

Legal questionnaire completed by LAB Partners • March 2024

This document contains responses from the law firm listed above to a questionnaire distributed by NCMEC (questions are in **bold text**). Responses to the questionnaire may be limited to officially enacted legislation; it is possible that actual practice or enforcement of the law varies, and relevant court rulings or case law may also differ from legislative text. Responses have been reformatted and may have been slightly edited for clarity. Furthermore, responses may include commentary, paraphrasing, and unofficial translations of source material (e.g., national legislation) originally produced in other languages. Only official source documents in official languages should be relied upon as legally binding. This document serves to inform further research and does not constitute legal advice from NCMEC or the listed law firm.

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>)**

Full citation:

Article 2, paragraph 1, of the Act on the Protection of Children and Youth Against Sex Offenses

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Act on the Protection of Children and Youth Against Sex Offenses

Article 2 (Definitions)

The terms used in this Act are defined as follows:

1. The term "children or youth" means persons under 19 years of age: Provided, That persons for whom the first day of January of the year in which they reach 19 years of age has arrived shall be excluded;

Hyperlink to the statute: Act on the Protection of Children and Youth Against Sex Offenses
<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%95%84%EB%8F%99%E3%86%8D%EC%B2%AD%EC%86%8C%EB%85%84%EC%9D%98%EC%84%B1%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>

- 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>)**

Full citation:

Article 2, paragraph 5, of the Act on the Protection of Children and Youth Against Sex Offenses



Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Act on the Protection of Children and Youth Against Sex Offenses

Article 2 (Definitions)

The terms used in this Act are defined as follows:

5. The term "child or youth sexual exploitation materials" means depiction of children or youth, or persons or representations that can be obviously perceived as children or youth, doing any act defined in any item of subparagraph 4 or engaging in any other sexual act, in the form of a film, video, game software, or picture, image, etc. displayed on computers, or other communications media;

Hyperlink to the statute: Act on the Protection of Children and Youth Against Sex Offenses
<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%95%84%EB%8F%99%E3%86%8D%EC%B2%AD%EC%86%8C%EB%85%84%EC%9D%98%EC%84%B1%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>

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

There is no legal provision defining "sexually explicit conduct". The Supreme Court has held that "sexually explicit conduct" is interpreted as "conduct which would stimulate sexual desires of an average ordinary person, thereby arousing sexual excitement and triggering sexual shame, which harms sexual morality" (Supreme Court Decision in Case No. 2003Do6514 dated March 12, 2004).

Hyperlink to the legal authority: Supreme Court Decision in Case No. 2003Do6514 dated March 12, 2004
<https://casenote.kr/%EB%8C%80%EB%B2%95%EC%9B%90/2003%EB%8F%846514>

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

The term "child abuse" is defined in Article 3, paragraph 7, of the Child Welfare Act.

Full citation:

Article 3, paragraph 7, of the Child Welfare Act

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Child Welfare Act

Article 3 (Definitions)

The terms used in this Act are defined as follows:



7. The term "child abuse" means that any adult, including a child's protector, does harm to the child's health or welfare or commits physical, mental, or sexual violence, or cruel acts that are likely to impede the child's normal growth, and the child's protector abandons or neglects the child;

Hyperlink to the statute: Child Welfare Act

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%95%84%EB%8F%99%EB%B3%B5%EC%A7%80%EB%B2%95>

There is no legal provision defining "child sexual abuse". As similar terms, "sex offenses against children or youth" and "sexual violence against children or youth" are defined under Article 2, paragraphs 2 and 3 of the Act on the Protection of Children and Youth Against Sex Offenses.

