
INDUSTRY CODE ON PREVENTION OF ONLINE HARM

Introduction

1. The Film and Publications Board (FPB) is an statutory body established in terms of the Films and Publications Act 65, (Act 65 of 1996) as amended (Act) to regulate the creation, production, possession and distribution of films, games, certain publications and the internet by way of classification of content.
2. The Act prohibits sharing of harmful and/or prohibited content such as child pornography, revenge porn, hate speech and content which amounts to propaganda for war, incitement of imminent violence, advocacy of hatred that is based on an identifiable group characteristic, and that constitutes incitement to cause harm.
3. Due to the proliferation of child sexual abuse material cases that the FPB is dealing with on a daily basis and the amount of harmful content distributed online as the Content Regulatory Authority of South Africa, the FPB is obligated to enhance the way it regulates such prohibited and or harmful content distributed online.

Scope of the Code

4. As part of its legislated mandate to protect the public and in particular, children from exposure to disturbing and harmful material distributed online, the FPB deemed it necessary to set some mechanism in place in order for the industry role players to prevent and mitigate the adverse impact of online harm. To this end, this code on prevention of online harm was developed in order to set minimum standards of measures to be put in place by all industry role players in ensuring that the public is protected from online harm acknowledging that some of the role players might already have some mechanism in place but at minimum,

the industry is expected so have the measures as outlined in the code. This code shall apply to industry role players such as commercial online distributors and social media platforms.

Content control

5. Industry role players such as commercial online distributors and social media must not use their services and or platforms to host or distribute prohibited content such as child pornography, revenge porn, hate speech and content which amounts to propaganda for war, incitement of imminent violence, advocacy of hatred that is based on an identifiable group characteristic, and that constitutes incitement to cause harm.
6. Where Industry role player becomes aware of prohibited content hosted or distributed using their services and or platforms, the Industry role player must immediately suspend access to that content. Where required to do so by law, report such prohibited content to the FPB and or to members of the South African Police Services.
7. Industry role players must not host or distribute any content that:
 - 7.1. explicit sexual conduct which violates or shows disrespect for the right to human dignity of any person;
 - 7.2. bestiality, incest, rape, conduct or an act which is degrading of human beings;
 - 7.3. explicit infliction of domestic violence; or
 - 7.4. explicit visual presentations of extreme violence.

Consumer support

8. Consumer support must be easily available through any means of communication such as emails, telephone, WhatsApp etc. Should the industry role player be unable to provide immediate support, consumer should be provided with the ability to leave a message.
9. Industry role players shall have a procedure allowing consumers to lodge complaints regarding the prohibited content hosted or distributed using the services or platforms.
10. Industry role players shall acknowledge receipt of complaints expeditiously and must respond to any complaints within a reasonable period of time.

Provision of Information about prohibited content including content in clause 7 of the Code

11. Industry role players shall notify the FPB if they become aware of any prohibited content including content in clause 7 being hosted or distributed using the services or platforms and the steps that have been taken in response within seven (7) days of becoming aware.
12. Industry role players shall keep records of any take-down notices they have received in terms of the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002) for a period of three years. A copy of any content taken-down in response of a notice must also be kept for a three years, provided it is lawful to do so.

Annual statement of compliance

13. Industry role players shall confirm their compliance with the Industry Code on at least an annual basis.

Adult services

14. The industry role players shall ensure that children under the age of 18 would not be able to access such a film or game online classified as X18.
15. The industry role players shall ensure that the classification and age restriction are clearly displayed on the screen of the user throughout the screening.
16. The industry role players shall ensure that the user confirms that he or she is 18 years or older prior to commencing viewing of the film or playing a game.
17. The industry role players shall not distribute any promotion of the film or game to be accessed without it being paid for by way of a credit card or another child secure method agreed to by the Board.

