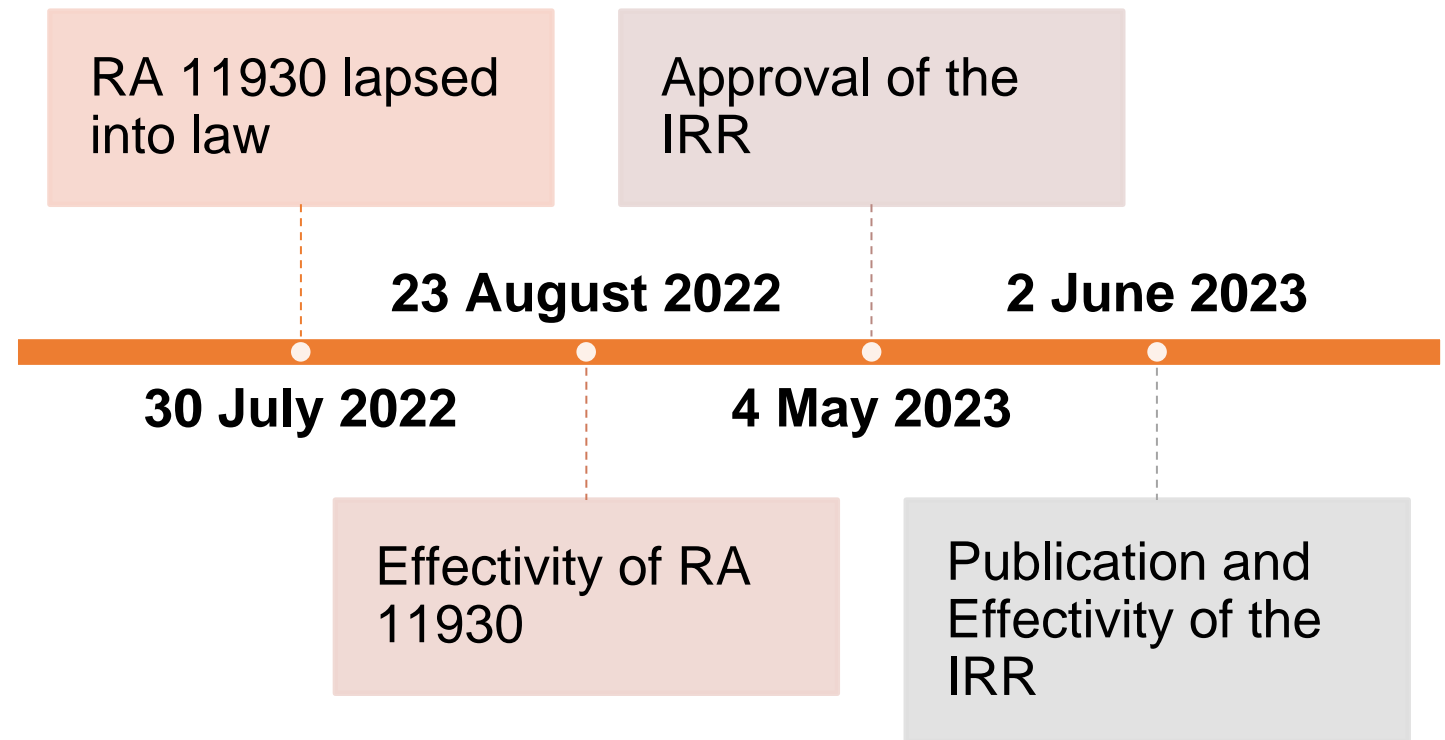


# In the Framework of Legislative Reforms Regarding Child Online Protection, How are Governments Enabling Implementation?

