

Ministry of Justice and Security

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To the President of the Lower House of the States General

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Subject Progress letter on the strategy to combat online child sexual abuse and enforcement under administrative law

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Please state the date and our reference number in your reply. Please limit

The integrated approach to tackling online child sexual abuse is a key objective for me; such abuse is disgraceful and one of the most devastating types of crime. Perpetrators of child sexual abuse cause enormous harm to the lives of children and those close to them. Offering and downloading online visual material leads to repeat victimisation, a new range of material and abuse. My aim, from the start of this government's term of office, has been to break this spiral; victims deserve no less. The growing number of reports to the police and the Hotline against child sexual abuse material on the Internet operated by Dutch Expertise Bureau for Online Child Abuse (EOKM) underlines the urgency.

A solution cannot come from the government alone. This is a social problem that must also be dealt with by society. The Netherlands has one of the world's largest Internet hubs and an expansive infrastructure. This confers a particular responsibility on the Dutch government and the business sector to curb the abuse of Internet freedoms. Tackling child sexual abuse is therefore not only a task of our specialised police teams. It must become self-evident that we, through activism, in the public and private sectors, collectively feel responsible for combating it. I have therefore organised meetings with major Internet companies, visited the police services and commissioned research.

The fight against online child sexual abuse is an international task, which necessitates cooperation among countries. The approach in the Netherlands, for example, could have consequences for other countries, due to content or companies shifting abroad. For this reason, where possible, I place tackling online child sexual abuse in Europe on the agenda. Our contacts with officials in Brussels have been intensified and I will be talking to my European colleagues about this topic in the autumn.

In this letter, I wish to inform you of the new steps and important decisions I have taken to further tackle online child sexual abuse. The first part discusses three projects that merit special attention: enforcement under administrative law, the HashCheck server and tackling downloaders. The second part provides information on progress on other current projects. I am providing information on the public-private activities also on behalf of the State Secretary for Economic Affairs and Climate Policy.

1. Enforcement under administrative law

I expect companies to delete child sexual abuse material from their servers immediately after a report. A negligent response or failure to respond must no longer be an option. I have therefore initiated a legislative procedure to enforce the removal of child sexual abuse material by means of administrative law. This specifically means that businesses will be faced with an administrative body that can enforce, by imposing an order subject to a penalty and an administrative fine, the prompt removal of child sexual abuse material after a report. The upward trend in reports calls for urgent action. I am therefore committed to delivering an expeditious legislative procedure, the first objective of which is to deliver a draft bill in December this year. The Dutch government will draw and enforce a clear line as soon as possible to eliminate child sexual abuse from the Internet.

A successful approach targets not only the offenders, but also those who can facilitate them. The intended proceedings under administrative law will be tailored specifically to tackling online child sexual abuse material, and will differ in terms of both focus and speed from the existing proceedings under criminal law. The administrative body will be positioned between the existing self-regulation system (EOKM) and the approach under criminal law (Police and the Netherlands Public Prosecution Service), and will not supersede either. This means that nothing will change for accommodating companies that take immediate action against online child sexual abuse material. Moreover, the primary focus of the Dutch police and the Netherlands Public Prosecution Service remains on tracking down and prosecuting offenders and thus stamping out current child abuse. For more information on the intended instruments for enforcement under administrative law, I refer you to two appendices.¹

2. HashCheck server operational

I require that companies eliminate child sexual abuse material from their servers and websites and consequently from the Internet. This calls for a perspective for action. From now on, companies will therefore be able to check their own servers for child sexual abuse material using a HashCheck server. For this purpose, the police have made available 1.4 million hash codes (unique digital fingerprints) of previously detected child sexual abuse material in a database. EOKM has arranged electronic access and has put the HashCheck server into operation. Companies can connect to the server free of charge, check their own servers for hash codes of child sexual abuse material and remove content when there is a hit. A technical test phase is currently being carried out with two large Internet companies, which will be expanded in phases, following which the HashCheck server will be made available for regular use. The combination of the size of the database, the free access for companies as a service provided by EOKM and the illegal images under Dutch law make this HashCheck server unique in the world.

3. Tackling downloaders

To uncover the identity of the persons behind downloading and the downloading process, I commissioned a study. Bureau Beke, a Dutch safety and crime research and consultancy firm, was asked to conduct research on whether interventions could be used to preventively combat or frustrate the downloading of child sexual abuse material. A literature review was conducted to determine which 'types' of downloaders exist, according to the literature, and which interventions can be used to prevent downloading (the literature review is included in Appendix 3). In addition, a meeting was organised on 4 June 2019 where detectives from across the Netherlands, specialised in the detection of child sexual abuse material, shared their knowledge of downloaders. During the summer period, I will combine the theory from the literature review and the detectives' practical experience to determine the next steps, aimed at preventively combating and frustrating downloading.

