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1. What laws and regulations contain legal definitions of the following terms or corresponding terms in your local jurisdiction (links to existing U.S. legal definitions are included, where relevant, as background for comparison – please include definitions of any corresponding terms in your country):

a. child or minor (18 U.S.C. 2256(1), <https://www.law.cornell.edu/uscode/text/18/2256>)

“Minor”: PRC Civil Code, Article 17: A natural person aged 18 or above is an adult. A natural person under the age of 18 is a minor. PRC Law on the Protection of Minors, Article 2: The term “minors” in this Law shall refer to citizens under the age of 18.

“Child”: Provisions on the Cyber Protection of Children’s Personal Information, Article 2: For the purpose of the Provisions, the term “children” refers to minors aged below 14 years old. Interpretations of the PRC Supreme People’s Court on Several Issues concerning the Specific Application of Law in the Trial of Criminal Cases of Abduction and Trafficking of Women and Children, Article 9 (only applicable to Article 240 and Article 241 of the PRC Criminal Law relating to crime of abducting and trafficking in women and children): Children mentioned in Article 240 and Article 241 of the Criminal Law refer to those who are under the age of fourteen. Those who are less than one year of age are considered babies and those who are more than one year of age but less than six years of age, are considered infants.

b. child sexual exploitation (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(9), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)

There is no legal definition of “child sexual exploitation” under the PRC law.

c. sexually explicit conduct (18 U.S.C. 2256(2), <https://www.law.cornell.edu/uscode/text/18/2256>)

There is no legal definition of “sexually explicit conduct” under the PRC law. “Sexual harassment” is referenced in Article 1010 of the PRC Civil Code: A person who has been sexually harassed against his will by another person through oral words, written language, images, physical acts, or the like, has the right to request the actor to bear civil liability in accordance with law. The State organs, enterprises, schools, and other organizations shall



take reasonable precautions, accept and hear complaints, investigate and handle cases, and take other like measures to prevent and stop sexual harassment conducted by a person through taking advantage of his position and power or a superior-subordinate relationship, and the like.

**d. child sexual abuse (18 U.S.C. 2243(a), <https://www.law.cornell.edu/uscode/text/18/2243>)**

There is no legal definition of “child sexual abuse” under the PRC law. “Crimes of Sexual Assault against Minors” is referenced in Article 1 of the Circular of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice on Issuing the Opinions on the Handling of Criminal Cases Involving Sexual Assault Against Minors: For the purpose of the Opinions, crimes of sexual assault against minors include the crime of raping minors, the crime of committing sexual assault against anyone to whom the actor assumes a duty of care, the crime of acting indecently against other persons or insulting women through violence, the crime of acting indecently towards children, the crime of organizing prostitution, the crime of forcing prostitution, the crime of assistance in organizing prostitution, the crime of luring other persons into or sheltering prostitution or procuring other persons to engage in prostitution, and the crime of luring girls under the age of 14 to engage in prostitution as stipulated in Article 236, Article 236a, Article 237, Article 358, and Article 359 of the Criminal Law of the People's Republic of China.

In addition, while there are (a) “Crime of Abusing guardian and ward” regulated under Article 260a of PRC Criminal Law: If any person who is responsible for guardianship or for taking care of a person who is minor, aged, sick or disabled maltreats the person under his guardianship or care and the circumstances are serious, the person who commits the maltreatment shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. Where an organization commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons directly in charge of the organization and other persons directly liable shall be punished in accordance with the provisions of the preceding paragraph; and (b) “Crime of Child Molestation” regulated under Article 237 of the PRC Criminal Law: Whoever acts indecently towards a child shall be sentenced to fixed-term imprisonment of not more than five years; if he falls under any of the following circumstances, he shall be sentenced to fixed-term imprisonment of not less than five years: (1) acting indecently towards one or more child or a child one or more times; (2) gathering a number of people to act indecently towards a child, or acting indecently towards a child in front of the public in a public place, with flagrant circumstances; (3) causing injury to a child or any other serious consequences; or (4) adopting any flagrant indecent methods or having any other flagrant circumstances, no legal definition of these two terms are provided.

