

Legal questionnaire completed by SyCip Salazar Hernandez & Gatmaitan • March 2024

This document contains responses from the law firm listed above to a questionnaire distributed by NCMEC (questions are in **bold text**). Responses to the questionnaire may be limited to officially enacted legislation; it is possible that actual practice or enforcement of the law varies, and relevant court rulings or case law may also differ from legislative text. Responses have been reformatted and may have been slightly edited for clarity. Furthermore, responses may include commentary, paraphrasing, and unofficial translations of source material (e.g., national legislation) originally produced in other languages. Only official source documents in official languages should be relied upon as legally binding. This document serves to inform further research and does not constitute legal advice from NCMEC or the listed law firm.

1. What laws and regulations contain legal definitions of the following terms or corresponding terms in your local jurisdiction (links to existing U.S. legal definitions are included, where relevant, as background for comparison – please include definitions of any corresponding terms in your country):

a. child or minor (18 U.S.C. 2256(1), <https://www.law.cornell.edu/uscode/text/18/2256>)

The relevant legal definitions for a “child” or “minor” are principally set out in the following laws:

1. Republic Act No. 7610 (“RA 7610”) or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (<https://www.officialgazette.gov.ph/1992/06/17/republic-act-no-7610/>)

Section 3(a) of RA 7610 provides as follows:

““Children” refers to person below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.”

2. Republic Act No. 9262 (“RA 9262”) or the Anti-Violence Against Women and Their Children Act of 2004 (<https://www.officialgazette.gov.ph/2004/03/08/republic-act-no-9262-s-2004/>)

Section 3(h) of RA 9262 provides as follows:

““Children” refers to those below eighteen (18) years of age or older but are incapable of taking care of themselves as defined under Republic Act No. 7610. As used in this Act, it includes the biological children of the victim and other children under her care.”

3. Republic Act No. 9208 (“RA 9208”) or the Anti-Trafficking in Persons Act of 2003 (<https://www.officialgazette.gov.ph/2003/05/26/republic-act-no-9208-s-2003/>), as amended by Republic Act No. 10364, (“RA 10364”) (<https://www.officialgazette.gov.ph/2013/02/06/republic-act-no-10364/>)

Section 3(b) of RA 9208 provides as follows:



“Child”- refers to a person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.”

4. Republic Act No. 11930 (“RA 11930”) or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>)

Section 3(a) of RA 11930 provides as follows:

“Child refers to a person below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of physical, mental, intellectual or sensory disability or condition. For purposes of this Act, a child shall also refer to:

- (1) A person regardless of age who is presented, depicted or portrayed as a child as defined herein; and
- (2) Computer-generated, digitally or manually crafted images, or graphics of a person who is represented or who is made to appear to be a child as defined herein.”

- b. **child sexual exploitation (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(9),** <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)

Section 3(d) of the Republic Act No. 11930 (“RA 11930”) or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act states that “child sexual exploitation” refers to any of the following acts even if consent appears to have been granted by the child:

- (1) Child sexual abuse with consideration whether monetary or nonmonetary consideration, favor, or benefit in exchange for the opportunity to perform such abusive or exploitative act
- (2) Actual sexual intercourse with a child or children with or without consideration;
- (3) Employing fraud, machination, undue influence, intimidation, threat or deception by any person to commit sexual abuse of or sexual intercourse with a child or children; or
- (4) Any other similar or analogous acts related to child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the development of the child;

The following laws, while not explicitly providing a definition for “child sexual exploitation” also provide definitions and/or descriptions of child sexual abuse or variations thereof, such as:

1. Section 3(b) of Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (<https://www.officialgazette.gov.ph/1992/06/17/republic-act-no-7610/>) states that “Child abuse” refers to the maltreatment, whether habitual or not, of the child which includes, among others, sexual abuse.



2. Section 3(a)(B) of Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004 (<https://www.officialgazette.gov.ph/2004/03/08/republic-act-no-9262-s-2004/>) defines “sexual violence” as “an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:
 - a) rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim’s body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;
 - b) acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;
 - c) Prostituting the woman or child.”
3. Section 3(h) of Republic Act No. 9208 or the Anti-Trafficking in Persons Act of 2003 (<https://www.officialgazette.gov.ph/2003/05/26/republic-act-no-9208-s-2003/>), as amended by Republic Act No. 10364, (<https://www.officialgazette.gov.ph/2013/02/06/republic-act-no-10364/>), provides for a definition of sexual exploitation, which states that it “refers to participation by a person in prostitution, pornography or the production of pornography, in exchange for money, profit or any other consideration or where the participation is caused or facilitated by any means of intimidation or threat, use of force, or other forms of coercion, abduction, fraud, deception, debt bondage, abuse of power or of position or of legal process, taking advantage of the vulnerability of the person, or giving or receiving of payments or benefits to achieve the consent of a person having control over another person; or in sexual intercourse or lascivious conduct caused or facilitated by any means as provided in this Act.”