Progress on tackling online sexual abuse

In the following part of this letter, I will discuss the ongoing projects in tackling online child sexual abuse, the commitments made in the 20 February 2019 General Consultation on child sexual abuse material and child abuse, and inform you of the detection rate. I am also responding to the wish stated in the Arrangement of Business of 24 April 2019 with regard to the provision of a progress letter.

Self-regulation provides reinforcement

The Dutch business sector acknowledges the problems and has not been idle. It has an effective form of self-regulation, in which accommodating companies are working with EOKM to remove

¹ Appendices 1 and 3: Explanatory notes on the approach under administrative law and the Report 'Options for tackling child sexual abuse material based on enforcement under administrative law' (Dialogic).

images accurately. This self-regulation system has been further reinforced with a public-private partnership, which I informed you of earlier.² On 13 December 2018, the business sector set out in an Addendum to the Notice and take-down procedure that content must be removed 24 hours after a notice by EOKM. Furthermore, Delft University of Technology is building a monitor to monitor Dutch reports on child sexual abuse content that provides independent insight into who has child sexual abuse content online, where, how much and for how long. The first results are expected to be available this summer.

Prevention

Various projects aimed at prevention are currently underway as part of the strategy to combat online child sexual abuse. Just as in 2018, I have continued the funding for the EOKM programme 'Stop It Now!' (SIN) for 2019. By extension, I have also continued the additional funding of SIN for 2019 as part of information and assistance specifically targeted at downloaders of child sexual abuse material. In addition, in association with the Ministry of Education, Culture and Science, the Ministry of Health, Welfare and Sport and the School & Safety Foundation (SSV), my ministry will organise an expert meeting on sexting on 26 June 2019. The aim of this meeting is to improve the preventive approach of and cooperation by schools, the health and youth care sectors and the criminal justice system regarding online sexually transgressive behaviour. Furthermore, as part of the 'New strategy to combat online child sexual abuse', a start-up programme was launched and a company was selected that is currently working on an application designed to prevent the sexual abuse of young children. The aim of the 'Start-up in Residence' programme is to seek new initiatives for the complex challenges facing the government. This means that various start-ups that have an idea for an innovative technical solution can apply. A working prototype is expected to be delivered by the start-up in July.

Notification

The DSP group, a global provider of wireless chipset solutions, is currently conducting a study on the desirability and feasibility of a system in which victims of sexual exploitation and/or abuse are notified when sexual images of them are detected. The study is currently approaching completion and I expect to receive the report around the summer. I will inform the Lower House of the findings of the study after the summer and provide you my response.

Flexible liaisons in tackling the sexual exploitation of children in the context of travel and tourism

In spring this year, the police adopted a decision on the most effective method of combating the sexual exploitation of children in the context of travel and tourism (SECTT) and other cross-border crimes in the years ahead. One of the basic principles is the flexible deployment of capacity in order to respond more effectively to the constantly changing social and global developments. This flexibility applies to the length of deployment of capacity and functionality. In tackling SECTT, this means that a generic liaison is stationed in Manila whose job focus is SECTT for the six focus countries in Southeast Asia. In addition, a strategic liaison based in Zoetermeer will start work and will contribute to developing cooperation with emerging countries, in which SECTT is increasingly rearing its head, such as countries in Africa and South America. A key focus area of that role will be to intensify cooperation with non-governmental organisations (NGOs). The local network of liaisons has on multiple occasions led to the identification and rescue of victims. Dutch investigation teams and police partners abroad, as well as local NGOs, make use of the specific knowledge and experience of the thematic liaison officers. From a practical point of view, this has resulted in the smoother and swifter international exchange of information, more effectively initiating local investigations and raising local attention and awareness for tackling child sexual abuse.

'Don't Look Away' social media campaign

The 'Don't Look Away' social media campaign will run in summer 2019. The aim of the campaign is to make travellers aware of the SECTT phenomenon and the possibilities of reporting it on www.meldkindersekstoerisme.nl. It is coordinated by Defence for Children-ECPAT. The organisations involved in the campaign are the Dutch Association of Travel Agents and Tour Operators (ANVR), various tour operators, other children's rights organisations (Terre des Hommes, Plan Nederland and Free a Girl), the Dutch police, the Netherlands Public Prosecution Service, the Royal Netherlands Marechaussee, the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children and the Ministry of Justice and Security.