Ms. Tiffany Mervin  
Attorney. Mr Nicholas Ty  
Ms Melissa Vergel De Dios  
Ms Nor Azizah binti Mohamad

[Session A2]

- **RA No. 11930:** An Act Punishing Online Sexual Abuse or Exploitation of Children (OSAEC), Penalizing the Production, Distribution, Possession and Access of the Child Sexual Abuse or Exploitation Materials (CSAEM)



## Implementing Rules and Regulations of Republic Act No. 11930

The IRR was a product of multi-sectoral consultations among the following:

- Members of the IRR Committee
- Children's Groups
- Private Sector
- Public Sector
- Other Stakeholders



# **EXPANDED ANTI-TRAFFICKING IN PERSONS ACT OF 2022**

Enacted last June 2022



# **ANTI-ONLINE SEXUAL ABUSE OR EXPLOITATION OF CHILDREN AND ANTI-CHILD SEXUAL ABUSE OF EXPLOITATION MATERIALS ACT**

Lapsed into law in July 2022



# ACTS OF TRAFFICKING IN PERSONS

## Section 4

- (a) To recruit, obtain, hire, provide, offer, transport, transfer, maintain, harbor, or receive a person by any means, including ...  
  
for the purpose of prostitution, pornography, sexual abuse or exploitation, production, creation or distribution of CSAEM or CSAM, forced labor, slavery, involuntary servitude or debt bondage.

# QUALIFIED TRAFFICKING IN PERSONS

Section 6 – Violations of Section 4 of the Act shall be considered as Qualified Trafficking:

(a) When the trafficked person is a child: Provided, that acts of online sexual abuse and exploitation of children shall be *without prejudice to appropriate investigation and prosecution under other related laws;*

(o) When the act is committed by or through the use of ICT or any computer system

## OTHER RELATED LAWS

- **RA No. 11930:** An Act Punishing Online Sexual Abuse or Exploitation of Children (OSAEC), Penalizing the Production, Distribution, Possession and Access of the Child Sexual Abuse or Exploitation Materials (CSAEM)

- RA No. 8042 & RA No. 10022      Migrant Workers and Overseas Filipinos Act
- RA No. 6955      Anti-Mail Order Spouse Act
- RA No. 7610      Special Protection of Children Against Abuse, Exploitation and Discrimination Act
- RA No. 9231      An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection For The Working Child
- RA No. 11642      Domestic Administrative Adoption and Alternative Child Care Act
- RA No. 9995      Anti-Photo and Video Voyeurism Act
- RA No. 9160 & RA No.10365      Anti-Money Laundering Law
- Act No. 3815      Revised Penal Code



# ACTS THAT PROMOTE TIP UNDER THE EXPANDED ANTI-TRAFFICKING IN PERSONS ACT



## INTERNET INTERMEDIARIES

which knowingly or by gross negligence allow their internet infrastructure to be used for TIP



## INTERNET CAFES, KIOSKS, AND HOTSPOTS

which knowingly or by gross negligence allow their facilities to be used for TIP



## FINANCIAL INTERMEDIARIES

which knowingly or by gross negligence allow their services, online platform and applications to be used for TIP



# **EXPANDED ANTI- TRAFFICKING IN PERSONS ACT OF 2022**

Enacted last June 2022



# **ANTI-ONLINE SEXUAL ABUSE OR EXPLOITATION OF CHILDREN AND ANTI- CHILD SEXUAL ABUSE OF EXPLOITATION MATERIALS**

**ACT**

Lapsed into law in July 2022



- **RA No. 11930:** An Act Punishing Online Sexual Abuse or Exploitation of Children (OSAEC), Penalizing the Production, Distribution, Possession and Access of the Child Sexual Abuse or Exploitation Materials (CSAEM)

- Punishing Online Sexual Abuse or Exploitation of Children
- Penalizing the Production, Distribution, Possession and Access of Child Sexual Abuse or Exploitation Materials
- Amending Republic Act No. 9160, Otherwise Known As The "Anti-Money Laundering Act Of 2001", as Amended
- Repealing Republic Act No. 9775, Otherwise Known as the "Anti-Child Pornography Act of 2009"

# NATIONAL COORDINATION CENTER AGAINST OSAEC AND CSAEM

## Section 30

The NCC-OSAEC-CSAEM, under the direction of the Inter-Agency Council Against Trafficking (IACAT), shall develop and implement the necessary programs that will prevent the commission of OSAEC and CSAEM, as well as protect, heal and reintegrate the child into the mainstream of society.

