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The promotion of Internet and online media services appropriate for minors

Report[1]
Committee on Culture, Science and Education
Rapporteur: Mr József KOZMA, Hungary

Summary

The Internet has enhanced opportunities for information and communication in an unprecedented way, but does not alter the established standards of freedom of expression and information, which also include proportional legal restrictions necessary in a democratic society for the protection of minors.

Traditional media regulation prohibits or restricts media content which is likely to impair the physical, mental or moral development of children and adolescents. Newspapers, radio and television have a declining audience among minors, thus reducing the effectiveness of traditional media policies for their protection.

It is therefore recommended that several concrete actions concerning illegal content, as well as content harmful to minors, be taken at national and European levels. The availability of child pornographic material is of the utmost concern in this respect and requires further action by states, as well as by Internet service providers and telecommunications industries.

1. Reference to committee: Doc. 11254, Reference 3352 of 24 May 2007.

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A. Draft recommendation

1. Twenty years after the idea of setting up the World Wide Web was born at the European Organisation for Nuclear Research (CERN) in Geneva, the Parliamentary Assembly of the Council of Europe recalls the decision of the Heads of State and Government taken at their 2005 Summit in Warsaw, that the Council of Europe should pursue work on children in the information society, in particular as regards developing their media literacy skills and ensuring their protection against harmful content.

2. The Internet has enhanced opportunities for information and communication in an unprecedented way. The new technological dimension in information and data exchanges does not alter the established standards of freedom of expression and information, which also include proportional legal restrictions necessary in a democratic society for the protection of minors.

3. The Internet constitutes an increasingly important part of our culture. It conveys almost all kinds of cultural items in a faster and more efficient way than any other medium and has an impact on society and its culture by reshaping relations and by introducing new forms of communication, especially among minors. If we want a strong cultural base, we should implement appropriate measures for the use of the Internet by younger generations.

4. Children and adolescents are increasingly able to broaden their social and cultural horizons beyond traditional geographic boundaries, which may lead to greater international understanding and co-operation among people. New communication technologies and services provide new opportunities for informal and formal education, creativity, social interaction and civic participation. These opportunities should be used for the benefit of children and adolescents. Social interaction online should not, however, substitute real life with so-called virtual reality, the psychological and social impact of which is yet unknown.

5. Minors often have access to Internet and mobile telephone services without supervision by parents or teachers. Pictures and sound can be transmitted and accessed easily. The availability of child pornographic material is of utmost concern in this respect and requires further action by states as well as Internet service providers and telecommunications industries.

6. Parts of their private life are shared publicly on the Internet by a rapidly growing number of minors, while many firms offer information on, and profiling of, individuals based on such private information. Private life and intimate details thus enter the public domain for an unforeseeable time. Individuals, commercial enterprises, universities, employers and others are increasingly using the information available on the Internet about individual persons in order to predetermine their contacts with them. States have the obligation, however, to protect privacy under Article 8 of the European Convention on Human Rights.

7. The continuing increase in advertising and business on the Internet and online media leads to more aggressive commercial practices which also target minors. With the global dimension of the Internet, ethics and legal norms may differ drastically. It would be most useful, therefore, to elaborate standards which are recognised Europe-wide and possibly beyond.

8. Traditional media regulation prohibits or restricts media content which is likely to impair the physical, mental or moral development of children and adolescents. The Assembly emphasises that parents can and should define for their children what they consider harmful or not. School directors and librarians, for example, have the obligation to restrict harmful content and services accessible at school or in libraries.

9. In order to handle the challenges of the Internet at home, parents need the support of social institutions for families and schools. The state has the responsibility to raise awareness, provide guidance – also against gender stereotypes, and set up minimum standards. These minimum standards should include access restrictions to violent content, pornography, advertising for tobacco and alcoholic products and gambling. Such access restrictions could be achieved by filters employed by parents, teachers, librarians or others at their access devices as well as by providers of content or services for minors.

