



PARLIAMENT OF AUSTRALIA

Parliamentary Joint Committee on Law Enforcement

Law Enforcement capabilities in relation to child exploitation

Public Hearing – 9 December 2021

Question on Notice

Cyber Security Cooperative Research Centre

1 QUESTION 1. Committee Hansard, p. 11

Ms Brown: Potentially. Again, it is a very fraught issue, and we've seen what has happened in the US with Apple. They have tried to start scanning images going through to the cloud. That was supposed to happen—it is supposed to be happening now—and it's not happening, because of the backlash.

CHAIR: The Europeans are apparently taking steps towards that. Are they having a similar backlash, do you know?

Ms Brown: I don't know. I could take that on notice and have a look, if that is helpful to you. **CHAIR:** Yes. If you could take on notice any further research around those cloud hosting aspects of it, that would be great.

Cyber Security Cooperative Research Centre Response

EU Digital Services Act

Over the past several years the European Parliament has undertaken broad consultation on the Digital Services Act (the Act), which was passed on 15 December 2021. Negotiations with EU governments are set to begin in the first half of 2022. The legislation is aimed at increasing the responsibility of certain tech businesses for the way in which they operate and connect customers to goods, services and content.

The Act “focuses on creating a safer digital space for digital users and companies, by protecting fundamental rights online. Among the core concerns tackled by this law are the trade and exchange of illegal goods, services and content online and algorithmic systems amplifying the spread of disinformation. The new rules will also help protect users from harmful and illegal content ... They will significantly improve the removal of illegal content, making sure it is done as fast as possible”.¹ The Act will operate alongside the Digital Markets Act, which establishes “criteria for identifying large online platforms as gatekeepers and will give the European Commission the power to carry out

¹ <https://www.europarl.europa.eu/news/en/headlines/society/20211209STO19124/eu-digital-markets-act-and-digital-services-act-explained>

market investigations, allowing for updating the obligations for gatekeepers when necessary and sanctioning bad behaviour”.²

The Act faced strong opposition from peak industry bodies, Connected Commerce Council (3C) and IAB Europe. The 3C, which represents both big tech and small tech businesses, said: “The proposed regulations take aim at technology companies, but absent substantial amendment they will undoubtedly disrupt how digitally-powered small businesses conduct business during the current struggle, and will hinder small business recovery that we all hope will begin very soon”.³

European Electronic Communications Code

In July 2021, the European Parliament approved derogation measures to allow internet companies to scan users' private messages for material containing child sex abuse via the European Electronics Communications Code (EECC), which came into force in December 2020.⁴

The move was criticised by the European Data Protection Supervisor (EDPS) and the Council of Europe, which expressed concerns the measures could infringe privacy and potentially represent an interference with the right to private and family life.⁵

² <https://www.europarl.europa.eu/news/en/headlines/society/20211209STO19124/eu-digital-markets-act-and-digital-services-act-explained>

³ <https://europe.connectedcouncil.org/statement-from-connected-commerce-council-president-ward-on-the-digital-services-act-and-digital-markets-act/>

⁴ <https://www.forbes.com/sites/emmawoollacott/2021/07/07/eu-passes-emergency-law-allowing-tech-companies-to-screen-messages-for-child-abuse/?sh=43dda2c71e2c>

⁵ <https://www.forbes.com/sites/emmawoollacott/2021/07/07/eu-passes-emergency-law-allowing-tech-companies-to-screen-messages-for-child-abuse/?sh=43dda2c71e2c>