# “CHILD” as defined under the Anti-OSAEC and Anti-CSAEM Act

## Section 3

Child refers to a person below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of physical, mental, intellectual or sensory disability or condition.



# **“CHILD” as defined under the Anti-OSAEC and Anti-CSAEM Act**

For purposes of this Act, a child shall also refer to:

- (1) A person regardless of age who is **presented, depicted or portrayed as a child** as defined herein; and
- (2) **Computer-generated, digitally or manually crafted images, or graphics** of a person who is represented or who is **made to appear to be a child** as defined herein.

# DUTIES AND RESPONSIBILITIES OF PRIVATE

## Section 9

- (a) Internet Intermediaries
- (b) Internet Service Providers
- (c) Payment Service Providers
- (d) Internet Hotspots, Cafes or Kiosks

# UNLAWFUL ACTIVITY UNDER THE ANTI-MONEY LAUNDERING ACT

## Section 9 (c)

Violations under Sections 4 and 5 of this Act shall be considered as "unlawful activity" under Section 3 (i) of Republic Act No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001," as amended, and shall be punishable under the said Act.

# ENABLING IMPLEMENTATION OF THE LAWS



Passage of the IRR



Establishment of the NCC-OSAEC-CSAEM



Capacity Building and Awareness



Collaboration with Local Government Units and Private Sector





**THANK  
YOU!**



**Children are among the most active,  
yet most vulnerable end-users of our  
digital services.**

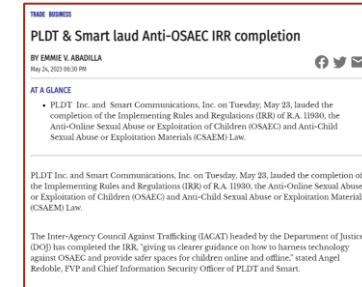
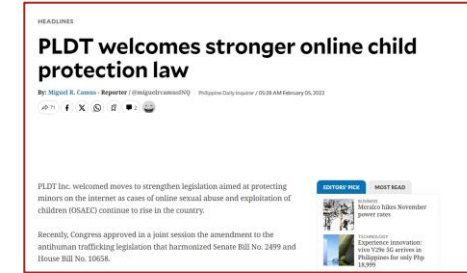
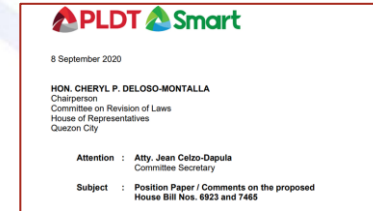
**“As the country’s largest integrated telco, we recognize our important role in nurturing and protecting children as the prime movers of the digital space, and the future leaders of the world.”**

- PLDT President and CEO Alfredo S. Panlilio

**“We fully recognize the role of Filipino children as the future shapers of the nation and shareholders of our business. It is imperative to take action now, not just to contribute toward nation-building, but also to future-proof our business.”**

- PLDT Chairman Manuel V Pangilinan

## 2<sup>nd</sup> Annual ASEAN ICT Forum on Child Online Protection



### Children's Rights and Business Principles

Top Management commitment to embed children's rights in our business and promote child online protection

### Children in Sustainability Roadmap

Recognition of Children as key stakeholders in our Sustainability roadmap

### Child Safeguarding Policy

Institutionalization of children's rights and protection in our workplace, marketplace, and community operations

### Child Protection Platform Solution

Integration of child protection in cyber security operations, risk management, and stakeholder engagements

### Republic Act 11930

Comprehensive, dynamic, and adaptive legislation fostering a holistic approach towards Child Protection

### Global Chain of Trust

Deeper global cooperation and hyper-local collaboration to enable a clean, safe, and sustainable digital environment for our children

**Transformation Journey: Harmonizing Policy and Technology**





# **CHILD ONLINE PROTECTION SITUATION IN MALAYSIA: CHALLENGES AND WHAT COMES NEXT**



# SOACA 2017

- Sexual Offences Against Children Act 2017 (SOACA 2017)
- Enforcement Date on 10th of July 2017.
- Criminalize sexual offences including online sexual offences against children with heavier punishment.
- To protect children under the age of 18.

