COMPROMISE AMs - BATCH 1

CSAM
(Rapporteur: Javier ZARZALEJOS)

COMPROMISE 1

ARTICLE 1 + TITLE 1 and RECITALS 1-9BIS (NEW)

Article 1 - Subject matter and scope
Covers: AMs 494 (Greens), 495 (S&D), 517 (S&D), 518 (S&D), 519 (Greens), 41 (rapp), 522 (Greens), 42 (rapp), 529 (S&D), 527 (ECR), 528 (ECR), 106, para 1 (rapp), 530 (Left), 531 (ECR), 532 (S&D), 534 (S&D), 535 (S&D), AM 874, para I, Puigdemont i Casamajó, partially AM 875 (EPP), partially AM 876 (EPP), AM 877 (ECR), AM 131 (IMCO), partially 813 (Greens), 538 (S&D), 539 (S&D), partially 500 (Greens), partially 501 (Left), 502 (S&D), 503 (S&D); 521 (Greens), 541 (S&D), 542 (S&D), 608 (SD), partially I and III parts AM 722 SD, part. 53 IMCO, 57 IMCO, 58 IMCO, 59 IMCO

Fall: AM 40 (rapp), 106 paras 2 and 3 (Rapp.), 496 (RE), 497 (ECR), 498 (partially, ECR), 499 (ECR), 504 (ECR), 505 (ECR), 506 (Greens), 507 (S&D), 508 (S&D), 509 (Left), 510 (Left), 511 (S&D), 512 (Greens), 513 (S&D), 514 (ECR), 515 (Renew), 516 (ECR), 520 (Greens), 523 (ECR), 524 (S&D), 525 (Left), 526 (S&D), 533 (Left), 536 (left) 537 (Left), 540 (ECR), 543 (S&D), partially I, II and III part AM 722 (SD), 54 IMCO, 55 IMCO, 56 IMCO, AM 874, paras II and III, Puigdemont i Casamajó

Title 1
Covers: none

Fall: AM 281 Greens, AM 282 Renew

Recital 1-9 BIS (NEW) to Article 1

Recital 1
Covers: AM 283 I part (ID), 1 (IMCO)

Fall: 283 II part ID, 284 (S&D), 285 (S&D), 286 (ID), 1 (FEMM), 1 (CULT), 2 (FEMM), 3 (FEMM), partially 4 (FEMM)

Recital 2
Covers: 1 (Rapp), 290 (Greens), part. 2 (IMCO), part. 5 (FEMM)

Fall: 289 (ECR), 291 (S&D), 292 (The Left), 293 (S&D), 294 (ID), 4 (FEMM)
Recital 3
Covers: AMs 2 (Rap.), 296 (ID), part 297 (NI, Puigdemont), 298 (Greens), 299 The Left, part.
3 IMCO, 6 FEMM,
Fall: AMs 295 (S&D), 1 (CULT), 7 (FEMM), 8 (FEMM), 9 (FEMM), 10 (FEMM),

Recital 4
Covers: 3 (Rapp), part. 301 (ID), part. 302 (EPP), part. 4 (IMCO)
Fall: 300 (The Left), 303 (Greens), 304 (S&D), 305 (The Left), 306 (ID), 11 (FEMM), 12
(FEMM), 13 (FEMM), 14 (FEMM), 15 (FEMM), 16 (FEMM), 17 (FEMM), 5 (IMCO),
1 (BUDG), 2 (CULT)

Recital 5
Covers: AMs, part. 307 (The Left), 309 (ID), 310 (Greens), 311 (ECR), part. 6 (IMCO)
Fall: AMs part. 308 (EPP), 4 (Rapp), 7 (IMCO)

Recital 6
Covers: 313 (Greens), 8 (IMCO),
Falls: 312 (The Left),

Recital 7
Covers: AMs 5 Rap., 9 IMCO, 314 (Greens)
Falls: none

Recital 8
Covers: AM 6 (Rap.), 10 (IMCO)
Falls: none

Recital 9
Covers: none
Falls: 315 (The Left), 316 (Greens)

