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PRESS RELEASE

IMMEDIATE RELEASE

FILM AND PUBLICATION BOARD ISSUES LEGAL NOTICES TO ESTABLISH COMPLIANCE WITH THE PROVISIONS OF THE FILMS AND PUBLICATIONS ACT FOR INTERNET SERVICE PROVIDERS

The Film and Publication Board (FPB) has in terms of section 24C and 27A of the Films and Publications Act, 1996 (Act No. 65 of 1996), as amended (Act) issued legal notice to **Internet Access and Service Providers** and **Internet Service Providers (ISP)**, requiring them comply with the provisions of the Act. The legal notice requires ISP's to report on measures they have taken to tackle the proliferation of Child Sexual Abuse Material (CSAM) and other online harms on their platforms and/or services. **The Gazetted legal notice to be published on Friday, 28 October 2022** obliges **ISP'S** to comply to the provisions listed below within 90 days of the gazette:

- (a) registered with the FPB in the manner prescribed by regulations made under the Act;
- (b) provide reports to the FPB on all reasonable steps taken to prevent the use of their services for:
 - (i) the hosting or distribution of child pornography and,
 - (ii) the hosting or distribution of propaganda for war, incitement of imminent violence or advocating hatred based on an identifiable group characteristic and that constitutes incitement to cause harm by any person.
- (c) whether they have reported the presence thereof, as well as the particulars of the person maintaining or hosting or distributing or in any manner contributing to such internet address, to a police official of the South African Police Service (SAPS); and
- (d) the reasonable steps taken to preserve such evidence for purposes of investigation and prosecution by the relevant authorities.

According to the FPB's Interim Chief Executive Officer (ICEO), Dr Mashilo Boloka, "This is a monumental step to protect the children and members of the public against online harms pursuant to the objective of the Act which came into operation on 1 March 2022.

This a preliminary information gathering process to see the ISP's effort in combating online harms and abuses. Since this is the first step, cases where ISP's fall short, they will be given an opportunity to self-correct within a prescribed time. The step is not peculiar to South Africa as other jurisdictions have already implemented this within the aegis for Voluntary Transparency Reporting Framework (VTRF).

“We sincerely hope that the operators will be open and honest in their reporting. Based on the reports we receive, the FPB shall determine whether to make this a compulsory reporting requirement every quarter. Concurrent to this notice, we will also be analysing the various co-regulatory industry codes and working with co-regulators to ensure alignment with the amendment Act and its regulations”, says FPB’s ICEO, Dr Mashilo Boloka.

The FPB plans to issue further notices to additional providers in due course to build a comprehensive picture of online safety measures across a wide range of services within its legislative jurisdictions. ISP’s that fail to comply with the notices within 90 days, will be referred to the Enforcement Committee with possibility of hefty financial penalties or imprisonment sanctions as prescribed in the Act.

ENDS

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Notes to the editor

The objective of the Act of 1996 is to regulate the creation, production, possession and distribution of films, games and certain publications, and more recently certain online content. This is done to provide consumer advice to enable adults to make informed viewing, reading, and gaming choices for themselves and children in their care; to protect children from exposure to disturbing and harmful material and from premature exposure to adult experiences, and to make the use of children in, and the exposure of children to pornography, punishable.

Paramount to the mandate of the FPB is the protection of children. Protecting children under the Act is a proportional balancing of the rights afforded in the South African Constitution against the right of

the child. Children have the right to be protected from physical, mental, emotional, spiritual, or moral harm and to be protected from maltreatment, neglect, abuse, or degradation.

It further ensures that children's best interest is of paramount importance in every matter concerning a child