**c. sexually explicit conduct (18 U.S.C. 2256(2),
<https://www.law.cornell.edu/uscode/text/18/2256>)**

There appears to be no specific definition of “sexually explicit conduct” under Philippine laws. However, Republic Act No. 11930 (“RA 11930”) or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) defines the following related terms:

1. Section 3(y) of RA 11930 provides:

“Sexual activity includes the following acts, whether actually performed or simulated:

- a. Sexual intercourse or lascivious act, including contact involving the genitalia, oral stimulation of the genitals or oral stimulation of the anus, whether between persons of the same or opposite sex;
- b. Masturbation;
- c. Sadistic or masochistic abuse;



- d. Lascivious exhibition of the genitals, buttocks, breasts, pubic area and anus;
- e. Bestiality;
- f. Use of any object or instrument for lascivious acts; or
- g. Any other analogous circumstance.”

2. Section 3(z) of RA 11930 provides:

“Sexualization of a child refers to the act of using a child as an object for the sexual desire or satisfaction of another, even if there is no actual sexual intercourse or no private part of the body of the child has been shown.”

d. **child sexual abuse (18 U.S.C. 2243(a), <https://www.law.cornell.edu/uscode/text/18/2243>)**

Section 3(b) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) states that “child sexual abuse” refers to “any form of communication through any platform or format, or any physical interaction between a child and any person when the child is being used for any act or activity inducing sexual stimulation or for the purpose of sexual gratification or in pursuit of the desire to have carnal knowledge of the child, regardless of the gender of the perpetrator or the victim, or the consent of the victim.”

The following laws, while not explicitly providing a definition for “child sexual abuse” also provide definitions/descriptions of child sexual abuse or variations thereof, such as:

1. Section 3(b) of Republic Act No. 7610 (“RA 7610”) or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (<https://www.officialgazette.gov.ph/1992/06/17/republic-act-no-7610/>) states that “Child abuse” refers to “the maltreatment, whether habitual or not, of the child” which includes, among others, sexual abuse. Furthermore, Section 5 of RA 7610 provides that the following persons shall be charged with the crime of “Child Prostitution and Other Sexual Abuse”:
 - a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:
 - i. Acting as a procurer of a child prostitute;
 - ii. Inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;
 - iii. Taking advantage of influence or relationship to procure a child as prostitute;
 - iv. Threatening or using violence towards a child to engage him as a prostitute; or
 - v. Giving monetary consideration goods or other pecuniary benefit to a child with intent to engage such child in prostitution.
 - b) Those who commit the act of sexual intercourse of lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victims is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No.



3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period; and

- c) Those who derive profit or advantage therefrom, whether as manager or owner of the establishment where the prostitution takes place, or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment."
- 2. Section 3(a)(B) of Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004 (<https://www.officialgazette.gov.ph/2004/03/08/republic-act-no-9262-s-2004/>) defines "sexual violence" as "an act which is sexual in nature, committed against a woman or her child." It includes, but is not limited to:
 - "a) rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;
 - b) acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;
 - c) Prostituting the woman or child."
- e. **child pornography or child sexual abuse material (CSAM) (18 U.S.C. 2256(8), <https://www.law.cornell.edu/uscode/text/18/2256>)**

Section 3(c) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) states that "[c]hild sexual abuse or exploitation material or child sexual abuse material (CSAEM/CSAM) refers to any representation, whether offline, or by, through or with the use of ICT, by means of visual, video, audio, written, or any combination thereof, by electronic, mechanical, digital, optical, magnetic or any other means, of a child engaged or involved in real or simulated sexual activities, or depicting acts of sexual abuse or exploitation of a child as a sexual object. It shall also include materials that focus on the genitalia or other private body parts of a child. For purposes of this Act, CSAEM may interchangeably be referred to as CSAM."
- f. **computer-generated images or videos of child pornography or CSAM (created by artificial intelligence or morphed) (18 U.S.C. 2256(8) & (9), <https://www.law.cornell.edu/uscode/text/18/2256>)**

In addition to computer-generated images, Section 3(j) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or



Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) also includes image-based sexual abuse. Under the law, “[i]mage-based sexual abuse (ISA) refers to a form of technology-facilitated sexual violence. The term describes a pattern of behavior involving the nonconsensual creation, distribution, or threats to distribute nude or sexual images. It includes a diversity of behaviors including, but not limited to, ‘sextortion scams,’ the use of artificial intelligence to construct ‘deepfake’ pornographic videos, threats to distribute photographs and videos; and the taking or sharing of sexual assault imagery.”

