



GIBRALTAR REGULATORY
AUTHORITY

Code for Internet Service Providers on websites containing Child Pornography.

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1. Legislative basis

The Gibraltar Regulatory Authority (“the Authority”) has developed a code for Internet Service Providers (“ISPs”) on how to manage and act on reports of websites or webpages containing Child Pornography in accordance with the provisions set out in Regulation 7 of the Combating Child Pornography Regulations 2013 (“the Regulations”).

2. Jurisdiction

The code shall apply to all ISPs authorised by the Authority to provide internet services to subscribers in Gibraltar.

3. Definitions

Child: means a person under 18 years of age, and a person whose age cannot be ascertained and there are reasons to believe that the person is under 18 years of age.

Child Pornography: means any material that visually depicts a child engaged in real or simulated sexually explicit conduct, any depiction of the sexual organs of a child for primarily sexual purposes, any material that visually depicts any person appearing to be a child engaged in real or simulated sexually explicit conduct or any depiction of the sexual organs of any person appearing to be a child, for primarily sexual purposes or any realistic images of a child engaged in sexually explicit conduct or realistic images of the sexual organs of a child, for primarily sexual purposes.

4. General

The purpose of this code is to establish helpful guidelines for the Gibraltar-based ISPs on how to handle reports about websites containing images of child pornography. The code shall also ensure that ISPs act on these reports in a timely manner and that the necessary information is passed on to the Authority.

The effective date of this code is the 18th December 2013.

5. Reporting Facility

ISPs should establish a reporting facility which will allow their customers to report the details of a webpage which may contain Child Pornography.

This reporting facility should be;

- a) simple and easy to use,
- b) effective,
- c) available online,
- d) able to ensure the reporting party's anonymity and
- e) checked each working day.

Furthermore, ISPs may wish to provide the reporting person with a brief description of the outcome of the case which they reported.

6. Nomination of Reporting Facility Administrator

Due to the sensitive nature of the reports, ISPs should nominate an appropriate person(s) to handle these.

In order to properly administer the reporting facility, ISPs should ensure that a nominated person is always available to access the reporting facility.

7. Informing the Authority

ISPs have a duty, upon receipt of information that a web page contains child pornography, inform the Authority.

It is the Authority's duty to act on reports in a responsible and timely manner as well as inform the relevant law enforcement agencies or instruct ISPs to block a reported webpage. However, in order for this to occur, ISPs must ensure that the Authority is informed promptly.

When reporting to the Authority, ISPs must provide all the information at their disposal, including, but not limited to;

- a) page owner's details
- b) page owner's local physical address

It is important to treat reports of non-photographic (text, cartoon or computer generated) child sex abuse as being of equal severity as reports of a photographic nature.

All reports of Child Pornography must be sent to the Authority at the following email address:

ispreports@gra.gi

8. Co-operation between ISPs

The Authority will act as the agency which receives reports from ISPs of webpages containing Child Pornography. Although a flow has been established for such reports, the Authority is aware that circumstances may arise where an ISP may be made aware of a suspected Child Pornography webpage being hosted on another ISP's servers. In this scenario, the Authority would expect sensitive co-operation between ISPs.

9. Compliance

Failure to comply with the provisions of the Regulations as well as this code may result in the Authority serving a Notice requiring the ISP to pay a financial penalty of up to 5% of relevant turnover of the last complete accounting period.