personal and other data in order to mitigate the risk of their services being misused for the purpose of child sexual abuse. For this reason, CCIA Europe encourages the Council of the EU to step up its work and find a balanced solution, establishing an adequate framework.⁸

Conclusion

CCIA Europe supports the European Commission's proposed extension of the Interim Regulation and hopes that it can be adopted as soon as possible. This in order to avoid a legal vacuum once the temporary derogation currently in place expires in August 2024.

Given the upcoming EU elections in June 2024,⁹ and the major reshuffle of the Parliament and Commission they will bring about, time is of the essence to adopt this temporary solution. However, co-legislators must not lose sight of the end goal, which should remain the adoption of the new framework proposed by the CSA Regulation.

Work is still needed before long-term legislation can be adopted that will protect children while ensuring that the fundamental right to privacy of EU citizens is safeguarded. CCIA Europe and its Members will continue to engage in good faith with the European Commission, the Council, and the European Parliament to ensure that balanced and future-proof solutions are put in place to effectively protect children online and allow for the investigation and prosecution of perpetrators.

About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA's Brussels-based team seeks to improve understanding of our industry and share the tech sector's collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

Visit ccianet.org/hub/europe/ or x.com/CCIAEurope to learn more.

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⁸ More information on CCIA Europe's position regarding the proposal for a CSA Regulation can be found in our two most recent blog posts on the matter: 'Detecting CSA While Respecting Encryption: A delicate Balance to Strike for the EU':

<https://www.project-disco.org/european-union/detecting-csa-while-respecting-encryption-a-delicate-balance/> and 'Protecting Children Online: Three Ways to Improve the New EU Framework to Fight CSAM': <https://www.project-disco.org/european-union/protecting-children-online-fight-csam/>

⁹ European elections 2024 will take place between 6-9 June 2024: <https://elections.europa.eu/en/>