10. Technical security is constantly increased with regard to computer networks. Firewalls and individual security settings of personal computers are refined, in order to keep pace with the technical progress of those seeking to bypass security systems. The Assembly therefore believes that it will be helpful, especially with regard to minors, to develop secure and restricted computer networks often referred to as Intranets, walled gardens or gated communities, which are accessible to an identifiable group of users only, typically require adherence to a code of conduct, fall under a clear set of legal rules and the jurisdiction of a given country and filter content harmful to minors. Technical security systems, however, cannot replace widely accessible and adequate education.

11. The Assembly emphasises that anyone who produces or makes available illegal content or services should be held liable by law. Illegal content and behaviour online have unfortunately grown over the past years and thus increased the risks for minors. This development is aggravated by the steady growth in Internet use, the growing amount of content produced by individual users instead of institutional content providers, the rapid expansion of social online networks often referred to as Web 2.0, and the technological progress in transmitting and accessing audiovisual content. In contrast, traditional media such as newspapers, radio and television have a declining audience among children and adolescents, hence reducing the effectiveness of traditional media policies for the protection of minors.

12. The Assembly recalls the Council of Europe's Convention on Cybercrime (ETS No. 185) of 2001, which sets up the legal framework for international co-operation against illegal behaviour and content on the Internet and other computer networks. It regrets that this convention has not been signed by Andorra, Monaco, Russia, San Marino and Turkey, and not yet been ratified by Austria, Azerbaijan, Belgium, the Czech Republic, Georgia, Greece, Ireland, Liechtenstein, Luxembourg, Malta, Moldova, Montenegro, Poland, Portugal, Spain, Sweden, Switzerland and the United Kingdom as well as Canada, Japan and the Republic of South Africa, although these states have signed it.

13. The Assembly welcomes the European Union's Safer Internet Programme 2009-2013 as well as voluntary initiatives for child safety by the Internet and online media industry and civil society. Internet hotlines, for example provided by members of the International Association of Internet Hotlines (INHOPE), are a helpful tool for children and parents to signal potentially harmful or illegal content and behaviour. Internet content which may be harmful to minors can be rated voluntarily by content providers in accordance with the standards set by the Internet Content Rating Association (ICRA), which subsequently allow for parental filtering of adult websites, for instance.

14. The Assembly calls on member and observer states' parliaments to:

14.1. assess the technological possibilities of increasing the safety of minors using Internet and online media services including mobile audiovisual telecommunications, in particular filtering devices and access restriction technologies;

14.2. initiate, together with the Internet industry and child protection organisations, public awareness campaigns targeted at the risks and opportunities for minors using Internet and online media services as well as the technical opportunities to restrict harmful content;

14.3. support the creation and marketing of services adequate for children and adolescents, including restricted networks described in paragraph 10 above as well as free software for parental filtering of content deemed by them as being potentially harmful to their children;

14.4. promote, in co-operation with the Internet industry and child protection, equal opportunities and other civil society organisations, public quality standards and ratings of Internet and online media services adequate for minors, and ensure that access to adult content is effectively restricted by age-verification systems installed by the providers of such content;

14.5. encourage public or private educational institutions, museums, orchestras and other cultural institutions as well as public service broadcasters to provide Internet and online content for children and adolescents, thus making European cultural heritage more competitive and attractive for minors via Internet and online media;

14.6. ratify without delay the Convention on Cybercrime and its Additional Protocol as well as the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, if their governments have signed them.