Full citation:

Article 2, paragraphs 2 and 3 of the Act on the Protection of Children and Youth Against Sex Offenses

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Act on the Protection of Children and Youth Against Sex Offenses

Article 2 (Definitions)

The terms used in this Act are defined as follows:

2. The term "sex offenses against children or youth" means any of the following offenses:
 - (a) Offenses under Articles 7, 7-2, 8, 8-2, 9 through 15, and 15-2;
 - (b) Offenses against children or youth defined in Articles 3 through 15 of the Act on Special Cases concerning the Punishment of Sexual Crimes;
 - (c) Offenses against children or youth defined in Articles 297, 297-2, 298 through 301, 301-2, 302, 303, 305, 339, and 342 (limited to an attempt to commit a crime referred to in Article 339) of the Criminal Act;
 - (d) Offenses against children or youth defined in subparagraph 2 of Article 17 of the Child Welfare Act;
3. The term "sexual violence against children or youth" means sex offenses against children or youth, excluding those defined in Articles 11 through 15 and 15-2;

Hyperlink to the statute: Act on the Protection of Children and Youth Against Sex Offenses

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%95%84%EB%8F%99%E3%86%8D%EC%B2%AD%EC%86%8C%EB%85%84%EC%9D%98%EC%84%B1%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>

e. child pornography or child sexual abuse material (CSAM) (18 U.S.C. 2256(8)),



<https://www.law.cornell.edu/uscode/text/18/2256>)

Full citation:

Article 2, paragraph 5, of the Act on the Protection of Children and Youth Against Sex Offenses

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Act on the Protection of Children and Youth Against Sex Offenses

Article 2 (Definitions)

The terms used in this Act are defined as follows:

5. The term "child or youth sexual exploitation materials" means depiction of children or youth, or persons or representations that can be obviously perceived as children or youth, doing any act defined in any item of subparagraph 4 or engaging in any other sexual act, in the form of a film, video, game software, or picture, image, etc. displayed on computers, or other communications media;

Hyperlink to the statute: Act on the Protection of Children and Youth Against Sex Offenses

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%95%84%EB%8F%99%E3%86%8D%EC%B2%AD%EC%86%8C%EB%85%84%EC%9D%98%EC%84%B1%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>

- 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 provision defining "computer-generated images or videos of child pornography or CSAM". The term "child or youth sexual exploitation materials" is a more general term that would include "computer-generated images or videos of child pornography or CSAM", and it is defined in the Act on the Protection of Children and Youth Against Sex Offenses.

Full citation:

Article 2, paragraph 5, of the Act on the Protection of Children and Youth Against Sex Offenses

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Act on the Protection of Children and Youth Against Sex Offenses

Article 2 (Definitions)

The terms used in this Act are defined as follows:



5. The term "child or youth sexual exploitation materials" means depiction of children or youth, or persons or representations that can be obviously perceived as children or youth, doing any act defined in any item of subparagraph 4 or engaging in any other sexual act, in the form of a film, video, game software, or picture, image, etc. displayed on computers, or other communications media;

Hyperlink to the statute: Act on the Protection of Children and Youth Against Sex Offenses
<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%95%84%EB%8F%99%E3%86%8D%EC%B2%AD%EC%86%8C%EB%85%84%EC%9D%98%EC%84%B1%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>

- 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 provision defining “enticement or grooming” specifically to create child pornography or CSAM.

However, Article 15-2, paragraph 1, of the Act on the Protection of Children and Youth Against Sex Offenses prohibits and punishes the act of enticing a child to engage in sexual activities.

Full citation:

Article 15-2, paragraph 1; Article 2, paragraph 4, of the Act on the Protection of Children and Youth Against Sex Offenses

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Act on the Protection of Children and Youth Against Sex Offenses

Article 15-2 (Conversations for Purpose of Sexual Exploitation of Children or Youth)

- (1) A person 19 years of age or older who engages in any of the following acts against a child or youth through information or communications networks for the purpose of sexual exploitation shall be punished by imprisonment with labor for up to three years or by a fine not exceeding 30 million won:
 1. Continuously or repeatedly carrying on any conversation that may induce sexual desire or humiliation or disgust, or continuously or repeatedly having a child or youth participate in such conversations;
 2. Enticing or encouraging a child or youth to engage in an act specified in any item of subparagraph 4 of Article 2.

