



Consultative Hearing // Film and Publication Board
Submission by Media Monitoring Africa
Sandton, July 2022

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Media Monitoring Africa

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Evolved over 30 years into an innovative organisation implementing successful media strategies

Acts as a watchdog in promoting ethical and fair journalism that supports human rights

Vision to create a responsible, quality media that engages an informed citizenry in Africa and the world

Makes use of technology, data tools and successful media strategies for change – but technology is not a silver bullet

ABOUT MEDIA MONITORING AFRICA


WEB RANGERS





<https://webrangers.co.za>


REAL411

**KEEPING IT REAL
ON THE MOVE.**

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Help us stop the disinformation, hate speech and harassment by submitting a complaint below.

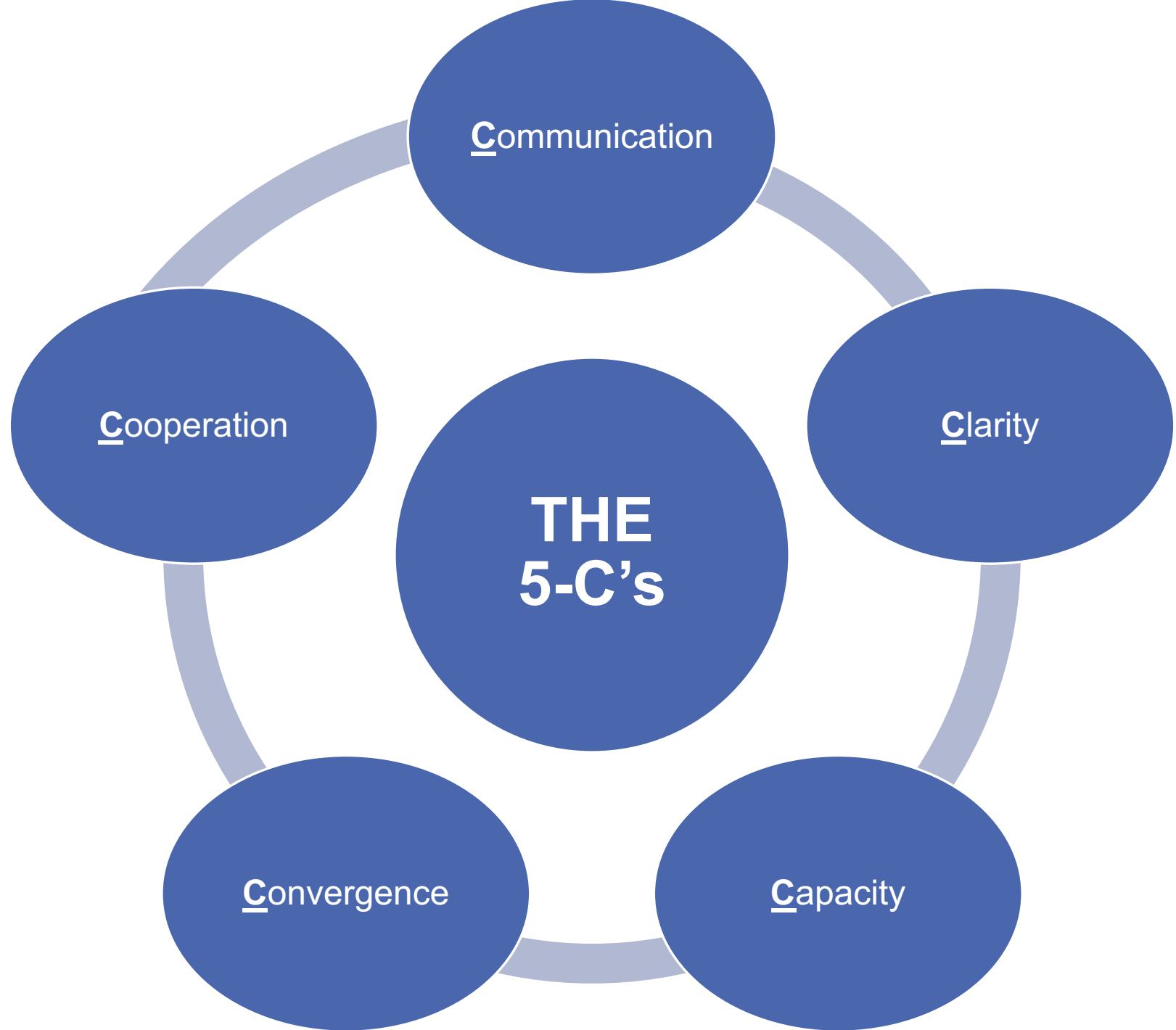
Contact Information

Your Name

Your Email

Our Partners

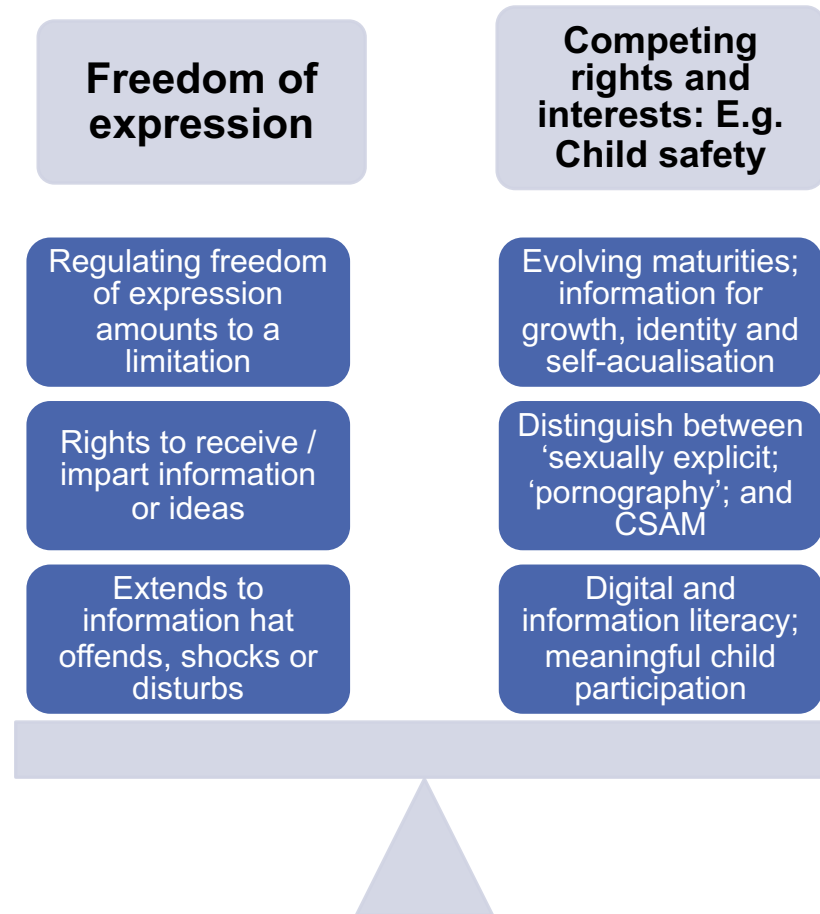
<https://real411.org>





**DUTY TO RESPECT, PROTECT,
PROMOTE AND FULFIL
FUNDAMENTAL RIGHTS**

DUTY TO RESPECT, PROTECT, PROMOTE AND FULFIL



S v M 2008 (3) SA 232 (CC)

“Every child has his or her own dignity. If a child is to be **constitutionally imagined as an individual with a distinctive personality**, and not merely as a miniature adult waiting to reach full size, he or she **cannot be treated as a mere extension of his or her parents**, umbilically destined to sink or swim with them. The unusually comprehensive and emancipatory character of section 28 presupposes that in our new dispensation the **sins and traumas of fathers and mothers should not be visited on their children.**”

Individually and collectively all children have the **right to express themselves as independent social beings**, to have their own laughter as well as sorrow, to play, imagine and explore in their own way, **to themselves get to understand their bodies, minds and emotions**, and above all to learn as they grow how they **should conduct themselves and make choices in the wide social and moral world of adulthood.**”

(per Sachs J)

Guiding principles to be adopted by FPB regarding balance of competing rights and interests

Training by appropriate constitutional expert for persons at the FPB to raise awareness about what the Constitution requires and what constitutes a justifiable limitation

Clear strategy for awareness-raising to develop media and information literacy skills; start with particular grounds such as care-givers and children

Train-the-trainer curriculum, in-person and online, to upskill members of the public to provide training in their own communities

