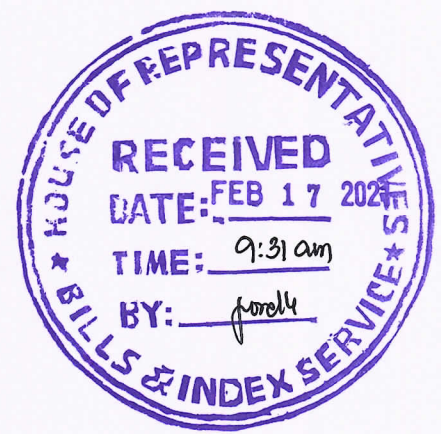




HOUSE OF REPRESENTATIVES

House Bill No. **8760**

Introduced by Representative Victor A. Yap

EXPLANATORY NOTE

Various researches and studies show that the Philippines is a global hotspot of Online Sexual Abuse and Exploitation (OSAEC). The Philippines has been considered as “one of the top sources of child abuse materials” in the world.<sup>1</sup> A recent report on online experiences of Filipino children revealed that more and more Filipino children are reporting that they have encountered risks online and actively engaged in these online risks.<sup>2</sup> According to the National Baseline Study on Violence Against Children in the Philippines conducted in 2016, about 43.7% of children aged thirteen (13) to below eighteen (18) years old have experienced violence online.<sup>3</sup> A fourth of these children have experienced sexual violence online.<sup>4</sup> Among these children, more males were reported to have shown their bodies or sexual acts in the internet or cellphones.<sup>5</sup> These acts of online sexual violence involve verbal abuse, unsolicited sexual messages, and exhibition of sexualized photos and videos of children through the internet or exchanges through electronic gadgets.<sup>6</sup> Therefore, children have become more vulnerable to risks and harms online especially because of the recent digital advancements and increased penetration of communications technology in the Philippines.

The Philippines, as signatory to the United Nations Convention on the Rights of the Child (UNCRC), is obligated to “protect the child from all forms of sexual exploitation and sexual abuse”<sup>7</sup> and to “prevent the abduction of, the sale of or traffic in children for any purpose or in any form.”<sup>8</sup> Further, the Philippines have also ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) in 2002.<sup>9</sup> The OPSC requires State parties to ensure that, as a minimum, provisions that treats and punishes the aforementioned activities are provided under their domestic laws.<sup>10</sup> This includes punishing any attempt or complicity with the acts,<sup>11</sup> providing penalties,<sup>12</sup> and establishing civil, criminal, or administrative liability against offenders.<sup>13</sup> States parties must also ensure that they have jurisdiction over offences,<sup>14</sup> and allow for extradition<sup>15</sup> or international assistance.<sup>16</sup> Further, OPSC also provides that executive measures for the investigation and prosecution of offenses,<sup>17</sup> protection and treatment of children,<sup>18</sup> and raising awareness on the issue are established under domestic laws.<sup>19</sup> Hence, the Philippine government has

<sup>1</sup> International Justice Mission, *Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry, and Civil Society*, 36 (2020).

<sup>2</sup> Philippine Kids Online, *The Online Experiences of Children in the Philippines: Opportunities, Risks and Barriers*, Technical Report 62 (2020).

<sup>3</sup> UNICEF, *National Baseline Study on Violence Against Children*, 8 (2016).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Convention on the Rights of the Child, *adopted* Nov 20 1989, 1577 U.N.T.S. 34. [hereinafter CRC].

<sup>8</sup> CRC, 35.

<sup>9</sup> United Nations Human Rights Treaty Bodies, UN Treaty Body Database, available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=137&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=137&Lang=EN) (last accessed Nov 28, 2020).

<sup>10</sup> OPSC, 3(1)(a)(i)(a), (b), (c).

<sup>11</sup> OPSC, 3(2).

<sup>12</sup> OPSC, 3(3).

<sup>13</sup> OPSC, 3(4).

<sup>14</sup> OPSC, 4.

<sup>15</sup> OPSC, 5.

<sup>16</sup> OPSC, 6.

<sup>17</sup> OPSC, 7.

<sup>18</sup> OPSC, 8.

<sup>19</sup> OPSC, 9.

the responsibility to provide holistic measures to address the problem of OSAEC as guided by the principles of child protection and best interest of the child.

Our existing laws that cover OSAEC do not capture the extraordinary features of online sexual violence against children as they are already outdated and are not responsive to the protection needed by children using the internet. Moreover, our current legal framework requires stronger measures for regulation of relevant entities and stakeholders, and better organizational structure and referral pathway for all related government agencies involved in handling OSAEC cases. Hence, this bill is being filed to strengthen protection of children from OSAEC by providing treatments and penalties for unlawful acts constituting OSAEC, strengthening institutions and government agencies, regulating key industry players that contribute to the proliferation of OSAEC crimes and providing structures and services that will aid in the process of aftercare and reintegration of children victims.



**VICTOR A. YAP**  
**Representative, Second District of Tarlac**

HOUSE OF REPRESENTATIVES

House Bill No. 8760

---

Introduced by Representative Victor A. Yap

---

AN ACT  
STRENGTHENING THE PROTECTION OF CHILDREN AGAINST ONLINE SEXUAL  
ABUSE AND EXPLOITATION, AMENDING ANTI-CHILD PORNOGRAPHY ACT OF 2009  
and ANTI-PHOTO AND VIDEO VOYEURISM ACT OF 2009 AND FOR OTHER PURPOSES

*Be it enacted, by the Senate and House of Representatives in Congress assembled:*

ARTICLE I  
Title, Policy, Principles and Definition of Terms

**SECTION 1. *Short Title.*** This Act shall be known as the “Special Protection against Online Sexual Abuse and Exploitation of Children (OSAEC) Law” or the Anti-OSAEC Law.