Article 2 (Definitions)

The terms used in this Act are defined as follows:

4. The term "buying sex from a child or youth" means doing any of the following acts to a child or youth or compelling a child or youth to do such act, in return for



offering or promising money, valuables or other property gains, services or favors to those who arrange to buy sex from a child or youth, or those who practically protect and supervise the child or youth, or any third person:

- (a) Sexual intercourse;
- (b) Pseudo-sexual intercourse using part of the body, such as the mouth and anus, or implements;
- (c) Contacting or exposing all or part of the body, which causes sexual humiliation or repugnance of ordinary people;
- (d) Masturbation;

Hyperlink to the statute: Act on the Protection of Children and Youth Against Sex Offenses

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%95%84%EB%8F%99%E3%86%8D%EC%B2%AD%EC%86%8C%EB%85%84%EC%9D%98%EC%84%B1%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>

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

The legal age of consent for sexual activity is 17 years. However, where both participants in sexual activity are ages 14 or above and below the age of 19, neither participant will be subject to any criminal liability.

Full citation:

Article 305, paragraphs 1 and 2, of the Criminal Act

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Criminal Act

Article 305 (Sexual Intercourse or Indecent Acts with Minor)

- (1) A person who has sexual intercourse with or commits an indecent act on another who is under 13 years of age shall be punished under Article 297, 297-2, 298, 301, or 301-2.
- (2) A person 19 years of age or older who has sexual intercourse with or commits an indecent act on another who is 13 years of age or older but under 16 years of age shall be punished under Article 297, 297-2, 298, 301, or 301-2.

Hyperlink to the statute: Criminal Act

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%ED%98%95%EB%B2%95/>

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 provision defining “sextortion”. However, similar types of conduct are prohibited under Articles 14 and 16 of the Act on the Protection of Children and Youth Against Sex Offenses.

Full citation:

Articles 14 and 16 of the Act on the Protection of Children and Youth Against Sex Offenses

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Act on the Protection of Children and Youth Against Sex Offenses

Article 14 (Coercive Conduct against Children or Youth)

- (1) Any of the following persons shall be punished by imprisonment with labor for a limited term of at least five years:
 1. A person who compels a child or youth to become the counterpart in buying sex of a child or youth by threat or assault;
 2. A person who compels a child or youth to become the counterpart in buying sex of a child or youth by placing them into a troubling situation by means of advanced payment or other debt, or by a deceptive scheme or force;
 3. A person who compels a child or youth to become the counterpart in buying sex of a child or youth by taking advantage of the child’s or youth’s status under his or her protection or supervision due to his or her duties, employment, or any other relationship;
 4. A person who, for business purposes, entices or solicits a child or youth to become the counterpart in buying sex from a child or youth.
- (2) When a person who commits an offense prescribed in paragraph (1) 1 through 3 receives all or part of the consideration therefor, or demands or promises such consideration, he or she shall be punished by imprisonment with labor for a limited term of at least seven years.
- (3) Any person who entices or solicits a person to become the counterpart in buying sex of a child or youth shall be punished by imprisonment with labor for up to seven years or by a fine not exceeding 50 million won.
- (4) Any person who attempts to commit an offense prescribed in paragraphs (1) and (2) shall be punished.

Article 16 (Forceful Demand to Victims)

Any person who coerces a victim of a sex offense against a child or youth or a guardian defined in subparagraph 3 of Article 3 of the Child Welfare Act to reach a settlement by threat or assault shall be punished by imprisonment with labor for up to seven years.



Hyperlink to the statute: Act on the Protection of Children and Youth Against Sex Offenses
<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%95%84%EB%8F%99%E3%86%8D%EC%B2%AD%EC%86%8C%EB%85%84%EC%9D%98%EC%84%B1%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>

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

Certain information and communications services providers are required to designate a person responsible for protection of youths, under Article 42-3 of the Act on the Promotion of Information and Communications Network Utilization and Information Protection (Network Act). Further, certain information and communications services providers are required to designate a person responsible for preventing the circulation of illegally filmed materials under Article 44-9 of the Network Act.

Distribution of illegal filmed materials is also prohibited under Article 22-5 of the Telecommunications Business Act.