15. The Assembly recommends that the Committee of Ministers, in accordance with the decision taken at the Warsaw Summit in 2005:

15.1. assist member states in the implementation of this recommendation as well as the relevant Committee of Ministers' recommendations aiming at a safer use of the Internet and online media, in particular by minors;

15.2. establish co-operation with the Safer Internet Programme of the European Union and seek additional funding for Council of Europe action through voluntary contributions by member states as well as the private sector;

15.3. instruct its competent steering committee to analyse the potential psychological risks for children and adolescents using Internet and online media excessively, in particular social online networks suggesting virtual reality such as Second Life as well as violent online games and networks such as World of Warcraft, and to propose appropriate action by the Council of Europe and member states;

15.4. call on those states that have not yet signed the Convention on Cybercrime and its Additional Protocol to do so without delay, and initiate an international campaign aimed at accession to the Convention on Cybercrime also by states outside Europe, in order to cover better the world wide map of cyberspace and avoid geographical loopholes;

15.5. initiate work towards ensuring greater legal responsibility of Internet service providers for illegal content, whether or not this originates from third parties or users; this work may require the drafting of a new additional protocol to the Convention on Cybercrime;

15.6. analyse the feasibility of drawing up legal standards for the regulation of online gambling and other commercial online activities, which may be harmful to minors and are typically restricted by national legislation when provided offline.

16. The Assembly calls on member states to create a national institution for the co-operation between the Internet and media industries, civil society organisations and government in order to develop and implement the regulation of Internet and online media services.

17. The Assembly invites the Standing Conference of European Ministers for Education to define policy guidelines for teaching media literacy to children, adolescents, parents and teachers with a focus on Internet and online media services, in order to detect potential opportunities as well as risks linked to such services.

18. The Assembly appeals to the online media industry to develop and apply codes of conduct with regard to privacy protection, equal opportunities, commercial activities targeted at minors and content potentially harmful to them. Internet hotlines and other complaint mechanisms against potentially illegal and harmful content or conduct should be maintained by Internet service and content providers. Commercial services provided in conformity with high ethical standards and high safety protection for minors will be in growing demand in an ever expanding Internet and online media market.

B. Explanatory memorandum by Mr Kozma, rapporteur

1. Introduction

1. Following an initiative by my British colleague, Robert Walter, the Committee on Culture, Science and Education appointed me as rapporteur on this subject and organised an expert hearing in Paris on 10 March 2009. I am grateful for the contributions by the participants of this hearing: Mr Zsombor Fekete from the Hungarian Association of Internet Content Providers, Professor Divina Frau-Meigs from Paris University and Mrs Andrea Millwood Hargrave from Oxford University.

2. Internet and online media services are expanding rapidly, through mobile telephony, for example. Children and young people tend to use these new media instead of traditional media such as print media, radio and television. A development which began two decades ago with the creation of the World Wide Web has reached all sectors of our daily life, including information, communication, education, entertainment, culture, business and social contacts. The enormous individual and societal benefits are widely known and recognised. It is no longer necessary to raise awareness in this respect.

3. These benefits are, however, linked to a new and greater exposure to risks which, due to the rapid technological progress, might not be adequately addressed by existing regulation. Policy makers are compelled to reflect on this phenomenon and seek new approaches. These risks include illegal content and content which is legal but may be considered to be inappropriate for minors. In the first case, such content should be removed and those responsible should be pursued. The second case is much more difficult to deal with. The definition of what is inappropriate for minors is subjective and may vary from country to country. This report shall provide guidance to parliaments, governments and industry and initiate related work by the Council of Europe.

2. Council of Europe standards

4. The Council of Europe has developed a large number of policy guidelines on this subject: Assembly Recommendation 1836 (2008) on realising the full potential of e-learning for education and training, Assembly Recommendation 1543 (2001) on racism and xenophobia in cyberspace and Assembly Recommendation 1466 (2000) on media education, as well as the Committee of Ministers' draft recommendation on measures to protect children against harmful content and behaviour and to promote their active participation in the new information and communications environment, Recommendation CM/Rec(2008)6 on measures to promote the respect for freedom of expression and information with regard to Internet filters, Declaration on protecting the dignity, security and privacy of children on the Internet of 20 February 2008, Recommendation CM/Rec(2007)16 on measures to promote the public service value of the Internet, Recommendation CM/Rec(2007)11 on promoting freedom of expression and information in the new information and communications environment, Recommendation CM/Rec(2007)3 on the remit of public service media in the information society, Declaration on human rights and the rule of law in the information society of 13 May 2005, Declaration on freedom of communication on the Internet of 28 May 2003, Recommendation Rec(2001)8 on self-regulation concerning cyber content and Recommendation No. R (99) 5 for the protection of privacy on the Internet.