**SECTION 2. *Declaration of State Policy and Principles.*** It is the policy of the State to provide special protection to children from all forms of sexual violence, abuse and exploitation especially those committed with the use of Information and Communications Technology; provide sanctions for their commission and carry out programs for the prevention, deterrence and intervention in situations of all online sexual abuse and exploitation of children. The State shall intervene on behalf of the child when acts of online sexual abuse and exploitation is committed by the parent, caregiver, guardian, teacher or person having care or custody of the child. It is also the policy of the state to protect, rehabilitate and assist in the reintegration of children who have been victimized and gravely affected by the violations committed against them.

The State recognizes the vital role of information and communications technology in the education, skills and growth and development of Filipino children. The State also recognizes the inherent right of children to freedom of expression which includes the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers in accordance with the rights of a child declared in the United Nations Convention on the Rights of the Child. Further, the State is obligated to adopt the protective measures provided in the signed Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution, and Child Pornography. Finally, the best interest of children shall be the paramount consideration in all actions concerning them whether undertaken by public or private social welfare institutions, courts of law, executive agencies, law enforcement agencies, local government units, legislative bodies and private business enterprises especially those related to the online safety and protection of children.

**SECTION 3. *Definition of Terms.***

(a) “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 long term physical, mental, intellectual or sensory impairments or condition.

For the purposes of this act, and in relation to RA. No. 9775, 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) "Sexual Violence" refers to any act which is sexual in nature which is committed against a child.

(c) "Online Sexual Abuse and Exploitation of Children" refers to the use of the Internet as a means to abuse and exploit children sexually, which includes cases in which contact child abuse and/or exploitation offline is combined with an online component. This can also include but not limited to the production, dissemination and possession of child sexual abuse and exploitation materials; online grooming of children for sexual purposes; sexual extortion of children, revenge pornography; commercial sexual exploitation of children; exploitation of children through online prostitution; and live streaming of sexual abuse.<sup>20</sup>

(d) "Sexual Abuse of Children" refers to any form or format communication through any platform or any physical interaction between a child and any person when the child is being used for any act or activity inducing sexual stimulation. These can be carried out against the child using force, trickery, bribes, threats or pressure.<sup>21</sup>

(e) "Child Sexual Exploitation" refers to child sexual abuse and/or other sexualized acts using children that involves an exchange of some kind (e.g., money, affection, food, drugs, shelter, protection, favor or influence. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child: (a) in exchange for something the victim needs or wants; and/or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual.<sup>22</sup>

(f) "Child Sexual Abuse and Exploitation Materials" refers to photos, images, videos, recordings, streams or any other form of media depicting acts of sexual abuse and exploitation of a child or representation of a child a sexual object whether generated digitally or not. This includes materials that focus on the genitalia or other sensitive body parts of a child.<sup>23</sup>

According to the Luxembourg Guidelines, Pornography is a term primarily used for adults engaging in consensual sexual acts distributed to the general public for sexual pleasure. The continued use of this term normalizes and may contribute to diminishing the gravity of, trivializing, or even legitimizing what is actually sexual abuse and exploitation of children. Further, the term "child pornography" risks insinuating that the acts are carried out with the consent of the child, and represent legitimate material.<sup>24</sup> Therefore, for the pursuant to this Act, the term "Child Pornography" used in all existing laws is hereby replaced with the term "Child Sexual Abuse and Exploitation Material".

(g) "Streaming" refers to the viewing of the broadcast of child sexual abuse and exploitation through the use of information and communications technologies. It is considered as live streaming of child sexual abuse and exploitation when the broadcast occurs in real time. Viewers may be passive

<sup>20</sup> United Nations Children's Fund, What Works to Prevent Online and Offline Child Sexual Exploitation and Abuse vii (2020).

<sup>21</sup> United Nations Office on Drugs and Crimes, Module 12: Interpersonal Cybercrime, available at <https://www.unodc.org/e4j/en/cybercrime/module-12/key-issues/online-child-sexual-exploitation-and-abuse.html> (last accessed Nov. 28, 2020).

<sup>22</sup> United Nations Office on Drugs and Crimes, Module 12: Interpersonal Cybercrime, available at <https://www.unodc.org/e4j/en/cybercrime/module-12/key-issues/online-child-sexual-exploitation-and-abuse.html> (last accessed Nov. 3, 2020). ; United Nations Children's Fund, What Works to Prevent Online and Offline Child Sexual Exploitation and Abuse vii (2020).

<sup>23</sup> It is suggested to replace the term "child pornography" to "child sexual abuse and exploitation material" to address the issues related to the usage of the term "pornography" in relation to sexualized materials involving children.

<sup>24</sup> ECPAT Luxembourg, Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, 38-39, 2016.

or active, where the latter is directing the explicit sexual activity to be committed by or against the child victim. This includes those who have subscribed, joined, or supported a livestream broadcast of child sexual abuse and exploitation.

(h) "Perpetrator" refers to any person whose acts make it possible for other perpetrators to reach and communicate with the child victim, and to provide end-users access and/or receive sexually abusive and exploitative materials of children, and to any person who acquires OSAEC materials and services regardless of the presence of an element of exchange for compensation. They are involved in the preparation, production, distribution and consumption of child sexual abuse and exploitation materials and services.

(i) "Information and Communications Technology" refers to information-handling tools - a varied set of goods, applications and services that are used to produce, store, process, distribute and exchange information. They include the "old" ICTs of radio, television and telephone, and the "new" ICTs of computers, satellite and wireless technology and the Internet. These different tools are now able to work together, and combine to form our "networked world" - a massive infrastructure of interconnected telephone services, standardized computing hardware, the Internet, radio and television, which reaches into every corner of the globe.<sup>25</sup>

(j) "Internet Service Provider" refers to a person or entity that supplies or proposes to supply, an internet carriage service to the public. This includes those providing fixed landline, broadband services, or cellular data services and those that provide free or public Wifi.<sup>26</sup>

(k) "Internet Content Host" refers to a person or entity who hosts or allows to host website content in its computer server/s, connecting it to the internet and providing storage capacities.<sup>27</sup>

(l) "Social Media Companies" refers to entities that serve as an intermediary which provides a platform for users to post, upload, download and share their own contents. This includes entities that provide social network or messaging services, digital content, streaming or broadcast services, digital file storage services and cloud-based services.<sup>28</sup>

## ARTICLE II

### Punishable Acts related to OSAEC

**SECTION 4.** Section 4 of RA No.9775 or the Anti-Child Pornography Act of 2009 is hereby amended to read as follows:

**"Section 4 Unlawful or Prohibited Acts. – It shall be unlawful for any person:**

(a) **To hire, employ, use, persuade, induce or coerce a child to perform in the creation or production of any form of child abuse and exploitation material and any activity related to OSAEC;**

**xxx**

(f) **For film distributors, theaters and ICTs by themselves or in cooperation with other entities, to distribute any form of child abuse and exploitation material or to facilitate commission of OSAEC;**

<sup>25</sup> available at <http://www.itu.int/net/wsis/stocktaking/docs/activities/1103056110/ICTMDGFinal.pdf> (last accessed Feb 2, 2021).