Full citation:

Articles 42-3 and 44-9 of the Act on the Promotion of Information and Communications Network Utilization and Information Protection

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%95%EB%B3%B4%ED%86%B5%EC%8B%A0%EB%A7%9D%EC%9D%B4%EC%9A%A9%EC%B4%89%EC%A7%84%EB%B0%8F%EC%A0%95%EB%B3%B4%EB%B3%B4%ED%98%B8%EB%93%B1%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>

Full citation: Article 22-5, paragraphs 1 and 2, of the Telecommunications Business Act

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%84%EA%B8%B0%ED%86%B5%EC%8B%A0%EC%82%AC%EC%97%85%EB%B2%95>

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

Our response is the same as the response given to Question 2.a. Please see the provisions under Articles 42-3 and 44-9 of the Network Act and Article 22-5 of the Telecommunications Business Act (see the text of the provisions in our response to Question 2.a.).

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



There is no legal or regulatory requirement that would impose reporting obligations on Online Platforms.

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

Online Platforms are required by law to delete child pornography and similar content immediately (regardless of whether it became aware of the content on its own or was notified of the content), pursuant to Article 22-5, paragraph 1, subparagraph 3, of the Telecommunications Business Act and Article 44-9 of the Network Act (see the text of the provisions in our response to Question 2.a.).

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

There is no legal or regulatory requirement that would impose obligations on Online Platforms to have human moderators review content to monitor for child pornography or CSAM.

- 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**

Online Platforms are required by law to delete child pornography and similar content immediately (regardless of whether it became aware of the content on its own or was notified of the content), pursuant to Article 22-5, paragraph 1, subparagraph 3, of the Telecommunications Business Act (see the text of the provisions in our response to Question 2.a.).

In addition, certain information and communications services providers are required to prevent the circulation of illegally filmed materials under Article 44-9 of the Network Act (see the text of the provisions in our response to Question 2.a.).

- 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 following legal provisions.

Full citation:

Articles 30-6, paragraphs 2 and 3, of the Enforcement Decree of the Telecommunications Business Act

Hyperlink to the statute:



<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%84%EA%B8%B0%ED%86%B5%EC%8B%A0%EC%82%AC%EC%97%85%EB%B2%95%EC%8B%9C%ED%96%89%EB%A0%B9>

Full citation:

Articles 4~7 of the Standard for Technical and Managerial Measures for Prevention of the Circulation of Illegally Filmed Materials, Etc.

Hyperlink to the statute:

<https://www.law.go.kr/LSW/conAdmrulByLsPop.do?&lsiSeq=252251&joNo=0030&joBrNo=06&datClsCd=010102&dguBun=DEG&lnkText=%25EB%25B0%25A9%25EC%2586%25A1%25ED%2586%25B5%25EC%258B%25A0%25EC%259C%2584%25EC%259B%2590%25ED%259A%258C%25EA%25B0%2580%2520%25EC%25A0%2595%25ED%2595%2598%25EC%2597%25AC%2520%25EA%25B3%25A0%25EC%258B%259C%25ED%2595%259C%25EB%258B%25A4&admRulPttnnfSeq=25083>

- 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.?

The legal requirement varies depending on the amount of relevant sales and the average number of users per day. The legal obligation to implement technical and managerial measures to prevent circulation of illegal filmed materials will apply to a person who generated at least one billion won for the preceding year, or had an average number of at least 100,000 users per day for three months immediately before the end of the preceding year.

The same thresholds also apply to certain information and communications services providers which are required to prevent the circulation of illegally filmed materials under Article 44-9, paragraph 1, of the Network Act (see the text of the provisions in our response to Question 2.a.). Such thresholds are set out in Article 35-2 of the Enforcement Decree of the Network Act.

Full citation:

Article 30-6, paragraph 1, of the Enforcement Decree of the Telecommunications Business Act

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%84%EA%B8%B0%ED%86%B5%EC%8B%A0%EC%82%AC%EC%97%85%EB%B2%95%EC%8B%9C%ED%96%89%EB%A0%B9>

Full citation:

Article 35-2 of the Enforcement Decree of the Act on the Promotion of Information and Communications Network Utilization and Information Protection

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%95%EB%B3%B4%ED%86%B5%EC%8B%A0%EB%A7%9D%EC%9D%B4%EC%9A%A9%EC%B4%89%EC%A7%84%EB%B0%8F%EC%A0%95%EB%B3%B4%EB%B3%B4%ED%98%B8%EB%93%B1%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0%EC%8B%9C%ED%96%89%EB%A0%B9Protection>

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?