Partner with civil society, academics and others to expand the reach of the FPB

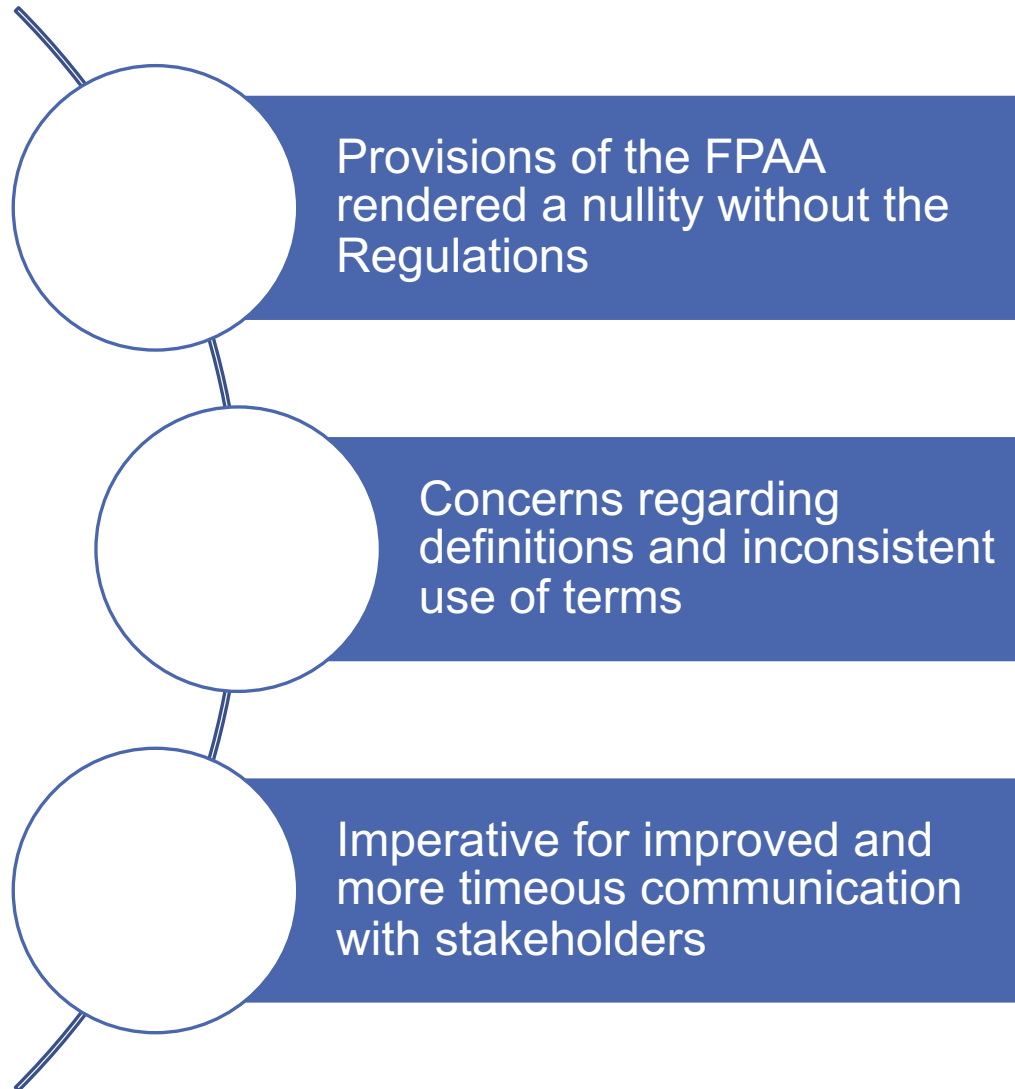
Develop ongoing approach to ensure meaningful participation of children in consultation processes, such as through programmes like Web Rangers

RECOMMENDATIONS

A large, blue, rounded speech bubble shape is centered on the page. Inside the bubble, the words "PROCEDURAL MATTERS" are written in a bold, white, sans-serif font. The bubble has a white outline and a black shadow on its left side, giving it a three-dimensional appearance. The background is white with several thin, light gray curved lines and dashed lines that create a sense of motion or a stylized wave pattern.