<sup>26</sup> ITU 2021

<sup>27</sup> Australian Government, Australian Law Reform Commission, The new Act and online content providers, available at <https://www.alrc.gov.au/publication/classification-content-regulation-and-convergent-media-alrc-report-118/5-the-new-national-classification-scheme/the-new-act-and-online-content-providers/> (last accessed February 15, 2021).

NOTE: We suggest to triangulate with the definitions that will be provided by the DICT.

<sup>28</sup> Characterization of Social Network Sites based on a consultation with Facebook.

1 (g) For a parent, legal guardian or person having custody or control of a child to knowingly  
2 facilitate or permit the child to engage, participate or assist in any form of child abuse and  
3 exploitation or in the commission of OSAEC;<sup>29</sup>

4  
5 (h) To engage in the luring or grooming of a child, including any interaction and/or act to  
6 influence a child to engage in OSAEC through the use of, but not limited to, social media or  
7 other online platforms;

8  
9 (k) To conspire to commit any of the prohibited acts stated in this section. Conspiracy to  
10 commit any form of child abuse and exploitation or OSAEC shall be committed when two (2) or  
11 more persons come to an agreement concerning the commission of any of the said prohibited  
12 acts and decide to commit it;

13  
14 xxx

15 (m) To influence, recruit, transport, transfer, harbor, provide, or receive a child by any  
16 means for the purpose of committing OSAEC;

17  
18 (n) To introduce or match for money, profit, or material, economic or other consideration a  
19 child to a foreign national or to any person for the purpose of committing OSAEC;

20  
21 (o) To advertise, publish, print, broadcast or distribute, or cause the advertisement,  
22 publication, printing, broadcasting or distribution by any means, including the use of  
23 information technology and the internet, of any brochure, flyer, or any propaganda material  
24 that promotes OSAEC;

25  
26 (p) To willfully subscribe, join, donate or support in an internet address that hosts OSAEC  
27 or streaming and/or live streaming of child sexual abuse and exploitation;<sup>30</sup>

28  
29 (q) To hire, employ or pay a facilitator to stream or live stream child sexual abuse and  
30 exploitation;

31  
32 (r) To produce, direct, manufacture, create or facilitate the streaming or live streaming of  
33 child sexual exploitation;

34  
35 (s) To willfully stream and/or live stream child sexual abuse and exploitation;

36  
37 (t) To knowingly benefit from, financial or otherwise, the commission of OSAEC;

38  
39 (u) To attempt to commit any of the prohibited acts stated in this section. Attempt to  
40 commit OSAEC shall be committed when the offender commences the commission of OSAEC  
41 directly or over acts, and does not perform all the acts of execution which should produce the  
42 felony by reason of some cause or accident other than his own spontaneous desistance.<sup>31</sup>

43  
44  
45 **SECTION 5.** Section 4 of RA 9995 or the Anti-Photo and Video Voyeurism Act of 2009, is hereby  
46 amended as follows:

47  
48 **“Section 4. *Prohibited Acts.*** It is hereby prohibited and declared unlawful for any  
49 person:

50  
51 xxx  
52

---

<sup>29</sup> It is proposed that a higher degree of penalty or the maximum imposable penalty be given if this is committed.

<sup>30</sup> Internet address is defined under RA 9775 as “a website, bulletin board service, internet chat room or news group, or any other internet or shared network protocol address.”

<sup>31</sup> It is proposed that a lower degree of penalty or the minimum imposable penalty be given if this is committed.

1 The prohibition under paragraphs (b), (c) and (d) shall apply notwithstanding that consent to  
2 record or take photo or video coverage of the same was given by such person/s. Further, when  
3 the person/s involved in the prohibitions provided under this law is a child, consent of such  
4 child shall not be considered as exculpating defense of the perpetrator. Any person who violates  
5 this provision shall be liable for photo or video voyeurism as defined herein.”  
6  
7

8 **SECTION 6. *Offline crimes*** - Sexual Crimes against children in violation of the Revised Penal Code  
9 under Crimes against Persons and Crimes against Chastity, specifically Rape, Acts of Lasciviousness,  
10 Qualified Seduction, Simple Seduction, Acts of Lasciviousness with the Consent of the Offended  
11 party, Corruption of Minors, White slave trade, Forcible Abduction, Consented Abduction and other  
12 related sexual abuse and exploitation crimes provided under RA No. 9995 of the Anti-Photo and  
13 Video Voyeurism Act of 2009, RA No. 9262 or the Anti- Violence Against Women and Children,  
14 RA No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination  
15 and RA No. 10364 or the Expanded Anti-Trafficking in Persons Act of 2012 which are committed  
16 through the use of Information and Communications Technology shall be considered as OSAEC  
17 crimes and shall be treated and punished in accordance with provisions of this Act: *Provided*, That  
18 the penalty to be imposed shall be (1) degree higher than that provided for under the law and in  
19 relation to Section 6 of RA No. 10175 or the Cybercrime Prevention Act of 2012.  
20  
21

22 **SECTION 7. *Safe Harbor Exception***. Access, possession and recording of any child sexual abuse  
23 and exploitation material of any person for the purpose of reporting to government authorities;  
24 legitimate investigation and administration of the criminal justice system; and legitimate scholarly  
25 and academic purposes with requisite ethical clearance, shall not be considered as a violation of this  
26 Act.  
27