- g. **enticement or grooming (encouraging, persuading, or coercing a child to engage in sexual activity or to create child pornography or CSAM) (18 U.S.C. 2422(b), <https://www.law.cornell.edu/uscode/text/18/2422>)**

Section 3(i) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) provides that “grooming refers to predatory conduct, act, or pattern of acts, of establishing a relationship of trust, or emotional connection by another, with a child or someone who is believed to be a child, and/or the family, guardian, and/or caregivers, whether in person or via electronic and other similar devices, for the purpose of perpetrating sexual abuse or exploitation or the production of any form of CSAEM.”

- h. **legal age of consent for sexual activity – are there laws and regulations, if so, what ages are specified?**

In the Philippines, the legal age of consent for sexual activity is sixteen (16) years old, but a child who is at least thirteen (13) years old but is younger than sixteen (16) years old may engage in sexual activity only with another minor who should not be three (3) years older than the child.

Republic Act No. 11648 (<https://www.officialgazette.gov.ph/2022/03/04/republic-act-no-11647-2/>) amending Article 266-A of the Revised Penal Code relating to the crime of rape, and providing for the age of consent for sexual activity, states in Section 1 thereof that rape is committed “[w]hen the offended party is under sixteen (16) years of age or is demented, even though none of the circumstances mentioned above be present: Provided, That there shall be no criminal liability on the part of a person having carnal knowledge of another person under sixteen (16) years of age when the age difference between the parties is not more than three (3) years, and the sexual act in question is proven to be consensual, non-abusive, and non-exploitative: Provided, further, That if the victim is under thirteen (13) years of age, this exception shall not apply.”

- i. **Sextortion (extorting money or sexual favors from a child by threatening to share sexually explicit, child pornography or CSAM images of the child) (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(8), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)**

Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) does not define



sextortion but recognizes sextortion as part of the term “image-based sexual abuse.”
(Section 3(j) (Please see our response to question 1(f) above.)

2. Please explain any legal or regulatory requirement or recommendation for Online Platforms to undertake any of the following activities on their systems to protect children online from sexual exploitation:

a. review, screen, moderate, or detect content to identify child pornography or CSAM content

Section 9(a) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) provides a list of duties for internet intermediaries, which includes a few broad regulations relating to the review, screening, moderation or detecting child pornography or CSAM content:

“SECTION 9. Duties and Responsibilities of Private Sectors. —

(a) Duties of Internet Intermediaries. — Internet intermediaries shall:

x x x

(3) Immediately block access to, remove or take down the internet address, uniform resource locator (URL), websites or any content thereof containing CSAEM or involving streaming or live-streaming of OSAEC, within twenty-four (24) hours from receipt of notice from a competent authority or notice containing sufficient information to identify the content and its source...

x x x

(6) Develop, establish and install mechanisms or measures designed to prevent, detect, respond or report violations of this Act within their websites, platforms, applications, servers or facilities, compatible with the products and services they offer that may be in accordance with the global best practices and guidelines to counter violations of this Act which may include the installation of available technology, program, or software to ensure that access to or streaming of violations of this Act will be removed, blocked or filtered...”

b. review, screen, moderate, or detect content to identify enticement, grooming, or sextortion of a child

Section 9(a) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) provides a list of duties for internet intermediaries, which includes a few broad regulations relating to the review, screening, moderation or detecting content to identify enticement, grooming, or sextortion of a child:



“SECTION 9. Duties and Responsibilities of Private Sectors. —

(a) Duties of Internet Intermediaries. — Internet intermediaries shall:

- (1) Adopt in their terms of service or service agreements with third-party users or creators of contents, products and services the prohibition of any form or any conduct of streaming or live-streaming of OSAEC and CSAEM in the use of their website, platform, server or facility;

x x x

- (6) Develop, establish and install mechanisms or measures designed to prevent, detect, respond or report violations of this Act within their websites, platforms, applications, servers or facilities, compatible with the products and services they offer that may be in accordance with the global best practices and guidelines to counter violations of this Act which may include the installation of available technology, program, or software to ensure that access to or streaming of violations of this Act will be removed, blocked or filtered...”