PROCEDURAL MATTERS

PROCEDURAL CONCERNS



Definitions and Terms

- **At odds with s 16 of the Constitution:** (i) “prohibited content; (ii) harmfu;
- **At odds with other legislation:** (i) Promotion of Equality and Prevention of Unfair Discrimination Act; (ii) Cybercrimes Act
- **At odds with technological developments:** (i) reliance on definitions in ECTA; distinction between internet access providers and internet service providers

Urgently provide stakeholders with an update on the Regulations and the implementation of the FPAA

Comprehensive review of the FPAA and Regulations to ensure alignment with definitions and use of terms

Establishment of a forum or platform (e.g. mailing list, scheduled stakeholder engagements, website updates) to engage with stakeholders on an agreed periodic basis

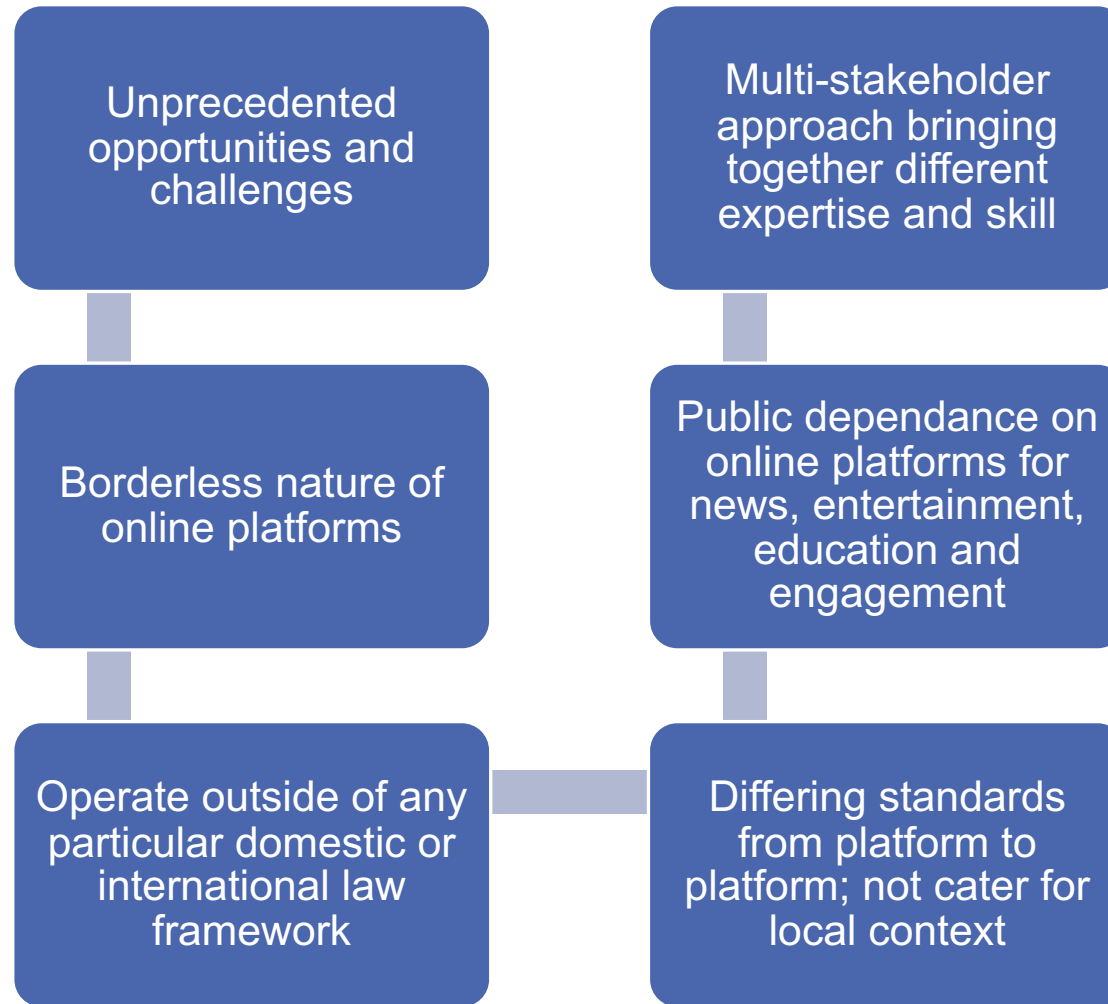
Include the communication strategy with stakeholders in the FPB's Annual Performance Plan