### 28 **ARTICLE III** 29 **Duties and Obligations of Private Sector** 30

31 **SECTION 8.** Section 9 of Republic Act 9775 is hereby amended to read as follows:  
32

33 “Section 9. *Duties of an Internet Service Provider (ISP)* - All internet service providers (ISPs)  
34 shall notify the Philippine National Police (PNP) or the National Bureau of Investigation (NBI)  
35 not more than two (2) days from obtaining facts and circumstances that any form of child  
36 sexual abuse and exploitation is being committed using its server or facility, including the  
37 streaming and/or live streaming of child sexual abuse and exploitation. In addition, ISPs shall  
38 block and remove websites that contain and broadcast any form of child abuse and exploitation  
39 materials within forty-eight (48) hours from discovery. Failure of the ISPs to block or remove  
40 any form of child abuse and exploitation materials or to block the streaming and/or live  
41 streaming of child sexual exploitation within forty-eight (48) hours from discovery shall be  
42 conclusive evidence of willful and intentional violation thereof.  
43

44 Furthermore, an ISP shall preserve such evidence for the purpose of investigation and  
45 prosecution by law enforcement authorities, prosecutors and other investigative bodies for a  
46 period of one (1) year; *Provided*, That the period of preservation may be extended by virtue of a  
47 notification to the ISP with the corresponding report of the law enforcement, prosecutor and  
48 other investigative body to the NTC of such extension.  
49

50 An ISP shall, pursuant to guidelines that will be formulated in the implementation of this law,  
51 and upon the request of law enforcement authorities, prosecutors and other investigative  
52 bodies, furnish the particulars of users who gained or attempted to gain access to an internet  
53 address which contains any form of child sexual abuse and exploitation materials or facilitates  
54 the commission of OSAEC or the streaming or live streaming of child sexual exploitation.<sup>32</sup>  
55

---

<sup>32</sup> Based on our consultations with members of the Public Sector. These are the persons who are usually request information from ICT companies for the purpose of investigation and prosecution. This is also in response to the argument that the term “proper authorities” is vague.

1 All ISPs shall develop and adapt a set of systems and procedures for blocking of websites  
2 containing OSAEC violations using their bandwidth which are compatible with the services and  
3 products they offer and in accordance with the Voluntary Principles to Counter Online Child  
4 Sexual Exploitation and Abuse<sup>33</sup> which may include the installation of available technology,  
5 program or software to ensure that access to or streaming of child sexual exploitation will be  
6 blocked.<sup>34</sup> This shall also include the adoption of the child online safeguarding policy pursuant  
7 to RA No. 10929 or the Free Internet Access in Public Spaces Act and the adoption and  
8 integration of Child Rights and Business Principles in their corporate governance practice and  
9 processes including zero tolerance for violence against children. Bilateral and multilateral  
10 agreements between ISPs and law enforcement authorities on data and information sharing is  
11 encouraged to catalyze action to support the implementation of this law.

12  
13 An ISP who shall knowingly, willfully and intentionally violate this provision shall be subject to  
14 the penalty provided under Section 15(k) of this Act.

15  
16 Within 90 days from finalization of the Implementing Rules and Regulations of this Act, the  
17 Department of Information and Communications Technology (DICT), through National  
18 Telecommunications Commission (NTC), shall promulgate the necessary rules and regulations  
19 for the implementation of this provision which shall include, among others, the development  
20 and adaption of systems and procedure and installation of technology or filtering software that  
21 will block websites containing OSAEC and streaming and/or live streaming of child sexual  
22 abuse and exploitation.”

23  
24  
25 SECTION 9. Section 11 of Republic Act 9775 is hereby amended to read as follows:

26  
27 “Section 11. *Duties of an Internet Content Host.* - An internet content host shall:

28  
29 (a) Not host any form of child abuse and exploitation materials or streaming and/or live  
30 streaming of child sexual abuse and exploitation on its internet address;

31  
32 (b) Within two (2) days, report the presence of any form of child abuse and exploitation  
33 materials or any conduct of streaming and/or live streaming of child sexual abuse and  
34 exploitation, as well as the particulars of the person maintaining, hosting, distributing or in any  
35 manner contributing to such internet address, to the proper authorities;

36  
37 (c) Within forty-eight (48) hours from discovery, to block and remove contents and websites  
38 containing any form of child sexual abuse and exploitation material; Provided, That the failure  
39 of the internet content host to remove any form of child abuse and exploitation materials or to  
40 block the streaming and/or live streaming of child sexual exploitation within forty-eight (48)  
41 hours from receiving the notice that such content is in its server shall be conclusive evidence of  
42 willful and intentional violation thereof; and

43  
44 (d) Preserve such evidence for purposes of investigation and prosecution by relevant  
45 authorities for a period of one (1) year; *Provided*, That the period of preservation may be  
46 extended by virtue of a notification to the ISP with the corresponding report of the law  
47 enforcement, prosecutor and other investigative body to the NTC of such extension.,

48  
49 An internet content host shall, pursuant to guidelines that will be formulated in the  
50 implementation of this law, and upon the request of law enforcement authorities, prosecutors  
51 and other investigative bodies, furnish the particulars of users who gained or attempted to gain  
52 access to an internet address that contains any form of child abuse and exploitation materials

<sup>33</sup> Voluntary Principles to Counter Online Child Sexual Exploitation and Abuse

<sup>34</sup> Based on consultations with ISPs, Telecommunications Companies and Social Network Companies.