- c. **report child pornography, CSAM, enticement, grooming, or sextortion that they become aware of or are notified about on their systems to a law enforcement or government agency or nongovernmental organization**

Section 9(a) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) provides a list of duties for internet intermediaries, which includes a few broad regulations relating to reporting child pornography, CSAM, enticement, grooming or sextortion:

“SECTION 9. Duties and Responsibilities of Private Sectors. —

(a) Duties of Internet Intermediaries. — Internet intermediaries shall:

x x x

- (4) Report to the Department of Justice (DOJ), within three (3) days, the internet address or websites blocked, removed or taken down, or any form of unusual data activity using its server or facility: Provided, That in cases when a foreign internet intermediary is prohibited by its country to share data, the reports filed by such foreign internet intermediary to the corresponding entity tasked by its government to receive cybercrime reports shall be deemed in compliance with this provision: Provided, however, That the said foreign internet intermediary shall inform the DOJ of such reporting: Provided, further, That whatever relevant evidence otherwise not prohibited by law to be shared shall nevertheless be reported to the DOJ...”

- d. **remove or take down any child pornography, CSAM, enticement, grooming, or sextortion that they identify, become aware of, or are notified about**



Section 9(a) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) provides a list of duties for internet intermediaries, which includes a few broad regulations relating to the removal or take down of child pornography, CSAM, enticement, grooming, or sextortion:

“SECTION 9. Duties and Responsibilities of Private Sectors. —

(a) Duties of Internet Intermediaries. — Internet intermediaries shall:

- (1) Adopt in their terms of service or service agreements with third-party users or creators of contents, products and services the prohibition of any form or any conduct of streaming or live-streaming of OSAEC and CSAEM in the use of their website, platform, server or facility;
- (2) Preserve within six (6) months from the date of the transaction extendible for another six (6) months or during the pendency of the case, all subscriber's or registration information and traffic data in its control and possession: Provided, That in the case of content data, the same shall be preserved within one (1) year, and upon notice by the competent authority, the preservation shall be extendible for another six (6) months: Provided, however, That the competent authority shall expressly identify and specify such relevant evidence that needs preservation: Provided, further, That the integrity of all computer data such as subscriber's information, traffic data and content data relating to communication services provided by a service provider shall be protected for the purpose of investigation and prosecution of cases under this Act: Provided, finally, That the preservation period provided under the law governing foreign corporations doing business in the Philippines or the period provided under this Act, whichever is longer, shall prevail;
- (3) Immediately block access to, remove or take down the internet address, uniform resource locator (URL), websites or any content thereof containing CSAEM or involving streaming or live-streaming of OSAEC, within twenty-four (24) hours from receipt of notice from a competent authority or notice containing sufficient information to identify the content and its source...”

e. review content by human moderators to screen or moderate for child pornography or CSAM

Section 9(a) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) provides a list of duties for internet intermediaries, which includes a few broad regulations relating to the review of content by human moderators to screen or moderate for child pornography or CSAM:

“SECTION 9. Duties and Responsibilities of Private Sectors. —

(a) Duties of Internet Intermediaries. — Internet intermediaries shall:



- (1) Adopt in their terms of service or service agreements with third-party users or creators of contents, products and services the prohibition of any form or any conduct of streaming or live-streaming of OSAEC and CSAEM in the use of their website, platform, server or facility;

x x x

- (6) Develop, establish and install mechanisms or measures designed to prevent, detect, respond or report violations of this Act within their websites, platforms, applications, servers or facilities, compatible with the products and services they offer that may be in accordance with the global best practices and guidelines to counter violations of this Act which may include the installation of available technology, program, or software to ensure that access to or streaming of violations of this Act will be removed, blocked or filtered;
- (7) Coordinate with the Department of Justice-Office of Cybercrime (DOJ-OOC) to define the standard upon which an internet intermediary is measured, in order to fairly assess if an internet intermediary has reasonably complied with its duties under this Act; and
- (8) Have a policy on notifying their community to ensure that their policy has a provision on delaying or dispensing with notification to an account holder, subscriber or customer of the internet intermediary who is stated to be a suspected offender of an act of OSAEC in an ongoing criminal investigation, of the existence of a subpoena, warrant, court order, or other governmental request directing the internet intermediary to disclose information about the said account holder, subscriber or customer for the purposes of the criminal investigation."

f. remove child pornography, CSAM, enticement, grooming, or sextortion from their systems when notified of its presence by a victim, nongovernmental organization, law enforcement, or government agency

Section 9(a) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) provides a list of duties for internet intermediaries, which includes a few broad regulations relating to the removal of child pornography, CSAM, enticement, grooming, or sextortion from their systems:

"SECTION 9. Duties and Responsibilities of Private Sectors. —

(a) Duties of Internet Intermediaries. — Internet intermediaries shall:

x x x

- (3) Immediately block access to, remove or take down the internet address, uniform resource locator (URL), websites or any content thereof containing



CSAEM or involving streaming or live-streaming of OSAEC, within twenty-four (24) hours from receipt of notice from a competent authority or notice containing sufficient information to identify the content and its source...