RECOMMENDATIONS

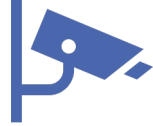


**AMBIT OF THE FPB'S MANDATE IN
A CONVERGING DIGITAL
ENVIRONMENT**

CONVERGED DIGITAL ENVIRONMENT



KEY CONSIDERATIONS // PARAMETRES



FPB is not a so-called 'content regulator'



Role of the FPB is not to police the internet



FPB does not have jurisdiction outside of South Africa



Unfettered blocking / filtering of content is not a solution

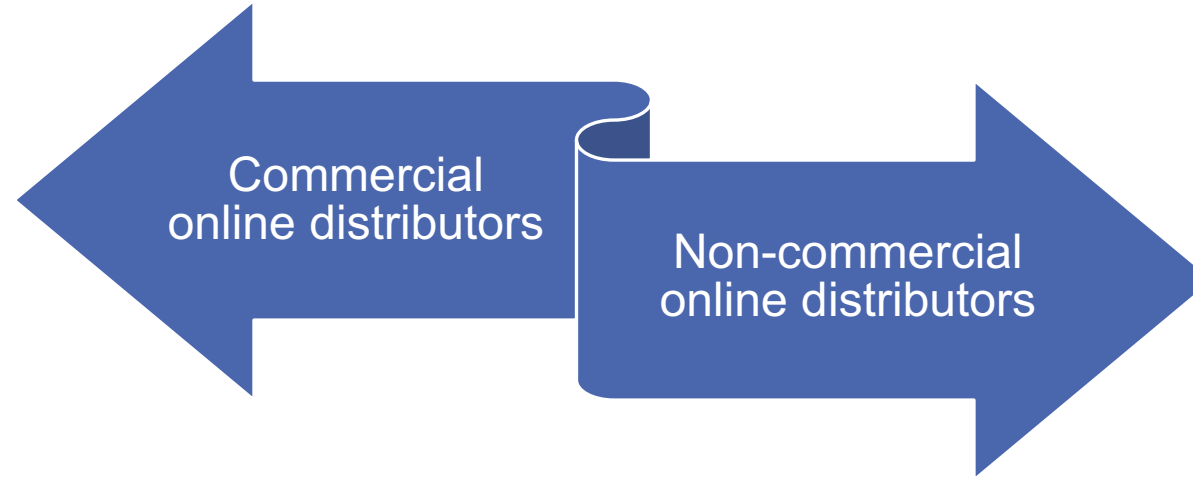


Weakening encryption standards not effective or lawful



Technology is not a silver bullet

UNCERTAINTY REGARDING FPB'S MANDATE



INTERMEDIARY LIABILITY



Position paper on the FPB's mandate

Revise definition of "commercial online distributors" – core business

Sliding scale and threshold requirement for differential treatment of different distributors

Review and review requirements imposed on ISPs // Pending measure: position paper

Guidance to ISPs on distinction between sexually explicit material, pornography and CSAM

Expand level of engagement with international bodies on CSAM

Amend any provision for FPB to compel ISPs to provide it with information // Undertaking