1 or facilitates or promotes the commission of OSAEC or streaming and/or live streaming of  
2 child sexual abuse and exploitation.<sup>35</sup>

3  
4 An internet content host who shall knowingly, willfully and intentionally violate this provision  
5 shall be subject to the penalty provided under Section 15(j) of this Act:

6  
7 Internet content hosts shall develop and adapt a set of systems and procedures for preventing,  
8 detecting and reporting of OSAEC violations committed within their platforms which are  
9 compatible with the services and products they offer and in accordance with the Voluntary  
10 Principles to Counter Online Child Sexual Exploitation and Abuse<sup>36</sup> which may include the  
11 installation of available technology, program or software to ensure that access to or streaming  
12 of child sexual exploitation will be blocked or filtered.<sup>37</sup> This shall also include the adoption of  
13 the child online safeguarding policy pursuant to RA No. 10929 or the Free Internet Access in  
14 Public Spaces Act and the adoption and integration of Child Rights and Business Principles in  
15 their corporate governance practice and processes including zero tolerance for violence against  
16 children. Bilateral and multilateral agreements between ISPs and law enforcement authorities  
17 on data and information sharing may be pursued to catalyze action to support the  
18 implementation of this law.

19  
20 Within 90 days from finalization of the Implementing Rules and Regulations of this Act, the  
21 Department of Information and Communications Technology, through National  
22 Telecommunications Commission (NTC), shall promulgate the necessary rules and regulations  
23 for the implementation of this provision which shall include, among others, the development  
24 and adaption of systems and procedure and installation of technology or filtering software that  
25 will block streaming and/or live streaming of child sexual abuse and exploitation.”

26  
27  
28 **SECTION 10.** Section 10 of Republic Act 9775 is hereby amended to read as follows:

29  
30 *“Section 10. Responsibility of Mall, Hotel or Motel Owners/Operators; owners/lessors/sub-lessees*  
31 *of transient and residential houses, condominiums, and apartments or any identifiable living*  
32 *spaces; Internet Cafes/Kiosks, Owners or Lessors of Other Business Establishments and*  
33 *Owners/Lessors of any place or facility used for OSAEC. - All residential houses, condominiums,*  
34 *and apartments or any identifiable living spaces, mall, hotel or motel owners/sub-*  
35 *lessees/operators, internet cafes/kiosks or lessors of business establishments and owners/lessors*  
36 *of any place or facility shall notify the PNP or the NBI immediately but not later than 48 hours*  
37 *from obtaining facts and circumstances that online child abuse and exploitation is being*  
38 *committed within their premises. Provided, that actual knowledge by the owners/lessors/sub-*  
39 *lessees/operators and owners or lessors of other business establishments is required for there to*  
40 *be a violation under this Act.*

41  
42 xxx

43  
44 Any willful and intentional violation of this provision shall be subject to the penalty provided  
45 under Section 15(l) of this Act and can be considered as aiding or abetting OSAEC.”

46  
47  
48 **SECTION 11.** The following provisions are hereby added to RA No 9775:

49  
50 *“Section \_\_\_\_.* *Responsibility of Social Media Networks. – Social Media Networks and other*  
51 *similar entities shall remove any content in their platform of child sexual abuse and exploitation*  
52 *or any live stream/broadcast thereof. Further, they are required to promulgate guidelines that*  
53 *promote awareness of OSAEC and develop and adapt a set of systems and procedures for*

<sup>35</sup> Based on our consultations with members of the Public Sector. These are the persons who are usually request information from ICT companies for the purpose of investigation and prosecution. This is also in response to the argument that the term “proper authorities” is vague.

<sup>36</sup> Voluntary Principles to Counter Online Child Sexual Exploitation and Abuse

<sup>37</sup> Based on consultations with ISPs, Telecommunications Companies and Social Network Companies.

1 preventing, detecting and reporting of OSAEC violations committed within their platforms  
2 which are compatible with the services and products they offer and in accordance with the  
3 Voluntary Principles to Counter Online Child Sexual Exploitation. This shall include  
4 technological and other practical safeguards to prevent and detect recruitment and trafficking  
5 as well as training of employees in detecting patterns indicative of OSAEC-related recruitment  
6 and trafficking.<sup>38</sup> This shall also include the adoption of the child online safeguarding policy  
7 pursuant to RA No. 10920 or the Free Internet Access in Public Spaces Act and the adoption  
8 and integration of Child Rights and Business Principles in their corporate governance practice  
9 and processes including zero tolerance for violence against children. Bilateral and multilateral  
10 agreements between ISPs and law enforcement authorities on data and information sharing  
11 may be pursued to catalyze action to support the implementation of this law. Further, Social  
12 Media Networks shall establish high privacy setting as default safety and privacy settings for  
13 minors up to 18 years of age that eliminate vulnerabilities and ensure the online safety of  
14 children.

15  
16 Social Media Network who shall knowingly, willfully and intentionally violate this provision  
17 shall be subject to the penalty provided under Section 15(m) of this Act.

18  
19 Within 90 days from finalization of the Implementing Rules and Regulations of this Act, the  
20 Department of Information and Communications Technology, through National  
21 Telecommunications Commission (NTC), shall promulgate the necessary rules and regulations  
22 for the implementation of this provision which shall include, among others, the development  
23 and adaption of systems and procedure and installation of technology or filtering software that  
24 will block streaming and/or live streaming of child sexual abuse and exploitation.”

25  
26 “Section \_\_\_\_\_. *Responsibility of Banks, Money Service Businesses, Credit Card Companies,*  
27 *Electronic Money Issuers and other BSP-supervised Financial Institutions.* Banks, money service  
28 businesses, credit card companies, electronic money issuers and other BSP-supervised Financial  
29 Institutions or any person who has direct knowledge of any OSAEC financial activity shall have  
30 the duty to report any suspected OSAEC-related activity or transaction to the proper  
31 authorities, such as the AMLC, within seven (7) days from discovery thereof.

32  
33 The Anti-Money Laundering Council (AMLC) shall promulgate the necessary rules and  
34 regulations for the implementation of this provision which shall include, among others, the  
35 guidelines to determine suspicious activity and indicators that OSAEC-related activities are  
36 being conducted. AMLC shall provide the necessary guidelines with regard to this provision  
37 within three (3) months from the effectivity of this Act.

38  
39 The commission of OSAEC shall be considered as an ‘unlawful activity’ under the Anti-Money  
40 Laundering Act.