- (4) Report to the Department of Justice (DOJ), within three (3) days, the internet address or websites blocked, removed or taken down, or any form of unusual data activity using its server or facility: Provided, That in cases when a foreign internet intermediary is prohibited by its country to share data, the reports filed by such foreign internet intermediary to the corresponding entity tasked by its government to receive cybercrime reports shall be deemed in compliance with this provision: Provided, however, That the said foreign internet intermediary shall inform the DOJ of such reporting: Provided, further, That whatever relevant evidence otherwise not prohibited by law to be shared shall nevertheless be reported to the DOJ;

x x x

- (5) Provide, pursuant to a subpoena issued by the Philippine National Police (PNP) in accordance with Republic Act No. 6975, as amended, otherwise known as the "Department of the Interior and Local Government Act of 1990" or by the National Bureau of Investigation (NBI) in accordance with Republic Act No. 10867, otherwise known as the "National Bureau of Investigation Reorganization and Modernization Act" or by the prosecutor in accordance with the Rules of Court; and notwithstanding the provisions of Republic Act No. 10175, otherwise known as the "Cybercrime Prevention Act of 2012" and in accordance with Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012," the subscriber's or registration information and/or traffic data of any person who:
- (i) Gained or attempted to gain access to an internet site, internet asset or internet application which contains any form of CSAEM; or
 - (ii) Facilitated the violations of this Act; or
 - (iii) Conducted the streaming or live-streaming of child sexual exploitation.

The subpoena must particularly describe the information asked for and indicate the relevancy of such information to the sexual abuse and exploitation of children (SAEC) case.

The subpoena must particularly describe the information asked for and indicate the relevancy of such information on violations of this Act.

- (6) Develop, establish and install mechanisms or measures designed to prevent, detect, respond or report violations of this Act within their websites, platforms, applications, servers or facilities, compatible with the products and services they offer that may be in accordance with the global best practices and guidelines to counter violations of this Act which may include the installation of available technology, program, or software to



ensure that access to or streaming of violations of this Act will be removed, blocked or filtered...”

- g. use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion, including:
- i. “Hashing technology” (<https://www.thorn.org/blog/hashing-detect-child-sex-abuse-imagery/>). Many Online Platforms hash and tag images and videos of child pornography or CSAM and then use hashing technology to scan content on their systems to detect the distribution of child pornography or CSAM online so it can be removed.
 - ii. Artificial intelligence or machine learning tools to detect the presence of child pornography, CSAM, enticement, grooming, or sextortion.

Not applicable. We are not aware of any recommendation or requirement as to the use of specific technology. Section 9(a)(6) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) merely states that internet intermediaries may install available technology, program, or software to ensure that access to or streaming of violations of this Act will be removed, blocked or filtered.

- h. if the applicable laws or regulations require some, but not all, Online Platforms to perform any of the above activities, describe how the differing requirements apply. For example, are differences based on the number of online users, types of services offered, etc.?

Not applicable. Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) does not appear to distinguish or provide differing requirements as regards online platforms.

3. Are Online Platforms legally required or recommended to implement any method to verify the age of a user before allowing access to an online platform?

Section 35 of Republic Act No. 11930 (“RA11930”) or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) requires all online providers of adult content to adopt an anonymous age verification process before granting access to adult content.

Section 35 of RA 11930 provides that “[n]ot later than one (1) year after the passage of RA11930, the National Telecommunications Commission shall complete a policy study into age-verification controls and protocols by internet intermediaries that may be put in place in order to restrict the access of children to materials within the purview of Section 3(c)(iv) of Presidential Decree No. 1986, i.e., motion pictures, television programs and public materials which serve no other purpose but to satisfy the market for violence or pornography, with the end in view of promulgating rules and regulations to this effect. Said rules and regulations governing the adoption of an anonymous age verification process shall be promulgated not later than eighteen (18) months after the passage of RA11930.” However, as of the date of this writing, there is no published policy study yet on age-verification.

While the term “online providers of adult content” was not defined by RA11930, we believe that the term should not be limited to sites or platforms that exclusively provide adult content, but should also include those that provide a platform where adult content is allowed to be posted or published online, e.g., some social media sites.

4. Are Online Platforms legally required or recommended to implement any method to obtain parental consent before a child uses the services of such Online Platforms?

Not applicable. At present, we are not aware of any laws or regulations in the Philippines requiring or recommending that parental consent be obtained before a child uses the services of Online Platforms.