Child oriented services

18. The industry role players shall moderate their child-orientated services and taken such reasonable steps as are necessary to ensure that such services are not being used by any person for the purpose of the commission of any offence against children;
19. The industry role players shall prominently display reasonable safety messages in a language that will be clearly understood by children, on all advertisements for a child oriented service, as well as in the medium used to access such child oriented service including, where appropriate, chatroom safety messages for chatrooms or similar contact services;
20. The industry role players shall provide a mechanism to enable children to report suspicious behaviour by any person in a chatroom to the service or access provider;
21. The industry role players shall report details of any information regarding behaviour which is indicative of the commission of any offence by any person against any child to a police official of the South African Police Service; and

22. Where technically feasible, provide children and their parents or primary caregivers with information concerning software or other tools which can be used to filter or block access to content services and contact services, where allowing a child to access such content service or contact service would constitute an offence under the FP Act or which may be considered unsuitable for children, as well as information concerning the use of such software or other tools.

Protection of consumers against prohibited content

23. Industry role players shall identify, prevent and mitigate the adverse impact of online harm by taking the following actions:

23.1. Ensure that a specific individual and/or a team is designated with responsibility for this process and has access to the necessary internal and external stakeholders.

23.2. Develop and implement safeguarding policies such as privacy, marketing and relevant codes of conduct.

23.3. Have in place grievance and reporting mechanisms for any harmful and inappropriate content online such as child sexual abuse material, material that depicts sexual violence and violence against children, private sexual photographs distributed with the consent of the person who appears on the photograph or film with the intention to cause harm (revenge porn), content which amounts to propaganda for war, incitement of imminent violence, advocacy of hatred that is based on an identifiable group characteristic and that constitutes incitement to cause harm (hate speech).

24. Developing standard processes to handle child sexual abuse material (CSAM)

24.1. In collaboration with government, law enforcement, civil society and hotline organizations, industry has a key role to play in combating child sexual abuse material by taking the following actions:

24.1.1. Put in place internal procedures to ensure compliance with South African laws as well as international laws on combating child sexual abuse material. Where national regulations do not provide sufficient protection, industry should seek to go above and beyond the national regulations and use their leverage to lobby for legislative changes to enable industry to take steps to combat child sexual abuse material.

24.1.2. Use customer terms and conditions and policies to explicitly state the industry's position on the misuse of its services to store or share child sexual abuse material and harmful content online.

24.1.3. Develop take down notice (TDN) and reporting processes that allow users to report child sexual abuse material or harmful and inappropriate content distributed online.

24.1.4. Ensure a process is in place to act on those reports, and agree on procedures to capture evidence and remove harmful content and publish a quarterly report of the harmful content removed and cases acted on.

25. Creating a safer and age appropriate online environment

25.1. Industry role players must help create a safer, more enjoyable digital environment for the public and for children of diverse ages by taking the following actions:

- 25.1.1. **Employ appropriate technical measures such as parental control tools, age-differentiated experiences with password-protected content, block/allow lists, purchase/time controls, opt-out functions, filtering and moderating to prevent underage access and exposure to inappropriate content or services.**
 - 25.1.2. **Where possible, consider the use of age verification to limit access to content or material that, either by law or policy, is intended only for persons above a certain age.**
 - 25.1.3. **In addition to the terms and conditions, communicate clear rules in easily understood language that emphasizes what behaviour is and is not acceptable on the service, and is particularly geared for young users and for their parents and caregivers. Be sure to state the consequences of breaking any of these rules.**
 - 25.1.4. **Default privacy settings should be used. Offer clear reporting tools and develop a process to act on reports of inappropriate content and provide detailed feedback to service users on the reporting process.**
26. **Educating children, parents, and teachers about children’s safety online by clearly describing available content and corresponding parental controls or family safety settings. Make language and terminology accessible, visible, clear and relevant for all users – including children, parents and caregivers especially in relation to terms and conditions, privacy policies, safety information and reporting mechanisms. Educate customers on how to manage concerns relating to Internet usage – including spam, data theft and inappropriate conduct such as bullying and grooming.**