41  
42 Any willful and intentional violation of this provision shall be subject to the appropriate penalty  
43 under the law.”<sup>39</sup>

44  
45  
46 SECTION 12. Section 15 of RA No. 9775 is hereby amended as follows:

47  
48 “Section 15. *Penalties and Sanctions.* The following penalties and sanctions are hereby  
49 established for offenses enumerated in this Act:

50  
51 xxx

52  
53  

---

<sup>38</sup> Based on our finding that there is a lack of explicit provision on the duty and responsibilities of Social Networking Companies in relation to OSAEC.

<sup>39</sup> Based on our finding that there is a need to strengthen the regulation of financial institutions with regard to the reporting suspicious transactions which may be related to OSAEC. This provision just reiterates the significant role the financial industry in addressing the problem of OSAEC.

1 (k) Any ISP found guilty of failing to comply with its obligation to give notice and other  
2 requirements under Section 9 of this Act shall suffer the penalty of a fine of not less than two  
3 million pesos (P2,000,000.00) but not more than five million pesos (P 5,000,000.00) for the first  
4 offense. In case of subsequent offense, the penalty of fine of not less than two million pesos  
5 (P2,000,000.00) but not more than ten million pesos (P10,000,000.00) and revocation of its  
6 franchise and its license to operate.<sup>40</sup>

7  
8 (l) Any person found guilty of failing to comply with the notice requirements under Section 10  
9 of this act shall suffer the penalty of fine of not less than two million pesos (P2,000,000.00) but  
10 not more than five million pesos (P 5,000,000.00) for the first offense. In case of a subsequent  
11 offense, the penalty shall be a fine of not less than two million pesos (P2,000,000.00) but not  
12 more than ten million pesos (P10,000,000.00) and revocation of its license to operate and  
13 immediate closure of the establishment.<sup>41</sup>

14  
15  
16 (m) Any Social Media Network or similar entity found guilty of failing to comply with the  
17 requirements provided under Section \_\_\_\_ shall suffer the penalty of fine of ten million pesos  
18 (P10,000,000.00).<sup>42</sup>

19  
20 (n) Any Banks, Money Service Businesses, Credit Card Companies, Electronic Money  
21 Issuers and other BSP-supervised Financial Institutions found guilty of failing to comply with  
22 their reportorial obligation provided under Section \_\_\_\_ shall suffer the penalty as provided  
23 under the law.<sup>43</sup>

24  
25  
26 **SECTION 13. OSAEC Protection Trust Fund.** All proceeds of fines collected from the imposition  
27 of penalties for violations of this Act shall form part of an OSAEC Protection Trust Fund which shall  
28 be allocated for programs on OSAEC and services provided to child victims and administered by  
29 DSWD. This fund may also constitute as part of the budget of the IACACP.

30  
31 **SECTION 14. Non-applicability.** The duty and obligation of related entities belonging to the ICT,  
32 Business and Financial Sectors as provided in this Act to notify law enforcers, to preserve evidence  
33 and to provide the necessary information requested by law enforcers, prosecutors and other  
34 investigative bodies through proper processes shall not be construed as a violation of the Data Privacy  
35 Act of 2012.

## 36 37 38 **ARTICLE IV** 39 **Remedial Procedures and Case Management**

40  
41 **SECTION 15. Who may file a Complaint.** Complaints on cases of unlawful acts related to and  
42 constituting Online Sexual Abuse and Exploitation of Children under the Anti-Child Pornography  
43 Law of 2009, Anti-Photo and Video Voyeurism Act of 2009, Cybercrime Prevention Act of 2012,  
44 Special Protection of Child Against Abuse, Exploitation and Discrimination Act, Expanded  
45 Trafficking in Persons Act of 2012, Safe Spaces Act, Anti-Violence Against Women and their  
46 Children Law, and those related felonies of Crimes against Persons and Crimes against Chastity  
47 under the Revised Penal Code may be filed by the following:

- 48 (a) Offended party;  
49 (b) Parents or guardians;  
50 (c) Ascendant or collateral relative within the third degree of consanguinity;  
51 (d) Officer, social worker or representative of a licensed child-caring institution;  
52 (e) Officer or social worker of the Department of Social Welfare and Development;  
53 (f) Barangay chairman; or  
54 (g) At least three (3) concerned responsible citizens where the violation occurred.

<sup>40</sup> We suggest for the DICT to provide for a schedule of penalties of fines that will disincentivize violation of this Act.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Penalties or sanctions provided under the AMLA and by the ALMC.

1  
2  
3 **SECTION 16. *Persons Mandated to Report OSAEC Cases.***  
4

5 A. It shall be the duty of the following persons to report all incidents of OSAEC and related  
6 offline offenses to the DSWD, the DepEd, the DOJ, the PNP or the NBI, or any the concerned LGU  
7 within forty-eight (48) hours from knowledge thereof:  
8

9 1. Any healthcare provider, including the attending physician, nurse, clinician, barangay health  
10 worker, or any person who has caused the examination or treatment of a child victim appearing to  
11 have suffered sexual abuse and exploitation;  
12

13 2. Teacher, guidance counselor, principal, school head, or any person whose work involves the  
14 education, training, and care of children;  
15

16 3. Any Social Worker who has reason to believe that OSAEC and other related offline offenses have  
17 been committed or has been duly informed thereof by the victim or two (2) concerned citizens living  
18 within the same community/LGU;  
19

20 4. Any National or Local public officer; OR  
21

22 5. Any person who has knowledge of the commission of OSAEC and related offline offenses:  
23

24 B. The persons mandated to report cases shall, as far as applicable, the following responsibilities:  
25

26 1. Properly Document any of the Victim's Physical, Emotional, or Psychological Injuries;  
27

28 2. Properly record observation on the Victim's condition and circumstances during the examination  
29 or visit;  
30

31 3. Safeguard the records and make them immediately available to the victim upon request; and  
32

33 4. Immediately report any violation of this Act to the proper authorities.  
34

35 C. Failure to report possible OSAEC and related offline offenses under this Act shall be punished  
36 by a fine of not more than fifty thousand pesos (P50,000.00) without prejudice to any administrative  
37 liability, if applicable.  
38

39 D. No Criminal, Civil or Administrative action may be filed against any person who is  
40 performing the responsibilities mandated under this section.<sup>44</sup>  
41  
42

43 **SECTION 17. *Protective Custody of the Child.*** The child victim shall be immediately placed under  
44 the protective custody of the Department of Social Welfare and Development pursuant to RA No. 76  
45 10 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act. In the  
46 regular performance of this function, the officer of the Department of Social Welfare and  
47 Development shall be free from any administrative, civil or criminal liability. Custody proceedings  
48 shall be in accordance with the provisions of Presidential Decree No. 603.  
49  
50

51 **SECTION 18. *Confidentiality.*** All records and proceedings involving children under this law from  
52 the initial contact until the final disposition of the case shall be considered privileged and  
53 confidential. The public shall be excluded during the proceedings and the records shall not be  
54 disclosed directly or indirectly to anyone by any of the parties or the participants in the proceedings  
55 for any purpose whatsoever.