We note, however, that there is pending legislation in the form of Senate Bill No. 1289 or “The Online and Social Media Membership Accountability Act”

(<https://legacy.senate.gov.ph/lisdata/3932435752!.pdf>) which requires operators of social media websites and other similar online platforms to have users submit valid proof of identification prior to registration for their services. For purposes of the requirement, school ID cards may be used.

5. Are there legal remedies for children who have been victimized by online child sexual exploitation? This may include children who are victimized by the distribution of child pornography or CSAM imagery in which they are depicted, or children victimized by enticement, grooming or sextortion. If such legal remedies exist, do they include:

YES

a. The ability to stop the publication of the pornography or CSAM imagery by the Online Platform?

Yes. Under Section 110(c) of the Implementing Rules and Regulations Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>), a notice may be issued by a competent authority or a private citizen to an internet intermediary, and such internet intermediary is obligated to immediately block access to, remove, or take down the internet address, URL, websites or any content thereof containing CSAEM or involving streaming or livestreaming of OSAEC, within twenty-four (24) hours from receipt of said notice. This period may be extended to another twenty-four (24) hours upon submission of a written justification if the notice has insufficient information to identify the content and its source.

Internet intermediaries refer to persons or entities that provide infrastructure, platforms, access to, and host, transmit and index content, products and services originated by third parties on the internet. These include, among others:

- 1) internet service providers;
- 2) web hosting providers including domain name registrars;
- 3) internet search engines and portals;
- 4) e-commerce intermediaries;
- 5) internet payment system providers; and
- 6) participative network platform providers including social media intermediaries.



Competent authority refers to law enforcement authority, investigating authority, prosecutor, court, telecommunications/ ICT regulator, cybercrime investigator/ coordinator, data privacy regulator, or the National Coordination Center against OSAEC and CSAEM (NCC-OSAEC-CSAEM).

For digital platforms engaged in e-commerce, Section 15 of Republic Act No. 11967 or the “Internet Transactions Act of 2023” (<https://www.officialgazette.gov.ph/2023/12/05/republic-act-no-11967/>) empowers the Secretary of the Department of Trade and Industry, after investigation or verification, to issue an ex parte takedown order directing the removal of a listing or offer on a webpage, website, platform or application, regardless of the intended nature of the transaction, involving the sale or lease of goods or services which are prohibited or regulated under existing laws (e.g., CSAEM).

Other regulatory government agencies may request the DTI to issue a takedown order for the removal of an online listing or offer in violation of laws, rules or regulations under their jurisdiction.

b. An obligation on the part of the Online Platform to take active steps to remove the pornography or other imagery from their servers?

Yes. Under Section 9(a)(3) of Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>), internet intermediaries are required to immediately block access to, remove or take down the internet address, uniform resource locator (URL), websites or any content thereof containing CSAEM or involving streaming or live-streaming of OSAEC, within twenty-four (24) hours from receipt of notice from a competent authority or notice containing sufficient information to identify the content and its source. This period may be extended to another twenty-four (24) hours upon submission of a written justification if the notice was made by any private citizen or by a competent authority without sufficient information to identify the content and its source.

c. An ability to get an injunction or other court order against the Online Platform to stop them from publishing the pornography or imagery?

A concerned party may file an action for injunction, with an application for the issuance of a temporary restraining order (TRO) and writ of preliminary injunction.

For a TRO and writ of preliminary injunction, which may be issued at the commencement of the proceeding and while the case is pending, the applicant must show the following: (1) a clear and unmistakable right to be protected, that is a right in esse (2) a material and substantial invasion of such right (3) an urgent need for the writ to prevent irreparable injury to the applicant, and (4) no other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury. (*Bicol Medical Center v. Botor*, G.R. No. 214073, October 04, 2017)

After trial, the court may render judgment granting the injunction upon the satisfaction of two requisites, namely: (1) the existence of a right to be protected, and (2) acts which are



violative of said right. (BP Philippines, Inc. v. Clark Trading Corporation, G.R. No. 175284, September 19, 2012)

The issuance of a writ of injunction and its associated remedies presupposes that the court has obtained jurisdiction over the Online Platform.

d. A protective order or other court order that prohibits the person who posts the pornography or imagery from doing so in the future on the same or other Online Platform?