Online Platforms are legally required to verify the age and identify of a user who intends to sell, lend or distribute a media product which is harmful to youth, or intends to provide such media product to a person for viewing, watching, or using it, pursuant to Article 16 of the Youth Protection Act. The specific method for verifying the age of a user is set out in Article 17 of the Enforcement Decree of the Youth Protection Act. In respect of a media product which is harmful to youth, all Online Platforms are required to comply with Article 16 of the Youth Protection Act and Article 17 of the Enforcement Decree of the Youth Protection Act.

Full citation:

Article 16 of the Youth Protection Act

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%B2%AD%EC%86%8C%EB%85%84%EB%B3%B4%ED%98%B8%EB%B2%95/>

Full citation:

Article 17 of the Enforcement Decree of the Youth Protection Act

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%B2%AD%EC%86%8C%EB%85%84%EB%B3%B4%ED%98%B8%EB%B2%95%EC%8B%9C%ED%96%89%EB%A0%B9/>

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 provision that would require Online Platforms to obtain parental consent before a child signs up to use the services of Online Platforms.

However, if an Online Platform processes (meaning collection, retention, use, etc.) personal information of a child, it is required under Article 22-2 of the Personal Information Protection Act to obtain the consent of the legal representative of the child. Therefore, Online Platforms that process personal information are required to obtain parental consent before a child signs up to use the services.

Full citation:

Article 22-2 of the Personal Information Protection Act

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Personal Information Protection Act

Article 22-2 (Protection of Children's Personal Information)

- (1) When the consent of a child under 14 years of age is required to process the personal information of such child, a personal information controller shall obtain the consent of his or her legal representative and confirm whether the legal representative has granted consent.

- (2) Notwithstanding paragraph (1), information prescribed by Presidential Decree as minimum information necessary for obtaining the consent of a legal representative may be collected directly from the relevant child without consent of the legal representative.
- (3) A personal information controller shall, when notifying a child under 14 years of age of matters relating to the processing of personal information, use such a form and such a clear and plain language that the child can easily understand.
- (4) Except as provided in paragraphs (1) through (3), matters necessary for the methods of obtaining consent and of obtaining confirmation of consent, etc., shall be prescribed by Presidential Decree.

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EA%B0%9C%EC%9D%B8%EC%A0%95%EB%B3%B4%EB%B3%B4%ED%98%B8%EB%B2%95/>

- 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?**

Yes, the remedies include the ability to stop the publication of the pornography or CSAM imagery by the Online Platform.

Full citation:

Article 22-5, paragraph 1, subparagraph 3, of the Telecommunications Business Act

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%84%EA%B8%B0%ED%86%B5%EC%8B%A0%EC%82%AC%EC%97%85%EB%B2%95/>

Full citation:

Article 44-9 of the Act on the Promotion of Information and Communications Network Utilization and Information Protection

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%95%EB%B3%B4%ED%86%B5%EC%8B%A0%EB%A7%9D%EC%9D%B4%EC%9A%A9%EC%B4%89%EC%A7%84%EB%B0%8F%EC%A0%95%EB%B3%B4%EB%B3%B4%ED%98%B8%EB%93%B1%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0/>

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



As explained in the response to Question 5.a. above, Online Platforms are required by law to delete, immediately, child pornography and similar content that is made available and circulated through the information and communications network that they operate or manage (regardless of whether they became aware of the content on their own or were notified of the content), pursuant to Article 22-5, paragraph 1, subparagraph 3, of the Telecommunications Business Act.