Recital 9(a)
Covers: AMs partially 17 (rapp), part. 317 (The Left), part. 287 (S&D), part. 288 (S&D),
358(S&D), part. 388 (Greens), part. 389 (EPP), part. 390 (NI, Puigdemont), part. 391 (EPP){
Article 1
Subject matter and scope

1. This Regulation lays down uniform rules to prevent and address the misuse of relevant information society services for online child sexual abuse, in order to contribute to the proper functioning of the internal market and to create a safe, predictable and trusted online environment that facilitates innovation and in which fundamental rights enshrined in the Charter are effectively protected (AM 494 Greens, 495 SD, 531 ECR, part. 53 IMCO)

It establishes, in particular:

(a) obligations on providers of relevant information society services to minimise the risk that their services are misused for online child sexual abuse;

(b) obligations on providers of hosting services and providers of number-independent interpersonal communication services to detect and report online child sexual abuse; (partially 500 (Greens), partially 501 (Left), 502 (S&D), 503 (S&D))

(c) obligations on providers of hosting services to remove or disable access to child sexual abuse material on their services;

(d) obligations on providers of internet access services to disable access to child sexual abuse material;

(da) (new) obligations on providers of online games; (AM519 Greens)

(e) rules on the implementation and enforcement of this Regulation, including as regards the designation and functioning of the competent authorities of the Member States, the EU Centre on Child Sexual Abuse established in Article 40 (‘EU Centre’) and cooperation and transparency; (AM 517 SD) and

(ea) rules on the establishment, functioning, cooperation, transparency and powers of the EU Centre For Child Protection established in Article 40 (‘EU Centre’); (AM 518 SD)

2. This Regulation shall apply to providers of relevant information society services offering such services in the Union, irrespective of their place of main establishment.

2b. This Regulation shall not apply to audio communications (AM 521 Greens, 541 S&D, 542 S&D).

3. This Regulation shall not affect the rules laid down by the following legal acts:

(a) Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA;
(b) Directive 2000/31/EC and Regulation (EU) 2022/2065 on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC; (AM 41 rapp, 522 Greens, 57 IMCO)

c) Directive 2010/13/EU;


(da) Regulation (EU) ... on Artificial Intelligence (Artificial Intelligence Act); (AM 42 rapp, 529 SD, 58 IMCO) and


3a. Nothing in this Regulation shall be interpreted as prohibiting, weakening or undermining end-to-end encryption. Providers shall not in particular be prohibited to offer end-to-end encrypted services (106, Para 1, rapp, part AM 608 SD, part 530 The Left, 532 SD, 535 ECR, partially I part AM 722 SD, AM 874, I part, Puigdemont i Casamajó, partially AM 875 (EPP), partially AM 876 (EPP), AM 877 (ECR), partially para 1 AM 131 IMCO, partially 813 (Greens)

3b. Nothing in this Regulation shall undermine the prohibition of general monitoring under Union law or introduce general data retention obligations, or be interpreted in that way (AM 534 SD, part AM 608 SD, partially III part AM 722 SD, para 2 AM 131 IMCO).

4. This Regulation limits the exercise of the rights and obligations provided for in 5(1) and (3) and Article 6(1) of Directive 2002/58/EC with the sole objective of enabling relevant information society services to use specific technologies for the processing of personal and other data to the extent strictly necessary to detect and report online child sexual abuse and remove child sexual abuse material from their services for the execution of the detection orders issued in accordance with Section 2 of Chapter 1 of this Regulation. (AM 538 SD and part 539 SD)

Recital 1-9 BIS - Article 1 - Subject matter and scope

(1) Information society services have become very important for communication, expression, gathering of information and many other aspects of present-day life, including for children but also for perpetrators of child sexual abuse offences. Such offences, which are subject to minimum rules set at Union level, are very serious criminal offences that often cause long-lasting negative consequences on victims and that need to be prevented and combated effectively in order to protect children’s rights and well-being, as is required under the Charter of Fundamental Rights of the European Union (‘Charter’), and to protect society at large. Users of such services offered in the Union
should be able to trust that the services concerned can be used safely in a trusted online environment (AM 1 IMCO), especially by children.