At present, we are not aware of any legal remedies that would allow for a blanket and general prohibition to prevent the person from using the same or other Online Platform. We note that, in the same court proceeding for injunction, it may be possible for the plaintiff to seek a court order prohibiting the offender from posting the same or similar content in any Online Platform, but not necessarily a general prohibition on the use of Online Platforms. (Section 1 and 5 of Rule 58, Rules of Civil Procedure, <https://sc.judiciary.gov.ph/wp-content/uploads/2022/08/2019-rules-of-civil-procedure.pdf>)

Section 3 of Rule 58 of the Rules of Civil Procedure provides that a writ of preliminary injunction may be granted in cases where it is established that a party, court, agency, or person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act that is probably in violation of the applicant's rights respecting subject of the action or proceeding, and tending to render the judgment ineffectual.

We also note that if the offender commits the act against the child of a woman who is his wife, former wife, or a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, Section 8 of Republic Act No. 9262 or the "Anti-Violence Against Women and Their Children Act of 2004" (<https://www.officialgazette.gov.ph/2004/03/08/republic-act-no-9262-s-2004/>) allows the victim to secure a barangay protection order (BPO) from the local barangay officials, or a temporary protection order (TPO) or permanent protection order (PPO) from the courts prohibiting the offender from threatening to commit or committing, personally or through another, any act of violence described in Section 5 of the same law.

As a preventive measure, Section 34 of the Implementing Rules and Regulations Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://issuances-library.senate.gov.ph/sites/default/files/2023-02/ra%252011930.pdf>) also provides for the creation and maintenance of an OSAEC and CSAEM Offenders Registry by the National Coordination Center against OSAEC and CSAEM (NCC-OSAEC-CSAEM). The Registry shall contain information on adult individuals convicted of OSAEC, CSAEM, and other sexual offenses against children, including:

- 1) their name, date of birth, and Philippine Identification System (PhilSys) number, if available;
- 2) their emote communication identifiers;
- 3) their place of residence, temporary lodging, employment, school attendance;
- 4) their vehicle information;
- 5) information on their passports and immigration documents;
- 6) information on their international travels;
- 7) a recent photograph;



- 8) their fingerprints;
- 9) their distinguishing marks;
- 10) their professional licenses;
- 11) their affiliations; and
- 12) their complete criminal history.

e. the ability to seek financial damages or any sort of monetary recovery from an offender who has shared the child's image or video, either in a civil or a criminal proceeding?

Yes. Under Section 56 of the Implementing Rules and Regulations Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://www.doj.gov.ph/files/2023/ISSUANCES/RA%2011930%20IRR.pdf>), when a criminal action is instituted, the civil action arising from the offense charged shall be deemed instituted with the criminal action.

The victim or his or her representative may also institute an independent civil action for torts under Article 2176 in relation to Article 20 of Republic Act No. 368 or the New Civil Code ("NCC"). (<https://www.officialgazette.gov.ph/1949/06/18/republic-act-no-386/>)

Article 20 of the NCC provides that "[e]very person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same."

The victim may recover:

- 1) actual or compensatory damages; (Art. 2199, NCC)
- 2) moral damages for physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury; (Art. 2217, NCC)
- 3) nominal damages in order that a right of the victim, which has been violated or invaded by the offender, may be vindicated or recognized; (Art. 2221, NCC)
- 4) temperate or moderate damages, which are more than nominal but less than compensatory damages, when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be provided with certainty; (Art. 2224, NCC)
- 5) exemplary or corrective damages, by way of example or correction for the public good, in addition to the compensatory, moral, and temperate damages; (Art. 2229, NCC) and
- 6) attorney's fees. (Art. 2208, NCC)

f. the ability to seek any other forms of victim compensation/recovery/services provided for under the law and/or by a government-funded source?

Yes. Under Section 70 of the Implementing Rules and Regulations Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://www.doj.gov.ph/files/2023/ISSUANCES/RA%2011930%20IRR.pdf>), the child victim-survivor, upon assessment of the Local Social Welfare and Development Office (LSWDO) or social worker, or any other child within the vicinity of the place where the crime was committed who may be at high risk of abuse or exploitation, shall be immediately placed



under the protective custody of the LSWDO.

The Department of Social Welfare and Development (DSWD) shall provide support and assistance to the concerned LSWDO by assuming temporary protective custody over the child in the following cases:

- 1) the LSWDO has no registered social worker that can perform case management;
- 2) the local government unit does not have any residential care facility that can afford center-based intervention and rehabilitation; or
- 3) it was assessed that there are safety and risk factors detrimental to the child's stay in the same locality.

In all instances, the needs of the child shall be provided for by the concerned local government unit. For child victim-survivors who are adoptees, foster children, or children with a Certificate Declaring the Child Legally Available for Adoption, the National Authority for Child Care (NACC) shall be consulted and included in determining the best course of action for said child.

