

Response Form

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Please note that submissions received may be published. It would also be helpful if responses to each question are limited to approximately 500 words.

Question 1	<i>Is there a role for the State in regulating internet content?</i>
<p>There is a significant role for the State to play in regulating abusive and hostile internet content. We believe legislative and policy reform as outlined in Question 3 is necessary to curb racist and xenophobic expressions that occur on the Internet. The current legislative and policy framework, including the Prohibition on Incitement to Hatred Act, 1989 and the existing Equality Acts are not adequate to prohibiting or sanctioning hate speech and propaganda, as they were put in place prior to the development of social media networks, which can serve to propagate expressions of racism and xenophobia and are difficult to prosecute.</p>	

Question 2	<i>Are existing arrangements for regulation of internet industries adequate? If not, what additional arrangements are needed for internet content governance and better internet safety?</i>
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N/A

Question 3	<i>Is existing regulation and legislation sufficient to deal with problems of cyberbullying? If not, what else is needed?</i>
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Nasc operates a third party reporting mechanism that allows victims of racism to report an incident confidentially and receive support and redress. Over the past 18 months since the beginning of this initiative, Nasc has received 10 cases where reports on online racism have been made, making online racism and harassment the second highest category of reports being made to Nasc. The area of online racism as an aspect of cyberbullying is fast becoming an area of concern as, from our experience, it is very difficult to monitor and even more difficult to prosecute.

In cases of online racism, Nasc have encountered a number of areas of concerns. For example, if there was a racist post on an online forum or a social media outlet such as Facebook, if the comment has been deleted and it is under 60 days from the date of deletion, Gardaí would require an FBI warrant to retrieve the information as it is an American-hosted website. Once it is over 60 days very little can be done, as Facebook then delete the content themselves, leaving no evidence. Nasc discovered this after reporting a complaint to the Gardaí about racist comments on a Facebook page. The Gardaí investigated the incident and identified the perpetrator, however, they were unable to prosecute due to the reason stated above.

Thus, in situations where Nasc now receive a report regarding online issues, we print out the post immediately in case the perpetrator deletes the content, which we have found tends to be the case due to the nature of the information. We then take screen captures to monitor the times and dates, and then inform the Gardaí of the situation immediately.

From our experience, An Gardaí Síochána themselves are not entirely clear on the best way in which to respond to such reports. This is through no fault of their own, as no clear guidelines or training are in place for tackling such issues or understanding how the current legislation applies to online racism. In the number of cases we have brought to the Gardaí it has been extremely difficult to get information on how the investigations are progressing. Indeed, it seems that the Gardaí do not feel they can prosecute these offences, especially if the potentially criminal content is later deleted by the user or by the social media site

Nasc believes that the Prohibition to Incitement to Hatred Act is inadequate to the task of tackling racism in all its forms, especially when it comes to online racism. Clarification that the Act applies to online incitement and harassment is necessary. However new legislation is also required that specifically makes racism a crime, which would include online forms of

racism.

Question 4	<i>Do we need additional measures to deal with the accessing by children and young people of content that may be age-inappropriate or harmful for their development?</i>
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N/A

Question 5	<i>Do you feel sufficiently informed about online internet safety? Do you know where to find the different educational resources and supports available to keep children (and young people) safe online? Do you believe these resources are easily accessible?</i>
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N/A

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Question 6	<i>Do you have any other comments or recommendations on the safeguards that should exist to deal with internet content and/or activity that may be harmful or age-inappropriate?</i>
<p>Our international obligations, including our ratification of the UN Convention on Human Rights, the European Convention on Human Rights, the UN Convention on the Elimination of Racial Discrimination, the European Convention on Racism and Intolerance (amongst other treaties), compels the Irish State to combat racism in all its forms, including online racism.</p> <p>Ratification of the Council of Europe’s Convention on Cybercrime and particularly the Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems would send a strong message that Ireland was committed to treating online racism as a crime.</p> <p><u>Further Recommendations:</u></p> <ul style="list-style-type: none">- Clarification that online racism falls under the existing criminal and civil legislation, including section 2 of The Prohibition to Incitement to Hatred Act, 1989 and assurances that such crimes will be investigated accordingly.- New legislation defining hate crimes which includes racial hate crimes and deals specifically with online hate crimes.- Training for the Gardaí and the DPP on how to investigate and prosecute online racial crimes.- Ratification of the Council of Europe Convention on Cybercrime and the Additional Protocol and corresponding legislation to make online racism a crime.- Funding and support for NGOs in their continued efforts in addressing and monitoring racism online.	