56 It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials,  
57 announcer or producer in case of television and radio broadcasting, digital media, producer and

---

<sup>44</sup> HB No 7836

1 director of the film in case of the movie industry, to cause undue and sensationalized publicity of any  
2 case of violation of this Act which results in the moral degradation and suffering of the child.  
3 The highest ethical and professional standards in reporting and covering cases of children must be  
4 observed such that in all publicity concerning children, the vest interest of the child shall be the  
5 primary concern. Journalistic activity which touches on the lives and welfare of children must be  
6 carried out with sensitivity and appreciation of the vulnerable situation of children, so that children  
7 are not re-victimized or re-traumatized.<sup>45</sup>

8  
9 **SECTION 19. *Special Court Proceedings.*** Cases involving violations of this Act and related laws  
10 shall be heard in the chamber of the Regional Trial Court duly designated as Family Courts.  
11 To prevent re-traumatization of the victim, the victim shall not be presented in Court directly facing  
12 the accused but instead may present his or her testimony via other means provided in the Rules on the  
13 Examination of the Child Witness.<sup>46</sup>

14  
15 **SECTION 20. *Reasonable Accommodation for CWDs.*** The Supreme Court Committee on Family  
16 Courts and Juvenile Concerns, DOJ and the DSWD shall provide for guidelines, within 90 days from  
17 finalization of the Implementing Rules and Regulations of this Act and pursuant to the UN  
18 Convention on the Rights of Persons with Disabilities, for provision of necessary and appropriate  
19 modification and adjustments across all stages of case management of OSAEC cases, that will not  
20 impose a disproportionate or undue burden, to ensure children with disabilities will have access to  
21 justice.

22  
23  
24 **SECTION 21. *Plea of Guilty to a lesser offense.*** The accused, who is a parent, guardian, relative or  
25 any person providing immediate care to a child victim in the absence of any other person, with the  
26 consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a  
27 lesser offense which is necessarily included in the offense charged or is one that has some of the  
28 essential elements of the original offense charged. The lesser offense shall also belong to the same  
29 classification or title under the Revised Penal Code or the relevant special penal law as the offense  
30 charged in the original information.

31  
32  
33 **SECTION 22. *Applicability of the Juvenile Justice and Welfare Act of 2006.*** In cases when the  
34 offender is a child, the prosecution of the offense shall be in accordance with the Juvenile Justice and  
35 Welfare Act of 2006 and he or she shall be accorded the appropriate treatment and services under the  
36 said law.

37  
38 Further, in cases of self-generated child sexual abuse and exploitation materials, the child producing  
39 the sexualized materials shall be considered a victim and not an offender. The child victim shall be  
40 accorded the necessary treatment and services under this Act.

41  
42  
43 **SECTION 23.** Section 18 of Republic Act 9775 is hereby amended to read as follows:

44  
45 **“Section 18. *Mandatory Services to Victims of OSAEC.* - To ensure recovery, rehabilitation and**  
46 **reintegration of the victim into society, government agencies and the LGUs shall make available**  
47 **the following services to victims of any form of child abuse and exploitation or OSAEC:**

48 **(a) Foster care and Emergency shelter or appropriate housing;**

49 **(b) Counseling;**

50 **(c) Free legal services, which shall include information about the victim's rights and the**  
51 **procedure for filing of complaints, claims for compensation and such other legal remedies**  
52 **available to them in a language understood by the child;**

53 **(d) Medical or psychological services;**

54 **(e) Livelihood and skills training; and**

55 **(f) Educational assistance.**

<sup>45</sup><https://www.doj.gov.ph/files/2016/THE%20GUIDE%20FOR%20MEDIA%20PRACTITIONERS.pdf>

<sup>46</sup> Based on consultation with Family Court and Commercial Court Judges.

1 Sustained supervision and follow through mechanism that will track the progress of recovery,  
2 rehabilitation and reintegration of the child victims shall adopted and carried out.”  
3  
4

## 5 ARTICLE V

### 6 Duties and Obligations of members of the Public Sector 7

#### 8 SECTION 24. *Inter-Agency Council Against Online Sexual Abuse and Exploitation of Children*

9 The Inter-Agency Council Against Child Pornography (IACACP) is hereby renamed as the Inter-  
10 Agency Council Against Online Sexual Abuse and Exploitation of Children (IAC-OSAEC). The  
11 Inter-Agency Council shall retain its composition and functions as provided under RA No. 9775 with  
12 the addition of the Secretary of the Department of Education as a member of the council.<sup>47</sup>  
13  
14

15 SECTION 25. Section 19 of Republic Act 9775 is hereby amended to read as follows:  
16

17 “Section 19. *Programs for Victims of OSAEC.* The Inter-Agency Council Against Online Sexual  
18 Abuse and Exploitation of Children shall develop and implement the necessary programs that  
19 will prevent commission of child abuse and exploitation and OSAEC, as well as protect, heal  
20 and reintegrate the child into the mainstream of society. Such programs shall include, but not  
21 limited to, the following:

22 (a) Provision of mandatory services including counseling, free legal services, medical or  
23 psychological services, livelihood and skills training and educational assistance to the child;

24 (b) Sponsorship of a national research program on OSAEC and the establishment of a data  
25 collection system for monitoring and evaluation purposes;