(2) Given the central importance of relevant information society services, those aims can only be achieved by ensuring that providers offering such services in the Union behave responsibly and take reasonable measures to minimise the risk of their services being misused for the purpose of child sexual abuse, those providers often being the only ones in a unique position to prevent (part. 290 Greens, part. 2 IMCO) and combat such abuse. The measures taken should be effective, (AM 1 Rap., part. 290 Greens, part. 2 IMCO, part. 5 FEMM) targeted, evidence-based (part. 290 Greens, part. 5 FEMM), carefully balanced, and proportionate, and subject to constant review (part. 290 Greens, part. 5 FEMM) so as to avoid any undue negative consequences for those who use the services for lawful purposes, in particular for the exercise of their fundamental rights protected under Union law, that is, those enshrined in the Charter and recognised as general principles of Union law, and so as to avoid directly or indirectly (part. 290 Greens, part. 5 FEMM) imposing any excessive burdens on the providers of the services.

(3) Member States are increasingly introducing, or are considering introducing, national laws to prevent and combat online child sexual abuse and more generally to protect safeguard children online (AM 296 ID), in particular by imposing requirements on providers of relevant information society services. In the light of the inherently cross-border nature of the internet and the service provision concerned, those national laws, which sometimes (AM 296 ID) diverge, can (AM 2 Rap., 296 ID, part 297 Puigdemont, 298 Greens, 299 The Left, part. 3 IMCO, 6 FEMM) have a direct negative effect on the internal market. To increase legal certainty, eliminate the resulting obstacles to the provision of the services and ensure a level playing field in the internal market, the necessary harmonised requirements should be laid down at Union level.

(4) Therefore, this Regulation should contribute to the proper functioning of the internal market by setting out clear, uniform, effective, proportionate and carefully (part. AM 4 IMCO) balanced rules to prevent and combat child sexual abuse in a manner that is effective, targeted and proportionate (AM 3 Rap., part. 301 ID, part. 302 EPP), and that respects the fundamental rights of all parties concerned. In view of the fast-changing nature of the services concerned and the technologies used to provide them, those rules should be laid down in technology-neutral and future-proof manner, so as not to hamper they stimulate innovation and technological development to prevent and combat online child sexual abuse. (AM 3 Rap., part. 301 ID)

(5) In order to achieve the objectives of this Regulation, it should cover providers of services that have the potential to be misused for the purpose of online child sexual abuse. As they are increasingly misused for that purpose, those services should include publicly available number-independent (AM part. 6 IMCO, part. 307 The Left, part. 310 Greens, 311 ECR) interpersonal communications services, such as messaging services and web-based e-mail services, in so far as those services as are (part. 310 Greens, part. 6 IMCO) publicly available. As services which enable direct interpersonal
and interactive exchange of information merely as a minor ancillary feature that is intrinsically linked to another service, such as chat and similar functions as part of gaming online games (part. AM 6 IMCO), image-sharing and video-hosting are equally also (part 310 Greens, part. AM 6 IMCO) at risk of misuse for the purpose of online child sexual abuse (part. AM 6 IMCO), they should also be covered by this Regulation. However, given the inherent differences between the various relevant information society services covered by this Regulation and the related varying risks that those services are misused for the purpose of online child sexual abuse and varying ability of the providers concerned to prevent and combat such abuse, the obligations imposed on the providers of those services should be differentiated in an appropriate manner without lowering child protection standards (309 ID).

(6) Online child sexual abuse frequently involves can also involve (313 Greens, 8 IMCO) the misuse of information society services offered in the Union by providers established in third countries. In order to ensure the effectiveness of the rules laid down in this Regulation and a level playing field within the internal market, those rules should apply to all providers, irrespective of their place of establishment or residence, that offer services in the Union, as evidenced by a substantial connection to the Union.