Transparency reports

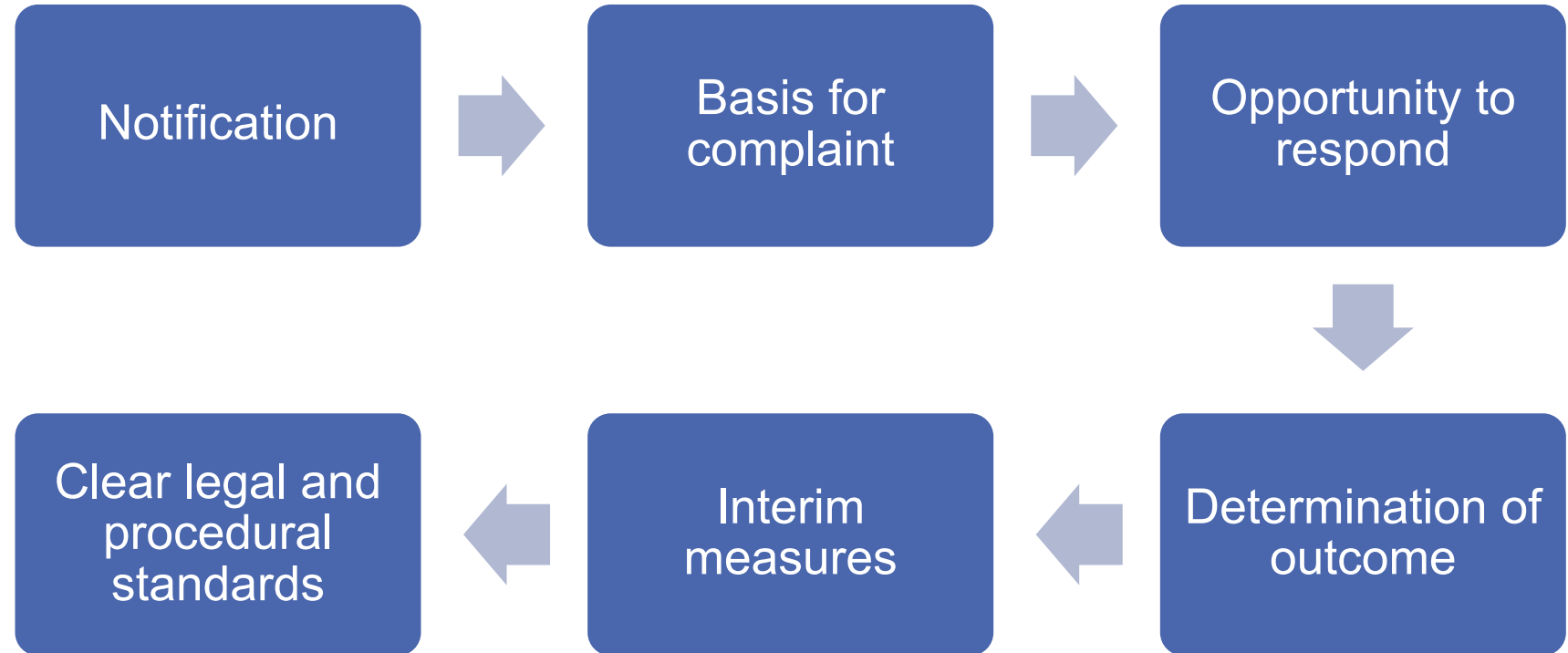
Revise take-down procedures

RECOMMENDATIONS

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COMPLAINTS MECHANISMS

PROCESSES AND PROCEDURES



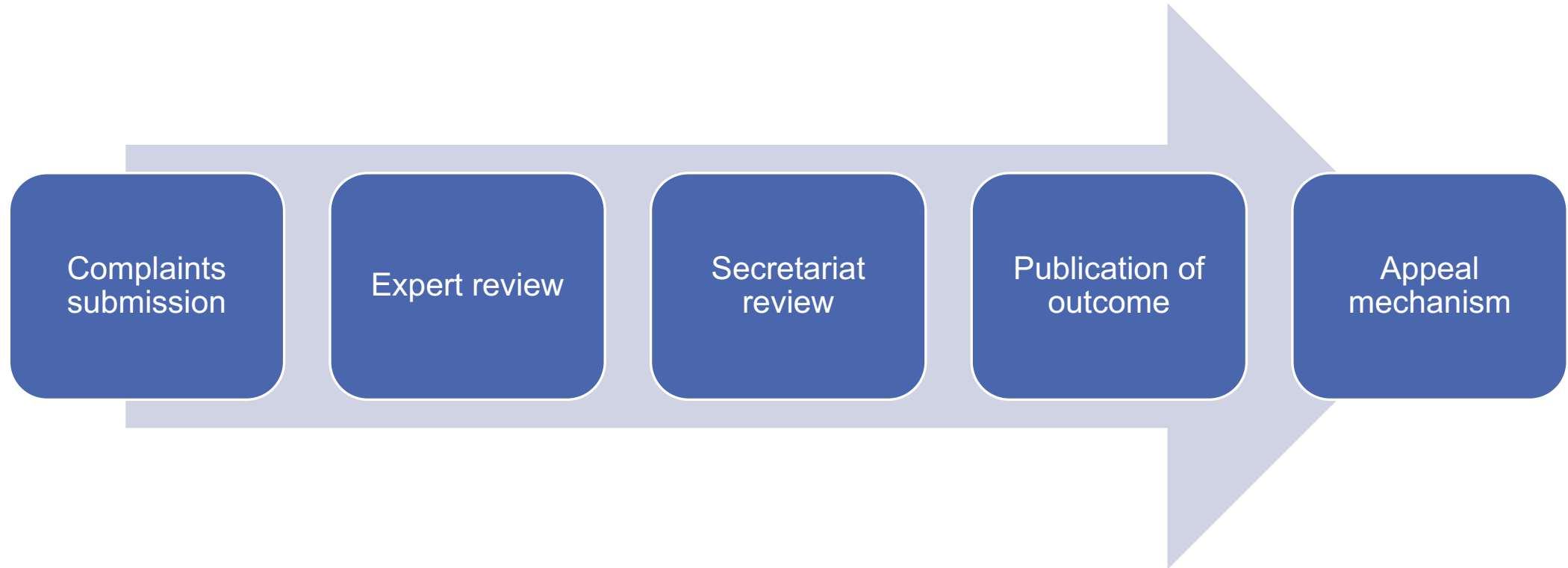
Develop clear code for application of complaints procedures, including criteria for valid complaint, steps and processes, determination of outcomes, interim measures and threshold requirements