A violation of such obligation to delete child pornography may result in a penalty surcharge, a suspension or closure of the business, and any other corrective actions. Specifically, under the Telecommunications Business Act (i) the Korea Communications Commission may impose a penalty surcharge in an amount not exceeding 3/100 of the sales prescribed by Presidential Decree on a person who intentionally fails to take measures necessary for the prevention of circulation, such as deleting illegal filmed materials, etc. and blocking access thereto as required under Article 22-5 (1) of the Telecommunications Business Act (Article 22-6); (ii) a value-added telecommunications business operator may be ordered to close or suspend a part or all of its business if it has failed to take measures necessary for the prevention of circulation, such as deleting illegal filmed materials, etc. or blocking access, or if it has failed to take technical and managerial measures (Article 27, paragraph 1, subparagraphs 3-4 and 3-5); and (iii) a violation may result in other corrective measures (Article 92, paragraph 1), punishment by imprisonment with labor for not more than three years or by a fine not exceeding 100 million won (Article 95-2, subparagraph 1-2), or an administrative fine (Article 104, paragraph 1, subparagraph 3).

Full citation:

Article 22-6, paragraph 1; Article 27, paragraph 1, subparagraphs 3-4 and 3-5; Article 92, paragraph 1; Article 95-2, subparagraph 1-2; Article 104, paragraph 1, subparagraph 3 of the Telecommunications and Business Act

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%84%EA%B8%B0%ED%86%B5%EC%8B%A0%EC%82%AC%EC%97%85%EB%B2%95>

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

Please refer to the response given to Question 5.b.

Although there is no legal provision on the issue, a victim of the pornography or imagery may apply to the court for a preliminary injunction to delete or stop the posting or publication of the illegal 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?

There is no legal provision that would prohibit the person who posts the pornography or imagery from doing so in the future on the same or other Online Platform. However, the Act on the Protection of Children and Youth Against Sex Offenses provides for protection measures such as probation against the offender, separating or evicting the offender from



the victim, and prohibiting the offender from approaching the victim (Article 41). Further, where a person is found to have committed a sex offense against a child or youth under a final and unappealable court judgment, such an offender will be made subject to employment restrictions (Articles 49 and 56 of the Act on the Protection of Children and Youth Against Sex Offenses).

Full citation:

Article 41; Article 49, paragraph 1; Article 56, paragraph 1 of the Act on the Protection of Children and Youth Against Sex Offenses

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%95%84%EB%8F%99%E3%86%8D%EC%B2%AD%EC%86%8C%EB%85%84%EC%9D%98%EC%84%B1%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>

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?

A child and the child's parent or other legal representative may seek civil damages from an offender who has shared the child's image or video, on the basis of Article 750 of the Civil Act, which provides that any person who causes losses to or inflicts injuries on another person by an unlawful act, intentionally or negligently, shall be bound to make compensation for damages arising therefrom.

Full citation:

Article 750 of the Civil Act

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Civil Act

Article 750 (Definition of Torts)

Any person who causes losses to or inflicts injuries on another person by an unlawful act, intentionally or negligently, shall be bound to make compensation for damages arising therefrom.

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EB%AF%BC%EB%B2%95>

Furthermore, a victim of a crime which is the subject of a criminal proceeding may recover damages caused by the perpetrator (without having to initiate a separate civil action) pursuant to a court's sua sponte order for damages or upon the victim's request for damages (Article 25 of the Act on Special Cases Concerning Expedition of Legal Proceedings).

Full citation:

Article 25, paragraph 1, of the Act on Special Cases Concerning Expedition of Legal Proceedings

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Act on Special Cases Concerning Expedition of Legal Proceedings

Article 25 (Order for Compensation)

- (1) When a conviction is to be declared in the procedures of criminal trial of the first instance or the second instance against any of the following crimes, the court may, either ex officio or upon request of the victim or his/her successor (hereinafter referred to as "aggrieved person"), order compensation for direct physical damage, medical expenses, and solatium that has occurred due to the criminal acts of the accused case:
1. Crimes stipulated in Articles 257 (1), 258 (1) and (2), 258-2 (1) (limited to crimes under Article 257 (1)) and (2) (limited to crimes under Article 258 (1) and (2)), 259 (1), and 262 (except the crime of death or injury resulting from violence to a lineal ascendant), Chapters 26, 32 (except for such crime under Article 304), 38 through 40, and 42 of the Criminal Act;
 2. Crimes stipulated in Articles 10 through 14, and 15 (except attempted crimes referred to in Articles 3 through 9) under the Act on Special Cases concerning the Punishment, etc. of Sexual Crimes) and crimes stipulated in Articles 12 and 14 under the Act on Protection of Children and Juveniles against Sexual Abuse;
 3. An aggravated punishment of a crime referred to in subparagraph 1 and an attempted crime in cases of punishing an attempted crime of such crime.

