

INHOPE feedback on the EC proposed regulation laying down rules to prevent and combat child sexual abuse

EXECUTIVE SUMMARY

INHOPE and its member hotlines welcome the objectives of the proposed regulation but have identified several elements that need to be tackled through the legislative process. In this submission, 5 key asks have been identified that need to be implemented to ensure that the proposed regulation can reach its intended objectives:

- Include an official recognition of anonymous public reporting as a crucial element for detecting ‘new or previously unidentified CSAM’.
- Develop a framework to facilitate the legal recognition of European Union hotlines so they can review, process, and potentially conduct pro-active searching for CSAM.
- Use the existing and proven systems to avoid duplication and improve efficiency.
- Broaden the eligibility criteria to become national competent authorities (CA’s) in order to allow already existing expert organisations to be designated as CA’s.
- Develop a detailed framework governing EU Centre partnerships with external organisations.

INHOPE looks forward working with the European Commission, Members of the European Parliament, Council of the European Union and Member States on the development and improvement of the proposed regulation so it can achieve its stated objectives.

About us: [INHOPE](#) is the global network of 50 hotlines in 46 countries, combatting child sexual abuse material (CSAM) with over 20 years of experience. INHOPE has fostered deep jurisdiction-specific expertise, competence and trust through its multi-stakeholder approach involving the internet industry, law enforcement and governments. [Hotlines](#) provide the public with a way to report CSAM and have it removed rapidly from the digital world. Each report is reviewed by a trained hotline analyst who will notify Law Enforcement and initiate a [Notice and Takedown](#) process to get CSAM removed as rapidly as possible. If the CSAM is hosted in another country, the [INHOPE ICCAM](#) platform shares that report with the relevant hotline and INTERPOL. The ICCAM platform has enabled the instant exchange of report data, supports the rapid removal of CSAM by hotlines and provides value added intelligence for our partners in law enforcement.

SUBMISSION

INHOPE welcomes and endorses the objectives of the European Commission (EC) proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down rules to prevent and combat child sexual abuse (COM (2022) 209 final) as well its overall efforts and commitment to fight against CSAM online. However, regarding the environment that hotlines operate in, we believe that the proposed Regulation contains several critical omissions and areas that require major improvement. Also, considering the INHOPE networks’ track record in combatting CSAM at scale, the proposed legislation does not recognise or foresee the integration of INHOPE capabilities into the frameworks

proposed. Equally, the proposed regulation ignores the existing INHOPE processes and technologies that are already in place which could be leveraged.

In order to support the EC's effort to regulate and harmonise the fight for a safer internet for children, we have identified the following omissions and suggested areas of improvement:

1. Absence of anonymous public reporting channels

If an individual accidentally encounters CSAM online, INHOPE hotlines experience over past 20 years has shown that it is unlikely that they will report it directly to law enforcement. In the proposed Regulation there is nowhere in the workflow that allows for anonymous public reporting of CSAM. If implemented in its current form, there is a very high likelihood that many incidences of CSAM accidentally encountered by the public will go unreported. The potential consequences of this are that CSAM will remain online, victims remaining unidentified and perpetrators undetected.

Also, automated detection activities via hash matching as proposed in the proposed Regulation is only adequate to detect 'known or previously identified' CSAM when deployed by online platforms. These systems are not designed to detect 'new or previously unidentified CSAM'. While Artificial Intelligence technologies are improving and show some potential in the identification of 'new' CSAM, they are not yet a proven technology. Public reporting is currently the primary source of 'new or previously unidentified CSAM' thus we believe that public reporting of CSAM should be strongly encouraged and supported. Maintaining a channel of reporting and communication from the public to the professional is essential.

Recommendation: INHOPE recommends the inclusion of specific provisions in the Regulation which will highlight, promote, and safeguard the role of formally recognised non-governmental organisations involved in anonymous public reporting of CSAM.

2. No legal recognition of hotlines

The preamble to the Regulation recognises that INHOPE and its member hotlines are 'in the frontline in the fight against online child sexual abuse'¹, but there are no operative articles in the body of the Regulation which grant powers (or recognise the existence of such powers) to INHOPE or its member hotlines.

Currently there is no EU wide framework regulating the operations and legal status of hotlines. It is up to each EU member state to decide which legal capacities to grant to a national hotline. This leads to noticeable differences in the capacity and authority of the national hotlines across the EU. In its current form, the proposed Regulation will leave hotlines in a situation where they are recognised in the preamble as key players in the fight against CSAM but at the same time excluded from the body of the Regulation, without legal recognition, resource provision or legal protection for the handling of CSAM.

¹ Recital 70 of the Preamble: 'Longstanding Union support for both INHOPE and its member hotlines recognises that hotlines are in the frontline in the fight against online child sexual abuse ... [and their] expertise and experience is an invaluable source of information on the early identification of common threats and solutions, as well as on regional and national differences across the Union.'