**e. child pornography or child sexual abuse material (CSAM) (18 U.S.C. 2256(8), <https://www.law.cornell.edu/uscode/text/18/2256>)**

There is no legal definition of “child pornography materials” or “child sexual abuse materials” under the PRC law.

“Pornographic Materials” is defined under Article 367 of the PRC Criminal Law: For the purpose of this Law, pornographic materials refer to obscene books, periodicals, movies, video-and audio-tapes, pictures, etc. that explicitly portray sexual behavior or undisguisedly publicize pornographic materials. Scientific works on human physiology or medical



knowledge are not pornographic materials. Literary and art works of artistic value which contain erotic contents shall not be regarded as pornographic materials, and Article 9 of the Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Issues Concerning the Specific Application of Law in Hearing Criminal Cases of Producing, Reproducing, Publishing, Selling and Spreading Pornographic Electronic Information: The "other pornographic articles" as prescribed in paragraph 1 of Article 367 of the Criminal Law shall include pornographic video documents, audio documents, electronic publications, pictures, articles, short messages, which specifically describe sexual acts or blatantly displays pornography and other electronic information of internet and mobile communications and sound message of sound message stations. The electronic information relating to physical physiology and medical knowledge and sound information of sound message stations are not pornographic articles. The electronic literature and artistic works containing pornographic contents that are of artistic value shall not be regarded as pornographic articles. In addition, the term "pornography materials related to minors" is referenced in Article 52 of the PRC Law on the Protection of Minors (in Chinese): It is prohibited to produce, reproduce, release, disseminate or hold pornographic articles or network information related to minors.

- f. **computer-generated images or videos of child pornography or CSAM (created by artificial intelligence or morphed) (18 U.S.C. 2256(8) & (9), <https://www.law.cornell.edu/uscode/text/18/2256>)**

There is no legal definition to "CSAM" under the PRC law.

- g. **enticement or grooming (encouraging, persuading, or coercing a child to engage in sexual activity or to create child pornography or CSAM) (18 U.S.C. 2422(b), <https://www.law.cornell.edu/uscode/text/18/2422>)**

There is no legal definition of "enticement" or "grooming" under the PRC law.

The acts of coercion or enticement of a minor to expose the private parts of the minor's body or commit obscene acts through webcam chatting or sending videos, photos, or other means, and coercion or enticement of a minor to commit the acts mentioned in the preceding sentence through live streaming are explicitly considered crimes, as provided in Article 9 of Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Laws in the Handling of Criminal Cases Involving Rape of and Indecency Towards Minors (in Chinese): Whoever coerces or entices a minor to expose the private parts of his/her body or commit obscene acts through webcam chatting or sending videos, photos, or other means, which fall within Article 237 of the Criminal Law, shall be convicted and punished for the crime of compulsory indecency or indecency towards children. Whoever coerces or entices a minor to commit the act mentioned in the preceding paragraph through live streaming, which in the meantime falls within Articles 237 and 365 of the Criminal Law and constitutes the crime of compulsory indecency, indecency towards children, or organizing obscene performances, shall be convicted and punished based on the crime carrying a heavier punishment.

- h. **legal age of consent for sexual activity – are there laws and regulations, if so, what ages are specified?**



Age of Consent: PRC Criminal Law, Article 236: Whoever rapes a woman or has sexual intercourse with a girl under the age of 14 shall, in any of the following circumstances, be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

Age of Consent between Minors: Interpretations of the PRC Supreme People's Court on Some Issues Concerning the Specific Application of Law in the Trial of Criminal Cases Involving Minors, Article 6: If a person who has reached the age of 14 but not the age of 16 occasionally has sex with a girl under the age of 14 with a minor circumstance and which has not caused serious consequence, the act shall not be considered as a crime.

- i. **Sextortion (extorting money or sexual favors from a child by threatening to share sexually explicit, child pornography or CSAM images of the child) (Missing Children's Assistance Act of 2023, Section 2, (a)(1)(8), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)**

There is no legal definition of "Sextortion" under the PRC laws.