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%86%8C%EC%86%A1%EC%B4%89%EC%A7%84%EB%93%B1%EC%97%90%EA%B4%80%ED%95%9C%ED%8A%B9%EB%A1%80%EB%B2%95>

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?

For child victims of sexual abuse, under the Act on the Protection of Children and Youth Against Sex Offenses, (i) youth support facilities, youth counseling and welfare centers, and youth shelters support the protection and self-reliance of children and youth who are victimized through commercial sex acts, and the facilities also connect with and entrust such children and youth who require long-term treatment, to other institutions. (Article 45); (ii) counseling and education is provided (Article 46); and (iii) the Minister of Gender Equality and Family and the local governments such as the mayors of cities and provinces, may operate sex education institutions and support centers for protection of such children and youth, and the national government shall subsidize some of the expenses of such support centers (Articles 47 and 47-2).

Full citation:



Article 45; Article 46; Article 47-2 of the Act on the Protection of Children and Youth Against Sex Offenses

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%95%84%EB%8F%99%E3%86%8D%EC%B2%AD%EC%86%8C%EB%85%84%EC%9D%98%EC%84%B1%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>

g. notification to a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted?

There is no legal provision requiring notification to a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted. However, pursuant to the notification provisions of the Criminal Procedure Act and the Rules of Police Investigation, a victim is notified when an offender is arrested.

According to the Rules of Police Investigation, a judicial police officer shall notify the complainant, accuser, victim, or the victim's legal representative of the progress of the investigation within seven days from (i) the date of commencement of the investigation based on the report, complaint, accusation, petition, or request and (ii) the day immediately following each month from the date of commencement of the investigation (Article 11, paragraph 1, of the Rules of Police Investigation). Under the Criminal Procedure Act, a prosecutor shall, upon request from a victim of a crime or the victim's legal representative, provide notification regarding whether the indictment has been instituted for the crime, the time and place of trial, the result of trial, and regarding detention of the criminal suspect or the criminal defendant such as whether they are detained or released (Article 259-2 of the Criminal Procedure Act).

Full citation:

Article 11, paragraphs 1 and 2, of the Rules of Police Investigation

Hyperlink to the Rules:

[https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EA%B2%BD%EC%B0%B0%EC%88%98%EC%82%AC%EA%B7%9C%EC%B9%99/\(20220104,305,20220104\)](https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EA%B2%BD%EC%B0%B0%EC%88%98%EC%82%AC%EA%B7%9C%EC%B9%99/(20220104,305,20220104))

Full citation:

Article 259-2 of the Criminal Procedure Act

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%ED%98%95%EC%82%AC%EC%86%8C%EC%86%A1%EB%B2%95>

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?

Online Platforms are required under Article 22-5 of the Telecommunications Business Act to



incorporate technical and managerial measures to prevent the circulation of illegal filmed materials. Pursuant to the provision, Online Platforms are required to take such technical and managerial measures as set out in Article 30-6 of the Enforcement Decree of the Telecommunications Business Act.

Full citation:

Article 30-6, paragraphs 2~5, of the Enforcement Decree of the Telecommunications Business Act

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%84%EA%B8%B0%ED%86%B5%EC%8B%A0%EC%82%AC%EC%97%85%EB%B2%95%EC%8B%9C%ED%96%89%EB%A0%B9>

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

No. An existing Online Platform is required to incorporate technical and managerial measures to prevent the circulation of illegal filmed materials if its sales generated from the relevant services in the preceding year were at least one billion won or if it had at least 100,000 users per day on average for three months immediately before the end of the preceding year. However, these thresholds would not apply to an Online Platform which is newly launched.