RECOMMENDATIONS



**ENGAGEMENT WITH ONLINE
PLATFORMS // MULTI-STAKEHOLDER
APPROACH: REAL411**

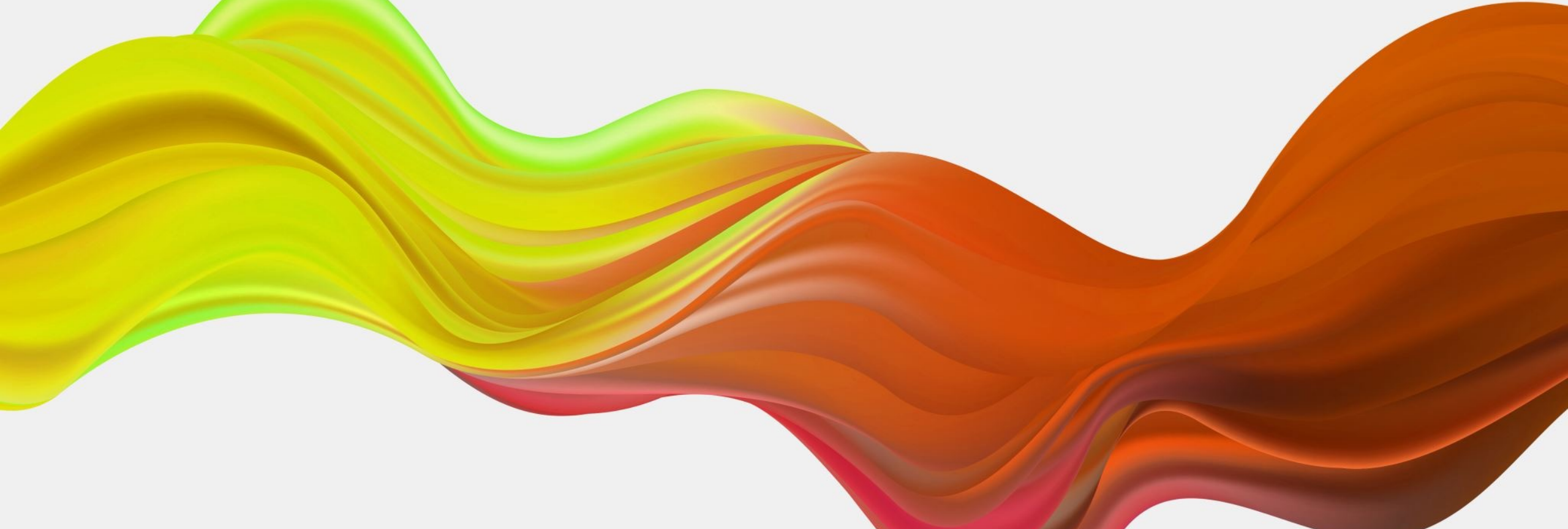
MULTI-STAKEHOLDER APPROACH: REAL411



Engage with MMA to discuss partnering on Real411, taking into consideration the particular constitutional underpinning

Leverage partnership with Real411 to engage with online platforms to develop cooperative measures to address online harms

RECOMMENDATIONS



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