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This Regulation should be considered *lex specialis* in relation to the generally applicable framework set out in Regulation (EU) 2022/2065 (AM 6 Rap., 10 IMCO) laying down harmonised rules on the provision of certain information society services in the internal market. The rules set out in Regulation (EU) 2022/2065 (AM 6 Rap., 10 IMCO) apply in respect of issues that are not or not fully addressed by this Regulation.

Article 15(1) of Directive 2002/58/EC allows Member States to adopt legislative measures to restrict the scope of the rights and obligations provided for in certain specific provisions of that Directive relating to the confidentiality of communications when such restriction constitutes a necessary, appropriate and proportionate measure within a democratic society, inter alia, to prevent, investigate, detect and prosecute criminal offences, provided certain conditions are met, including compliance with the Charter. Applying the requirements of that provision by analogy, this Regulation should limit the exercise of the rights and obligations provided for in Articles 5(1), (3) and 6(1) of Directive 2002/58/EC, insofar as strictly necessary to execute detection orders issued in accordance with this Regulation with a view to prevent and combat online child sexual abuse.

Encryption, and especially end-to-end encryption, is an increasingly important tool to guarantee the security and confidentiality of the communications of all users, including children. Any restrictions or undermining of the end-to-end encryption can be used and abused by malicious third parties. Nothing in this Regulation should therefore be interpreted as prohibiting, weakening or undermining end-to-end encryption. Providers of information society services should under no circumstances be prevented from providing their services using the highest standards of encryption, considering that such encryption is essential for trust in and security of the digital services.

### COMPROMISE 2

**ARTICLE 2 + RECITALS 10-13**

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<th>Article 2 - Definitions</th>
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</table>
For the purpose of this Regulation, the following definitions apply:

(a) ‘hosting service’ means an information society service as defined in Article 3, point (g), third indent, of Regulation (EU) 2022/2065 (AM 43 rapp., 544 Greens, 60 IMCO)

(b) ‘interpersonal communications service’ means a publicly available service as defined in Article 2, point 5, of Directive (EU) 2018/1972, including services which enable direct interpersonal and interactive exchange of information merely as a minor ancillary feature that is intrinsically linked to another service;

(ba) ‘number-independent interpersonal communications service’ means an interpersonal communications service as defined in Article (2), point (7) of Directive (EU) 2018/1972 (AM 547 Greens, 549 S&D, 63 IMCO)
‘number-independent interpersonal communications service within games’ means any service defined in Article 2, point (7) of Directive (EU) 2018/1972 which is part of a game; (AM 548 Greens)

c ‘software application’ means a digital product or service as defined in Article 2, point (15), of Regulation (EU) 2022/1925 (AM 44 rapp. 64 IMCO)

d ‘software application store’ means a service as defined in Article 2, point (14), of Regulation (EU) 2022/1925 (AM 45 rapp. 65 IMCO)

e ‘internet access service’ means a service as defined in Article 2(2), point (2), of Regulation (EU) 2015/2120 of the European Parliament and of the Council7;

(f) ‘relevant information society services’ means all of the following services:

(i) a hosting service;

(ii) a number-independent interpersonal communications service; (AM 66 IMCO)

(iii) a software applications store;

(iv) an internet access service

(new) a number-independent interpersonal communication service within online games (AM 566 Greens)

g ‘to offer services in the Union’ means to offer services in the Union as defined in Article 3, point (d), of Regulation (EU) 2022/2065 (AM 51 rapp. 67 IMCO)

(h) ‘user’ means any natural or legal person who uses a relevant information society service;

(i) ‘child’ means any natural person below the age of 18 years (AM 40 FEMM);

(j) ‘child user’ means a natural person who uses a relevant information society service and who is a natural person below the age of 17 years (52 (rapp), 575 (ECR), 576 (ECR), 577 (S&D), 578 (S&D))

(k) ‘micro, small or medium-sized enterprise’ means an enterprise as defined in Commission Recommendation 2003/361 concerning the definition of micro, small and medium-sized enterprises8;

(l) ‘child sexual abuse material’ means material constituting child pornography or pornographic performance as defined in Article 2, points (c) and (e), respectively, of Directive 2011/93/EU;