26 (c) Provision of necessary technical and material support services to appropriate government  
27 agencies and nongovernmental organizations;

28 (d) Sponsorship of conferences and seminars to provide venue for consensus building amongst  
29 the public, the academe, government, nongovernmental and international organizations and

30 (e) Promotion of information, awareness and education campaigns regarding safe and  
31 responsible use of the internet in relation to OSAEC to educate the public, including children.”  
32  
33

34 SECTION 26. *OSAEC Referral Pathway, Protocols and Database.* There shall be an organized and  
35 unified referral pathway for reporting, detecting, investigating, prosecuting and providing of aftercare  
36 assistance and support in OSAEC cases. The Department of Social Welfare and Development, sitting  
37 as the chairman of the Inter-Agency Council Against Online Sexual Abuse and Exploitation of  
38 Children (IAC-OSAEC), in coordination with the Department of Justice- Office of Cybercrimes  
39 (DOJ-OOC), Department of Information and Communications Technology (DICT), Commission on  
40 Human Rights (CHR), the Philippine National Police (PNP), National Bureau of Investigation (NBI),  
41 Anti-Money Laundering Council (AMLC) and in consultation with ICT companies and Civil Society  
42 Organizations (CSOs), shall develop a system and set of protocols for referring OSAEC cases and  
43 recording and maintaining a unified database for the purpose of tracking and updating the status and  
44 stages of investigation and prosecution of cases, consistent with existing laws on the protection of the  
45 welfare of children.<sup>48</sup>  
46  
47

48 SECTION 27. *Secretariat to the Council.* – The DSWD shall establish the necessary Secretariat for  
49 the Council.  
50

51 “The secretariat shall provide support for the functions and projects of the Council. The secretariat  
52 shall be headed by an executive director, who shall be appointed by the Secretary of the DSWD upon  
53 the recommendation of the Council. The executive director must have adequate knowledge on,  
54 training and experience in the phenomenon of and issues involved in OSAEC and in the field of law,  
55 law enforcement, ICT, social work, criminology, or psychology.

<sup>47</sup> It is recommended that the Inter-Agency Council be renamed in order to be consistent with the elimination of the usage of the term “child pornography”.

<sup>48</sup> Based on the consultations with members of the public and private sector.

1  
2 "The executive director shall be under the supervision of the IAC-OSAEC through its Chairperson  
3 and Co-Chairperson, and shall perform the following functions:

4  
5 "(a) Act as secretary of the Council and administrative officer of its secretariat;

6  
7 "(b) Advise and assist the Chairperson in formulating and implementing the objectives, policies,  
8 plans and programs of the Council, including those involving mobilization of government offices  
9 represented in the Council as well as other relevant government offices, task forces, and mechanisms;

10  
11 "(c) Serve as principal assistant to the Chairperson in the overall supervision of council administrative  
12 business;

13  
14 "(d) Oversee all council operational activities;

15  
16 "(e) Ensure an effective and efficient performance of council functions and prompt implementation of  
17 council objectives, policies, plans and programs;

18  
19 "(f) Propose effective allocations of resources for implementing council objectives, policies, plans  
20 and programs;

21  
22 "(g) Submit periodic reports to the Council on the progress of council objectives, policies, plans and  
23 programs;

24  
25 "(h) Prepare annual reports of all council activities; and

26  
27 "(i) Perform other duties as the Council may assign."  
28

29  
30 **ARTICLE VI**  
31 **Final Provisions**  
32

33 **SECTION 28.** Section 22 of Republic Act 9775 is hereby amended to read as follows to reflect  
34 cross-border characteristic of OSAEC:  
35

36 ***"Section 22. Child Abuse and Exploitation and OSAEC as a Transnational Crime. - Pursuant to***  
37 ***the Convention on Transnational Organized Crime, the Department of Justice (DOJ) may***  
38 ***execute the request of a foreign state for assistance in the investigation or prosecution of***  
39 ***OSAEC by: (1) conducting a preliminary investigation against the offender and, if appropriate,***  
40 ***to file the necessary charges in court; (2) giving information needed by the foreign state; and (3)***  
41 ***to apply for an order of forfeiture of any proceeds or monetary instrument or properly located***  
42 ***in the Philippines used in connection with OSAEC in the court; Provided, That if the DOJ***  
43 ***refuses to act on the request of for delaying the execution thereof: Provided, further, That the***  
44 ***principles of mutuality and reciprocity shall, for this purpose, be at all times recognized.***  
45

46  
47 **SECTION 29. Rules and Regulations. —** The previous IACACP as created by RA 9775, and now  
48 the new Inter-Agency Council Against Online Sexual Abuse and Exploitation of children (IAC-  
49 OSAEC) shall constitute itself as the Implementing Rules and Regulations Committee with the  
50 Department of Social Welfare and Development as the lead agency, and with the possible inclusion  
51 of the Department of Education, Department of Information and Communications Technology,  
52 Department of the Interior and Local Government, Department of Tourism, and the Anti-Money  
53 Laundering Council, to promulgate rules and regulations of the effective implementation of this Act.  
54 The IRR committee shall promulgate the rules and regulations within six (6) months from the  
55 effectivity of this Act. Such rules and regulations shall take effect upon their publication in two (2)  
56 national newspapers of general circulation.  
57  
58

1 **SECTION 30. *Appropriations.*** – The amount necessary to carry out the provisions of this Act is  
2 hereby authorized to be appropriated in the General Appropriations Act of the year following its  
3 enactment into law and thereafter.  
4

5  
6 **SECTION 31. *Separability Clause.*** – If any provision of this Act is declared invalid or  
7 unconstitutional, the remaining provisions not affected thereby shall continue in full force and effect.  
8

9  
10 **SECTION 32. *Repealing Clause.*** – All laws, decrees, or rules inconsistent with the provisions of  
11 this Acts are hereby repealed or modified accordingly.  
12

13  
14 **SECTION 33. *Effectivity Clause.*** – This Act shall take effect upon completion of its publication in  
15 at least two (2) national newspapers of general circulation.

*Approved*