² Lower House of the States General, session year 2018-2019, 31 015, Nos. 135, 150, 157 and 160

Decryption obligation

During the General Consultation Reporting Session on Child Sexual Abuse Material and Child Abuse on 13 March 2019, I promised that I would inform the Lower House of the possibilities and impossibilities of a potential decryption obligation for suspects, also referred to as a 'decryption order'. I am hereby fulfilling my promise. In view of the earlier considerations of my predecessors and the ever-present legal and practical objections against the introduction of a decryption obligation, I adhere to the position and will not consider introducing a decryption order. For further substantiation, I refer to Appendix 4 to this letter.

Section 54a of the Dutch Criminal Code up to date

In the 20 February 2019 General Consultation, a request was made to evaluate to what extent Section 54a of the Dutch Criminal Code (*Wetboek van Strafrecht*) is up to date, in view of digital developments. This section was updated within the framework of the Computer Crime Act III (*Wet computercriminaliteit III*), however, and included as a power in the Dutch Code of Criminal Procedure (*Wetboek van Strafvordering*). Section 125p of the Code of Criminal Procedure introduces a separate power for the public prosecutor in the event of the suspicion of a serious offence, for which pretrial detention is allowed, after obtaining prior written authorisation from the examining magistrate, to order a provider of a communication service to take with immediate effect all the measures the provider can be reasonably required to take to render certain data inaccessible. The Computer Crime Act III came into effect on 1 March 2019. An evaluation is planned, which will also provide an opportunity to examine whether the power meets expectations.

Terre des Hommes

During the 20 February General Consultation, the results of the meeting with Terre des Hommes (TdH) on 11 October 2018 were requested. I informed the Lower House by letter dated 1 March 2019³ of the meeting held with officials. A broad working visit to TdH by officials took place on 23 May 2019, during which TdH's activities regarding tackling the sexual abuse of minors in the Netherlands as well as SECTT were discussed. Areas where actions by the central government and TdH can reinforce each other were also considered, of course. TdH stated that the fake profile used in the Sweetie project will not be used in the Netherlands and that TdH has no intention of doing so. TdH's policy is primarily aimed at making this software available to local investigation services abroad.

Security Agenda 2018/2019 figures

In 2018, 185 victims were identified as a result of the efforts of the Teams engaged in Combating Child Sexual Abuse and the Sexual Exploitation of Children in the Context of Travel and Tourism (TBKK), and 636 interventions were performed. More figures and background information for 2018 are provided in Appendix 5. Due to the exponential increase in the number of reports in recent years, the process of selecting the reports and turning them into cases has become more complex and time consuming. Moreover, the National TBKK Unit had to contend with vacancies in 2018. Most of the vacancies have meanwhile been filled, new staff have completed training programmes and the National Unit is now operating at full capacity. Compared to the objectives and results of the preceding years, a shift is evident: the number of interventions in the category simple/alternative is declining. Capacity is deployed for fewer, but relatively more serious and complex cases, because there is a greater chance of curbing a current abuse situation in those cases. Further agreements on this have been made in the new Security Agenda, aimed at creators (abusers), key players (managers/administrators with key roles inside networks) and possessors and distributors of child sexual abuse material.

Figures published by Internet Watch Foundation

In the Arrangement of Business of 24 April 2019, the Lower House requested me to provide a response following reports by various media earlier that month about the 2018 IWF Annual Report. I am hereby responding to your request. The UK reporting centre Internet Watch Foundation (IWF) alleged that 47% of worldwide child sexual abuse material is hosted by the Netherlands. Although I am unable to verify that exact figure, I find it an extremely disturbing signal. It should be noted that these images are produced globally, but are stored via a Dutch connection. I believe this signal underlines the urgency that a fundamental change must take place in the Netherlands to prevent the hosting of child sexual abuse material. I expect to have set this in motion through my approach.

³ Lower House of the States General, session year 2018-2019, 31 015, No. 163

Commitment in the years ahead

I have adopted an integrated approach: preventive and repressive, within the context of self-regulation, criminal law and, in my view, also administrative law in the future. My key objective is to combat online child sexual abuse, in all of its facets: doing nothing is not an option.

The Minister of Justice and Security,

Ferd Grapperhaus

Appendices:

1. Explanatory notes on the approach under administrative law
2. Dialogic Report: Options for tackling child sexual abuse material based on administrative enforcement (Dialogic).
3. Bureau Beke Report: Downloaders of child sexual abuse material; a literature review
4. Explanatory notes on the decryption obligation
5. 2018 results of child sexual abuse and the sexual exploitation of children in the context of travel and tourism (Netherlands Public Prosecution Service and Police)