Full citation:

Article 30-6, paragraph 1, of the Enforcement Decree of the Telecommunications Business Act

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Enforcement Decree of the Telecommunications Business Act

Article 30-6 (Technical and Managerial Measures to Prevent Circulation of Illegal Filmed Materials)

(1) "Business operator obliged to take measures prescribed by Presidential Decree" in Article 22-5 (2) of the Act means any of the following business operators obliged to take measures (hereinafter referred to as "business operator obliged to take preliminary measures"):

1. A special value-added telecommunications business operator who falls under subparagraph 14 (a) of Article 2 of the Act;
2. A person reporting the value-added telecommunications business under Article 22 (1) of the Act (including a person who falls under any of the subparagraphs of paragraph (4) of the same Article), who meets any of the following requirements:
 - (a) A person whose sales from the value-added telecommunications services for the preceding year

- (referring to the preceding business year, in cases of a corporation) are at least one billion won and who provides value-added telecommunications services
- (b) A person who has an average number of at least 100,000 users per day for three months immediately before the end of the preceding year and who provides value-added telecommunications services specified in

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%84%EA%B8%B0%ED%86%B5%EC%8B%A0%EC%82%AC%EC%97%85%EB%B2%95%EC%8B%9C%ED%96%89%EB%A0%B9>

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

As discussed in our response to Question 6.a.i., an existing Online Platform is required to incorporate technical and managerial measures to prevent the circulation of illegal filmed materials if its sales generated from the relevant services in the preceding year were at least one billion won or it had at least 100,000 users per day on average for three months immediately before the end of the preceding year.

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

The technical and managerial measures that an Online Platform is required to implement are set out in Article 30-6, paragraph 2, of the Enforcement Decree of the Telecommunications Business Act.

Full citation: Article 30-6, paragraph 2, of the Enforcement Decree of the Telecommunications Business Act

Unofficial English translation of cited provision (provided by the Korean Law Information Center):

Enforcement Decree of the Telecommunications Business Act

Article 30-6 (Technical and Managerial Measures to Prevent Circulation of Illegal Filmed Materials)

(2) "Technical and managerial measures prescribed by Presidential Decree" in Article 22-5 (2) of the Act means the following measures:

1. Measures to enable a person who discovers information suspected to be illegal filmed materials, etc. to constantly file a report on, or a request for deletion of, such information with a business operator obliged to take preliminary measures through the information and communication network;
2. Measures to restrict the transmission of search results, such as

- deleting the search results by identifying whether the information that users intend to search corresponds to illegal filmed materials, etc. for which a report or request for deletion was filed pursuant to Article 22-5 (1) of the Act, by means of comparison of a search word entered by the users and the title, name, etc. of the illegal filmed materials, etc.;
3. Measures to restrict the publication of the relevant information after analyzing the characteristics of the information that users intend to publish and comparing and identifying whether the information corresponds to illegal filmed materials, etc. deliberated and decided by the Korea Communications Standards Commission; in such cases, any of the following technologies shall be used for comparison and identification:
 - (a) Technologies developed and provided by the State agencies;
 - (b) Technologies that have passed a performance assessment conducted within the last two years by the institutions and organizations designated and publicly notified by the Korea Communications Commission;
 4. Measures to inform users in advance, through the information and communications network, that where they circulate illegal filmed materials, etc., measures necessary to prevent the circulation of the relevant information, such as deleting the information and blocking access thereto, under Article 22-5 (1) of the Act shall be taken and they may be punished under the relevant statutes or regulations.

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%84%EA%B8%B0%ED%86%B5%EC%8B%A0%EC%82%AC%EC%97%85%EB%B2%95%EC%8B%9C%ED%96%89%EB%A0%B9>

- 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"?**

Full citation:

Article 22-5, paragraphs 4 and 5; Article 51 of the Telecommunications Business Act

Hyperlink to the statute:

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%84%EA%B8%B0%ED%86%B5%EC%8B%A0%EC%82%AC%EC%97%85%EB%B2%95>