"Crime of extortion": PRC Criminal Law, Article 274 (no legal definition of "extortion" is provided): Whoever extorts a relatively large amount of public or private property or extorts public or private property many times shall be sentenced to imprisonment of not more than 3 years, criminal detention or control and/or a fine; if the amount involved is huge or there is any other serious circumstance, shall be sentenced to imprisonment of not less than 3 years but not more than 10 year and a fine; or if the amount involved is especially huge or there is any other especially serious circumstance, shall be sentenced to imprisonment of not less than 10 years and a fine.

"Crime of Rape by Person with Special Duties as Custody, Adoption, Nursing, Education and Medical Treatment": PRC Criminal Law, Article 236a: If a person who undertakes such special duties as custody, adoption, nursing, education and medical treatment for an underage female who has reached the age of 14 but not the age of 16 has sexual intercourse with the underage female, he shall be sentenced to fixed-term imprisonment of not more than three years; if the circumstances are flagrant, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years.

Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Laws in the Handling of Criminal Cases Involving Rape of and Indecency Towards Minors, Article 2(1): Whoever rapes a female minor who has reached the age of 14 or has sexual intercourse with a girl under the age of 14 and falls under any of the following circumstances shall be deemed to have "raped a woman or had sexual intercourse with a girl under the age of 14 with flagrant circumstances" as provided for in Item 1, Paragraph 3 of Article 236 of the Criminal Law: (1) where a person with special duties repeatedly commits rape or has sexual intercourse with a girl under the age of 14, Article 5: Where a person with a special responsibility to a female minor who has reached the age of 14 but not the age of 16 has sexual intercourse with the female minor and falls under any of the following circumstances, it shall be deemed that "the circumstances are flagrant" as provided for in Article 236 A of the Criminal Law: (1) long-term sexual relations exist; (2) sexual intercourse with multiple victims takes place; (3) the victim is caused to be infected with HIV or suffer from syphilis, gonorrhea, or other serious venereal diseases; (4) videos, photos, or other images are produced of the process of sexual intercourse or the



private parts of the victim's body, causing the images to be disseminated to more than one person to expose the victim's identity; or (5) any other circumstances that are flagrant, and Article 6: Where a person with special duties to a female minor who has reached the age of 14 forces the victim to have sexual intercourse with him by taking advantage of his dominant position or the victim's helpless situation, he shall be convicted of and punished for the crime of rape in accordance with Article 236 of the Criminal Law.

**2. Please explain any legal or regulatory requirement or recommendation for Online Platforms to undertake any of the following activities on their systems to protect children online from sexual exploitation:**

**a. review, screen, moderate, or detect content to identify child pornography or CSAM content**

The PRC Law on the Protection of Minors prohibits producing, reproducing, releasing, disseminating or holding pornographic articles or network information related to minors (Article 52).

The Regulation on the Protection of Minors in Cyberspace (the "Regulation"), effective on January 1, 2024, focuses on protecting minors from a variety of potentially harmful cyberspace activities, including (i) the production, reproduction, release, dissemination or possession of obscene or pornographic network information relating to minors and other information that promotes obscenity, pornography, violence, cults, superstition, or gambling, induces self-harm, suicide, terrorism, separatism, or extremism, or any content that endangers the physical and mental well-being of minors (Article 22 of the Regulation), and (ii) cyber-bullying, such as humiliating, slandering, threatening, or maliciously damaging the image of any minor through the use of text, images, audio, video, or other forms (Article 26 of the Regulation).

The Regulation has imposed an obligation on the network product and service providers to take effective measures to prevent users from disseminating illegal information (including information that promotes obscenity and pornography and information that may cause or induce minors to imitate unsafe behavior, violate social ethics, generate extreme emotions, develop bad habits, or otherwise impact the physical and mental well-being of minors), or otherwise immediately halt the transmission of the information, take actions (including deletion, blocking and disconnection) to prevent the spread of this information, retain the relevant records, and report the case to the cybersecurity, public security or other competent authorities, and take actions (including warning, function restrictions, service suspension, and account closure) against the users who disseminate such information (Article 29 of the Regulation).