Additionally, INHOPE finds it important to flag that the possibility for hotlines to apply for the ‘trusted flaggers’ status under the Digital Service Act (DSA) does not remedy the issue of the legal recognition of hotlines. We note that it is not guaranteed under the DSA that this status will be granted to each national hotline and even if such status is granted, it does not carry any legal force (i.e., no formal legal powers are granted thereby).

Recommendation: INHOPE recommends that the proposed Regulation should include a framework to facilitate legal recognition of EU hotlines and to secure legal authority to allow the review, processing, and potentially pro-active searching for CSAM by hotlines.

3. Unnecessary duplication of existing proven systems

Article 48 of the proposed Regulation sets out a reporting process which duplicates and unnecessarily complicates an established and functioning CSAM reporting workflow in the European Union via INHOPE hotlines.

The existing operational workflow includes the following steps by hotlines when CSAM is reported to them:

1. Assess the illegality of the material and determine if CSAM,
2. Detect the relevant hosting jurisdiction (and if applicable pass the information instantly via [INHOPE ICCAM](#) to a hotline in another country),
3. The hotline will notify law enforcement and the hosting provider for CSAM removal,
4. The hotline will then verify the removal of CSAM.

Article 12 of the proposed Regulation obliges hosting providers to promptly submit a report to the EU Centre once they become aware of CSAM. This means that after a hotline will complete steps 1-3 of the above list, the relevant hosting provider would be required to notify the EU Centre. The EU Centre would then follow the reporting process described in article 48 which in its current form overlaps with the above listed steps that are taken within the hotline workflow.

This is an unnecessary duplicative and bureaucratic process. Additionally, it will result in delays in the removal of CSAM which means that identified CSAM will remain online longer, be distributed more widely and victims will be continually re-victimised each time the CSAM is viewed or reshared. Also, law enforcement will receive the same CSAM reports twice – initially from hotlines and then also from the EU Centre which will result in the waste of resources and slow down response. Currently many law enforcement organisations in the EU are struggling with the existing volume of CSAM reports as noted in the [AviaTor Report](#), and the EU regulation will place unnecessary additional burdens upon them.

Recommendation: INHOPE recommends that the proposed Regulation should include the existing and proven processes, including INHOPEs, rather than duplicate and complicate. This is proposed so that the reporting processes will be more efficient and that CSAM will be removed as rapidly as possible.

4. Restrictive criteria on the designation of competent authorities

INHOPE currently has member hotlines operating in 26 EU Member States combatting CSAM. The proposed Regulation sets out that each Member State will designate competent authorities to carry out tasks that are already being done by hotlines, such as notification of known CSAM (Article 32). If implemented, this will result in duplication.

The proposed Regulation instructs Member States to designate one or more competent authorities who will be responsible for specific elements of the implementation of the proposed Regulation. According to Article 25(9) In conjunction with Article 26(2) of the proposed Regulation, each national competent authority must fulfil 5 requirements which will have the effect of excluding organisations like hotlines from fulfilling this role.

The proposed Regulation sets unduly restrictive criteria for Member States in the appointment of national competent authorities. This may result in the exclusion of many national expert organisations from being eligible for competent authority categorisation, including hotlines.

Broadening the scope of eligible organisations will allow Member States to better use the existing and proven national mechanisms, including hotlines, as well as to have a more efficient allocation of resources

Recommendation: INHOPE recommends that the proposed Regulation should broaden the criteria to allow organisations with the existing expertise and proven capability to be eligible for designation as competent authorities.

5. Lack of clarity regarding EU Centre cooperation with partner organisations

The proposed Regulation allows the EU Centre to cooperate with organisations and networks with information and expertise on matters related to CSAM. While INHOPE welcomes this, there is a concern over the lack of clarity in article 54 regarding the methodology and approach in creating partnerships.

According to the explanatory memorandum, the potential channels of cooperation are referenced linking the EU Centre to possible partner organisations, such as the INHOPE network of hotlines for reporting CSAM (Referencing Article 54). Whereas in Article 54 this is not clarified or detailed.

INHOPE as a global leader in the fight against CSAM online sees itself as a future key partner of the EU Centre. However according to the proposed Regulation process (Article 54), the nature of any partnership could be so open-ended as to provide no comfort at all that INHOPE capability will be fully accepted or recognised.

Recommendation: INHOPE recommends that the proposed Regulation should develop a more detailed framework around the creation of partnerships between EU Centre and other external organisations.

CONCLUSION

While INHOPE welcomes the objectives of the proposed regulation, through this submission we have articulated our concerns and highlighted our recommendations to be taken into consideration as this regulation progresses through the legislative process. These include the need for recognition of anonymous public reporting and EU hotlines, avoiding duplication with existing processes, broadening the eligibility criteria to become national competent authorities and, developing a framework governing EU Centre partnerships with external organisations. INHOPE as a long-term and vastly experienced global leader in combatting CSAM over 20-year period looks forward to working with the European Commission, Members of the European Parliament, Council of the European Union and Member States on the development and improvement of the proposed Regulation so it can achieve its stated objectives.

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