Under Section 75, child victim-survivors and their family members shall be entitled to protection as well as preferential entitlement to the rights and benefits of witnesses under Republic Act No. 6981 or the “Witness Protection, Security and Benefit Act” (<https://www.officialgazette.gov.ph/1991/04/24/republic-act-no-6981/>), provided that they shall possess all the qualifications and none of the disqualifications under the said law.

Under Section 77, the child victim-survivor shall also be considered as a victim of a violent crime as defined under Section 3(d) of R.A. No. 7309 or “An Act Creating a Board of Claims Under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victim of Violent Crimes and for Other Purposes” (<https://www.officialgazette.gov.ph/1992/03/30/republic-act-no-7309/>), and any amendments thereof, so that the child victim-survivor may claim compensation under the said law. The child victim-survivor may also claim compensation from other laws and related policy measures.

Section 78 provides for mandatory services to victims of OSAEC and CSAEM. To ensure recovery, rehabilitation and reintegration into the mainstream of society, concerned government agencies such as, but not limited to, the NCC-OSAEC-CSAEM, Department of Education (DepEd), Department of Health (DOH), and local government units through its LSWDO and Women and Children Protection Units (WCPUs), shall make available the following services to child victim-survivors and their families, when applicable:

- 1) emergency shelter or appropriate housing;
- 2) counseling, in person or online;
- 3) free legal services, which shall include information about the child victim-survivor’s rights and the procedure for filing of complaints, claims for compensation and such other legal remedies available to them in a language understood by the child;
- 4) medical or psychological services, which shall include referrals to the appropriate agencies and institutions for such services;
- 5) mental health and psychosocial support services, and access to free psychosocial health lines;
- 6) livelihood and skills training;
- 7) educational assistance, which shall include opportunities in the educational



- mainstream through the basic education and non-formal education curricula;
8) parenting support services;
9) after-care services; and
10) alternative parental care services.

g. notification to a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted?

Not applicable. At present, we are not aware of any laws or regulations in the Philippines requiring notification to a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted.

6. “Safety by Design” is defined as tools or processes that are built into an Online Platform to protect children by making it easier for the relevant Online Platform to detect or prevent the distribution of child pornography or CSAM.

a. Are Online Platforms legally required to incorporate “Safety by Design” into their systems?

Yes. Section 110(f) of the Implementing Rules and Regulations Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://www.doj.gov.ph/files/2023/ISSUANCES/RA%2011930%20IRR.pdf>), provides that internet intermediaries are required to continuously develop, establish, and install mechanisms or measures designed to prevent, detect, respond, or report violations of the Act within their websites, platforms, applications, servers, or facilities, compatible with the products and services they offer that may be in accordance with the global best practices and guidelines to counter violations of this Act which may include the installation of available technology, program, or software to ensure that access to or streaming of violations of the Act will be removed, blocked, or filtered.

i. If so, must these steps be taken before the launch of an Online Platform?

Under Section 110 of the Implementing Rules and Regulations Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://www.doj.gov.ph/files/2023/ISSUANCES/RA%2011930%20IRR.pdf>), the undertaking under Section 110(f) of the Implementing Rules and Regulations shall form part of the requirements for all internet intermediaries when applying for the necessary registration, permits, and/or licenses before the concerned government agency in the Philippines.

ii. If so, if an Online Platform has already been in public use, when must they have incorporated “Safety by Design” measures?

We are not aware of any law or regulation providing for a particular timeline for Online Platforms already in public use to incorporate “Safety by Design” measures. We note, however, that internet intermediaries are required to “continuously” observe such duties and obligations under the said provision. The Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-



Child Sexual Abuse or Exploitation Materials (CSAEM) Act took effect on August 23, 2022.

- iii. **For each of 6(a)(i) or (ii) above, please describe the legal requirement or recommendation.**

Under Section 110 of the Implementing Rules and Regulations Republic Act No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (<https://www.doj.gov.ph/files/2023/ISSUANCES/RA%2011930%20IRR.pdf>), in either situation, internet intermediaries found to be in violation of said undertaking shall be meted with a penalty of imprisonment ranging from eight years and one day to ten years and a penalty of not less than ₱1,200,000 for the first offense. For subsequent offenses, the penalty shall be a fine of ₱2,000,000.00 to ₱3,000,000 and the revocation of the internet intermediary's license the immediate closure of the establishment, when applicable.

- b. **Please include information about the parameters for monitoring, management, and enforcement of any legal or regulatory requirements for the Online Platform's incorporation of "Safety by Design"?**

At present, we are not aware of any established parameters for monitoring, management, and enforcement of any legal or regulatory requirements for the Online Platform's incorporation of "Safety by Design" beyond the relevant provision of the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act and its Implementing Rules and Regulations.