The Regulation has also imposed an obligation on the network product and service providers to establish and improve early warning, prevention, identification, monitoring and disposal mechanism in relation to cyber-bullying, enable functions and means for minors and their guardians to save records of cyber-bullying targeting them and exercise their notification rights, and provide protection options against cyberbullying contents for minors, including blocking strangers, defining the scope of visibility for self-posted content, disabling reproduction or comments on self-posted content, and blocking information sent to them, including through the use of artificial intelligence, big data and other technical means





combined with manual review to enhance the identification and monitoring of cyberbullying content (Article 26 of the Regulation).

The Regulations also requires the network service providers, upon discovering minors' private information available online or any personal information released by minors via the Internet that involves private information, to promptly issue a reminder and take necessary measures, including halting the transmission, to prevent the spread of such information. If the network service providers discover, through the exposed minors' private information, that minors may be harmed, they are required to immediately take necessary measures to preserve relevant records and report the case to public security authorities (Article 38 of the Regulation).

In addition, platform operators with a large number of minor users or that has a significant impact on minor groups (definition or criteria of such platform operators not yet available) must periodically assess their protection mechanism, provide minor users with special online modes and zones to access to tailored products and services to minors, provide prominent reminders to minor users about their legal rights to online protection and channels for seeking remedies for cyber infringement, and compile an annual social responsibility report (Articles 20 of the Regulation).

**b. review, screen, moderate, or detect content to identify enticement, grooming, or sextortion of a child**

Please refer to the response to Question 2a.

**c. report child pornography, CSAM, enticement, grooming, or sextortion that they become aware of or are notified about on their systems to a law enforcement or government agency or nongovernmental organization**

Please refer to the response to Question 2a.

**d. remove or take down any child pornography, CSAM, enticement, grooming, or sextortion that they identify, become aware of, or are notified about**

Please refer to the response to Question 2a.

**e. review content by human moderators to screen or moderate for child pornography or CSAM**

Please refer to the response to Question 2a.

**f. remove child pornography, CSAM, enticement, grooming, or sextortion from their systems when notified of its presence by a victim, nongovernmental organization, law enforcement, or government agency**

Please refer to the response to Question 2a.

**g. use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion, including:**

- i. “Hashing technology” (<https://www.thorn.org/blog/hashing-detect-child-sex-abuse-imagery/>). Many Online Platforms hash and tag images and videos of child pornography or CSAM and then use hashing technology to scan content on their systems to detect the distribution of child pornography or CSAM online so it can be removed.
- ii. Artificial intelligence or machine learning tools to detect the presence of child pornography, CSAM, enticement, grooming, or sextortion.

Please refer to the response to Question 2a.

- h. if the applicable laws or regulations require some, but not all, Online Platforms to perform any of the above activities, describe how the differing requirements apply. For example, are differences based on the number of online users, types of services offered, etc.?

Please refer to the response to Question 2a.

**3. Are Online Platforms legally required or recommended to implement any method to verify the age of a user before allowing access to an online platform?**

Pursuant to the Regulation on the Protection of Minors in Cyberspace (the “Regulation”), network service providers that provide information publishing, instant messaging, online livestreaming services and other services to minors shall require the minors or their guardians to provide the minor’s true identity information (including the age) and verify the real identity information (Article 31).

Network service providers including online gaming, online livestreaming, online audio and video, and online social networking service providers shall establish minor modes and offer services in various usage time, duration, functions, and content for minors of different ages, and provide time management, permissions management, expenditure management, and other functions for guardians to fulfill their guardianship responsibilities (Articles 43), and shall employ measures to reasonably limit the single expenditure amount and single-day expenditure amount for minors of different ages when using their services, and must not offer paid services to minors that are not commensurate with their civil capacity (Article 44).

**4. Are Online Platforms legally required or recommended to implement any method to obtain parental consent before a child uses the services of such Online Platforms?**

There is no legal obligation to implement any method to obtain parental consent before a child uses an online platform. One relevant regulation is that the Provisions on the Cyber Protection of Children’s Personal Information where the network operators are required to obtain consent from the child’s guardian for collecting, using, transferring or disclosing any personal information of the child (Article 9).

