



(Via Email)

10th December 2021

Minister Catherine Martin TD,
Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media,
Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media,
23 Kildare Street,
Dublin 2,
D02 TD30.

RE: Online Safety & Media Regulation Bill

Dear Minister Martin,

I hope you are keeping safe and well. I am writing to you regarding the proposed Online Media & Safety Bill to appeal to you directly to ensure an amendment is made to the proposed legislation to protect people with photosensitive epilepsy.

I understand that you have now received the final report from the Oireachtas Committee on Media following the conclusion of their pre-legislative scrutiny of the proposed legislation so you will be aware of the issue that we highlighted to the Committee.

We sought that a clear definition of "online harmful content" be included in the legislation to deter the use of images or videos – which by design – could inflict harm. We made this proposal because there have been several attacks on people with photosensitive epilepsy in the US & UK. These attacks involve the deliberate targeting of people with flashing images or videos, specifically designed to trigger a seizure in that person.

For a person whose epilepsy is well controlled, the recurrence of seizures is likely to have a significant effect on their wellbeing and quality of life (driving, employment, education, medication use etc.) and in some instances can be life-threatening. This type of targeted attack needs to be legislated for in the proposed legislation.

During our presentation to the Oireachtas Committee, we acknowledged that we were unaware of such a deliberate attack taking place in Ireland. However, we warned that we were concerned the issue could present here. This week our prediction became a reality. Our Twitter account, as well as the accounts of other international epilepsy organisations, was tagged with a flashing image and video, quite clearly with the intention of causing harm to those with photosensitive epilepsy and in the hope that our followers would see it.

While our concerns were acknowledged within the Oireachtas Committee's final report, there is no clear recommendation made to ensure that the definition of "online harmful content" in Head 49A of the General Scheme is amended to include these types of attacks.

As the Minister responsible for the introduction of the proposed legislation, we are now appealing to you directly to ensure that this issue is addressed within the legislation to

www.epilepsy.ie

014557500 info@epilepsy.ie

Working to achieve a society where no person's life is limited by epilepsy.



prevent this form of online harm and where required, to ensure that those responsible are punished appropriately.

We have included some further information on this issue and on photosensitive epilepsy in general – including the submission we made to the Oireachtas Committee on Media. If you would like to discuss this in further detail, we would welcome the opportunity to meet with you.

Many thanks for your attention to this matter and we look forward to hearing from you in due course.

Yours sincerely,

A handwritten signature in black ink that reads "Peter Murphy". The signature is written in a cursive style and is set against a light blue rectangular background.

Peter Murphy
CEO, Epilepsy Ireland



Mr Peter Murphy
pmcgeoghegan@epilepsy.ie

17 November 2021

Our ref – CHG-MO-04512-2021

Dear Mr Murphy,

Thank you for your letter of 10 December 2021 in relation to the Online Safety and Media Regulation (OSMR) Bill and the need for it to protect people with photosensitive epilepsy from online content which is made available with the deliberate intention to trigger a seizure in such individuals.

Minister Martin thanks Epilepsy Ireland for raising this issue as part of pre-legislative scrutiny of the General Scheme of the OSMR Bill and fully agrees with the importance of protecting those with photosensitive epilepsy from the types of attacks which took place in the U.S. and U.K. It is deeply alarming to now hear that this issue has presented itself here, when, as you say, it could be life-threatening.

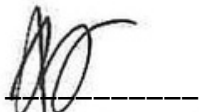
As you will be aware, it is not the intention to define harmful online content as a singular concept within the OSMR Bill. Rather, it is proposed to enumerate definitions of categories of material that are considered to be harmful online content, one particular category of which, includes material which it is a criminal offence to disseminate.

In this context, following consultation with the Office of the Attorney General, who have now almost completed detailed legal drafting of the Bill, it was agreed that deliberate attacks on those with photosensitive epilepsy, such as those you have described, would be considered assault under section 2 of the Non-Fatal Offences Against the Person Act, 1997. Therefore, such attacks would already be considered harmful online content under the category of material relating to criminal offences.

The OSMR Bill will allow the Media Commission, once formally established through enactment of the Bill, to create and enforce binding online safety codes. These codes will seek to minimise the availability of material under those defined categories of harmful online content through oversight of the systems that online services use to deliver and moderate content.

In terms of progress, I note my intention to publish the OSMR Bill before Christmas and ensure its enactment as early as practicable in 2022.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Helen Francis', written over a horizontal dashed line.

Helen Francis
Private Secretary