(m) ‘known child sexual abuse material’ means potential (AM 53 rapp) child sexual abuse material detected using the indicators contained in the database of indicators referred to in Article 44(1), point (a);

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‘new child sexual abuse material’ means potential child sexual abuse material detected using the indicators contained in the database of indicators referred to in Article 44(1), point (b);

‘solicitation of children’ means the solicitation of children for sexual purposes as referred to in Article 6 of Directive 2011/93/EU;

‘online child sexual abuse’ means the online dissemination of child sexual abuse material and the solicitation of children;

‘child sexual abuse offences’ means offences as defined in Articles 3 to 7 of Directive 2011/93/EU;

‘victim’ means a person who being under 18 suffered child sexual abuse offences or/and whose child sexual abuse material is hosted or disseminated in the Union. (AM 54 (rapp), 593 (RE), 604 (ID), partially AM 41 FEMM)

‘recommender system’ means the system as defined in Article 2, point (o), of Regulation (EU) 2022/2065 (AM 55 rapp., 70 IMCO)

‘content data’ means texts, videos and images;

‘content moderation’ means the activities as defined in Article 2, point (t), of Regulation (EU) 2022/2065 (AM 56 rapp., 71 IMCO)

‘Coordinating Authority of establishment’ means the Coordinating Authority for child sexual abuse issues designated in accordance with Article 25 by the Member State where the provider of information society services has its main establishment or, where applicable, where its legal representative resides or is established;

‘terms and conditions’ means terms and conditions as defined in Article 2, point (u), of Regulation (EU) 2022/2065 (AM 57 rapp., 72 IMCO)

‘main establishment’ means the head office or registered office of the provider of relevant information society services within which the principal financial functions and operational control are exercised.

‘hotline’ means an organisation officially recognised by its Member State of establishment that provides a mechanism, other than the reporting channels provided by law enforcement authorities, for receiving anonymous complaints from victims and the public about alleged online child sexual abuse. (AM 59 (rapp), 571 (Greens), 602 (EPP), 603 (RE), 605 (S&D), 607 (ECR), part. 68 IMCO, partially 13 CULT)

‘help-line’ means an organisation that provides services for children in need officially recognised by its Member State of establishment; (AM 572 (Greens), part. 69 IMCO)

Recitals 10-13 to Art. 2 Definitions

(10) In the interest of clarity and consistency, the definitions provided for in this Regulation should, where possible and appropriate, be based on and aligned with the relevant definitions contained in other acts of Union law, such as Regulation (EU) 2022/2065
(11) A substantial connection to the Union should be considered to exist where the relevant information society services have an establishment in the Union or, in its absence, where the on the basis of the existence of a significant number of recipients of the service users in one or more Member States is significant in relation to its or their population, or on the basis of the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States should be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the availability of a software application in the relevant national software application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1), point (c), of Regulation (EU) 1215/2012 of the European Parliament and of the Council. Mere technical accessibility of a website from the Union should not, on that ground, alone, be considered as establishing a substantial connection to the Union.

(12) For reasons of consistency and technological neutrality, the term ‘child sexual abuse material’ should for the purpose of this Regulation be defined as referring to any type of material constituting child pornography or pornographic performance within the meaning of Directive 2011/93/EU, which is capable of being disseminated through the use of hosting or interpersonal communication services. At present, such material typically consists of images or videos, without it however being excluded that it takes other forms, especially in view of future technological developments.

(13) The term ‘online child sexual abuse’ should cover not only the dissemination of material previously detected and confirmed as constituting child sexual abuse material (‘known’ material), but also of material not previously detected that is likely to constitute child sexual abuse material but that has not yet been confirmed as such (‘new’ material), as well as activities constituting the solicitation of children (‘grooming’). That is needed in order to address not only past abuse, the re-victimisation and violation of the victims’ rights it entails, such as those to privacy and protection of personal data, but to also address recent, ongoing and imminent abuse, so as to prevent it as much as possible, to effectively protect children and to increase the likelihood of rescuing victims and stopping perpetrators.