**5. Are there legal remedies for children who have been victimized by online child sexual exploitation? This may include children who are victimized by the distribution of child pornography or CSAM imagery in which they are depicted, or children victimized by enticement, grooming or sextortion. If such legal remedies exist, do they include:**

YES



**a. The ability to stop the publication of the pornography or CSAM imagery by the Online Platform?**

Generally, if a victim has suffered economic losses as a result of a crime, the criminal shall, in addition to receiving a criminal punishment according to law, be sentenced to make compensation for the economic losses in the light of the circumstances. If a criminal who is liable for civil compensation is sentenced to a fine at the same time but his property is not sufficient to pay both the compensation and the fine, or if he is sentenced to confiscation of property at the same time, he shall first fulfill his liability for civil compensation to the victim. (Article 36 of the PRC Criminal Law). Those who have infringed upon the lawful rights and interests of minors in violation of laws and regulations, thereby causing personal, property or other damage to the minors, shall bear civil liability in accordance with the law. (Article 129 of PRC Law on the Protection of Minors; Article 58 of the Regulation on the Protection of Minors in Cyberspace).

If a minor suffering personal injury as a result of a sexual assault cannot obtain timely and effective compensation and lives in a difficult situation, the people's court, the people's procuratorate, or the public security authority may, in conjunction with the relevant departments, consider the provision of assistance to the minor victim on a priority basis. (Article 36 of the Circular on Issuing the Opinions on the Handling of Criminal Cases Involving Sexual Assault against Minors).

**b. An obligation on the part of the Online Platform to take active steps to remove the pornography or other imagery from their servers?**

**c. An ability to get an injunction or other court order against the Online Platform to stop them from publishing the pornography or imagery?**

**d. A protective order or other court order that prohibits the person who posts the pornography or imagery from doing so in the future on the same or other Online Platform?**

**e. the ability to seek financial damages or any sort of monetary recovery from an offender who has shared the child's image or video, either in a civil or a criminal proceeding?**

**f. the ability to seek any other forms of victim compensation/recovery/services provided for under the law and/or by a government-funded source?**

**g. notification to a victim when an offender is arrested for distributing child pornography or**



CSAM in which the child is depicted?

6. “Safety by Design” is defined as tools or processes that are built into an Online Platform to protect children by making it easier for the relevant Online Platform to detect or prevent the distribution of child pornography or CSAM.

a. Are Online Platforms legally required to incorporate “Safety by Design” into their systems?

No. There is no legal requirement for online platforms to incorporate “safety by design” into their systems.

i. If so, must these steps be taken before the launch of an Online Platform?

Not applicable.

ii. If so, if an Online Platform has already been in public use, when must they have incorporated “Safety by Design” measures?

Not applicable.

iii. For each of 6(a)(i) or (ii) above, please describe the legal requirement or recommendation.

Not applicable.

b. Please include information about the parameters for monitoring, management, and enforcement of any legal or regulatory requirements for the Online Platform’s incorporation of “Safety by Design”?

Regulation on the Protection of Minors in Cyberspace (the “Regulation”) requires manufacturers of smart terminal products specifically intended for use by minors to install network protection software for minors before shipping out products that effectively identifies illegal information and any information that may impact the physical and mental well-being of minors (including information that promotes obscenity and pornography), or prominently informing users of the installation channel and method of such minor network protection software (Article 19).

For the purpose of the Regulation, “smart terminal product” refers to a network terminal product such as a mobile phone or computer that is capable of assessing the Internet, is equipped with an operating system, and can be installed by users themselves with application software (Article 59).

In addition, the Regulation requires schools, communities, libraries, cultural centers, youth activities centers, and other facilities offering internet access services to minors, to ensure the provision of internet guidance and a safe and healthy online environment to minors through appointing professional staff, recruiting volunteers, or other means, and by installing cyber protection software for minors or implementing other safety protection measures



(Article 15).