# FORMATION OF SPECIAL COURT FOR CHILDREN IN MALAYSIA

- Special Court For Children Against Sexual Offences was launched in Malaysia on 22 of June 2017.
- Currently, there are 38 Special Court throughout Malaysia.
- Complete with child friendly facilities, playroom, audio room with video link.
- Aimed to facilitate child witnesses throughout the process of giving statements during trial.
- Presided over by a senior judicial officer (Session Court Judge) with 25 years of experience.
- Disposal rate higher than the ordinary court.

# OCSEA

- Online Child Sexual Exploitation and Abuse or commonly known as OCSEA is one of the main concern in Malaysia, as children and teenagers become more reliant on the internet.
- Children and teenagers were the main target of communication from a stranger to many kind of sexual abuse and exploitation.
- Many types of OCSEA, such as:
  - **Online grooming**
  - **Sextortion**
  - **Livestreaming**
  - **Production and distribution of sexual content**

# AMENDMENTS OF SOACA 2017

Additional section of section 15 by insertion of section 15A and 15B.

Sexual performance by a child

**15A.** (1) Any person who –

- (a) offers, procures or makes available a child for a sexual performance;
- (b) makes or causes a child to engage in a sexual performance;
- (c) takes part, whether as a participant or viewer, in a sexual performance by a child;
- (d) advertises, promotes or facilitates a sexual performance by a child; or
- (e) receives any benefit, including monetary benefit, from a sexual performance by a child,

commits an offence and shall, on conviction be punished with imprisonment for a term not exceeding twenty years and shall also be liable to a fine not exceeding fifty thousand ringgit.



# AMENDMENTS OF SOACA 2017

## 15A. (cont'd)

(2) For the purpose of this section, “sexual performance” means any **sexually explicit conduct performed before one or more viewers**, including one which is recorded or transmitted in whole or in part, by any means including but not limited to electronic, mechanical, digital, optical or magnetic means, or the combination of any means.

# AMENDMENTS OF SOACA 2017

**15B.** (1) Any person who –

- (a) threatens a child to engage in an activity that is sexual in nature;
- (b) threatens a child to share any representation in whole or in part, whether visual, audio or written or the combination of visual, audio or written, by any means including but not limited to electronic, mechanical, digital, optical or magnetic means, or manually crafted, or the combination of any means, of a body or any part of the body of a child exposing a child's genital, buttock, breast, pubic area or anus or of a child engaged in an activity that is sexual in nature; or

# AMENDMENTS OF SOACA 2017

## 15B. (cont'd)

(c) threatens to use or distribute any representation in whole or in part, whether visual, audio or written or the combination of visual, audio or written, by any means including but not limited to electronic, mechanical, digital, optical or magnetic means, or manually crafted, or the combination of any means, of a body or any part of the body of a child exposing a child genital, buttock, breast, pubic area or anus or of a child engaged in an activity that is sexual in nature, commits an offence and shall, on conviction be punished with imprisonment for a term not exceeding ten years.

# WHAT ARE THE CHALLENGES?

- Refusal to lodge a report due to shame or to protect the good background of the family
- Children refused to tell what happened to them due to afraid with the stigma of victim blaming
- Power imbalance between the victim and the perpetrator
- Difficulty to gather online evidence
- Lack of sexual education on the importance to share and report the incident relating to OCSEA



## CASE STUDY: PP V Z

- This is a case involving 25-year-old male student.
- Accused has blackmailed over 200 child victims for CSAM.
- Through the Snapchat application, the accused meets his victims under the age of 18.

All the devices and equipment used to commit offences have been confiscated, which includes:

- Mobile phone
- Digi Telecommunications mobile phone simcard
- ATM card under CIMB Bank Berhad
- External Hard Disk
- Pendrive

Thank you!