5. The Council of Europe also prepared the 2001 Convention on Cybercrime (ETS No. 185), which has been signed by most member states, as well as a number of non-member states. It constitutes the only international treaty on this subject and should be ratified more rapidly by those states that have signed it. In addition, it would be desirable to have more non-member states accede to this convention in order to avoid loopholes undermining this international effort against cybercrime.

6. In conformity with the decision taken by the heads of state and government at the 3rd Summit of Heads of State and Government of the Council of Europe (Warsaw Summit) in 2005, the Council of Europe prepared a handbook on Internet literacy and a game for children on the possible dangers of the Internet called Wild Web Woods.

3. International efforts

7. The European Commission administers the Safer Internet Programme (2009-2013) of the European Union, which succeeded similar programmes existing since 1999 and currently has a budget of 55 million euros. The programme recognises that children and young people are almost expert users of online technologies. However, this does not mean that they all have the maturity to identify the potential risks they

may be exposed to, let alone their possible consequences. The programme therefore aims at informing young people, parents and teachers of the potential risks that youngsters may encounter online, as well as at fighting illegal and harmful content and conduct online.

8. International organisations such as the Council of Europe could take part in shared-cost actions under the Safer Internet Programme of the European Union. It is worth exploring common synergies in this field between the European Union and the Council of Europe.

9. The United Nations International Telecommunication Union organised the World Summit on the Information Society (WSIS) in 2003 and 2005, which addressed safety and security questions, in addition to access issues aimed at overcoming the global digital divide.

4. Traditional media standards

10. The protection of minors has been an objective of media policies and standards for many decades. Most, probably all, European countries restrict the advertising, display and sale of pornographic print media and videos in order to prevent minors from accessing them. Violent films on television can only be shown free-to-air after a certain hour or through restricted access systems such as pay-per-view. Advertising for alcohol and tobacco products are typically restricted in traditional media, either by being prohibited or requiring a health warning.

11. The 1989 European Convention on Transfrontier Television (ETS No. 132), revised in 1998, requires, in Article 7, for example, that programme services of broadcasters shall not be indecent and contain pornography, and shall not give undue prominence to violence or be likely to incite racial hatred. All items of programme services which are likely to impair the physical, mental or moral development of children and adolescents shall not be scheduled when, because of the time of transmission and reception, they are likely to watch them. These provisions are in the process of being amended in accordance with technological progress and the European Union directive on audiovisual media services. The policy objectives should, however, remain valid. Any limitation based on transmission and reception time does not, of course, apply to the Internet or to on-demand media, where everything is available all the time.

12. Twenty years ago, the Committee of Ministers' Recommendation No. R (89) 7 concerning principles on the distribution of videograms having a violent, brutal or pornographic content also proposed a range of measures including self-regulation, content classification, control systems and bans. At that time, such videograms could be bought or rented from commercial outlets. Today, minors can download audiovisual content via the Internet and copy it. With the growth of user-generated content on the so-called Web 2.0, individual persons will increasingly be able to produce and make accessible audiovisual content that does not necessarily respect traditional media standards.

5. New challenges

13. The technological progress in Internet and online media poses a number of challenges to traditional media standards for the protection of minors.

14. While, in the past, audiovisual content used to be of lower picture quality on the Internet,,, such content can meanwhile be accessed through infrastructures permitting the faster transmission of more data. It is therefore not necessary to buy audiovisual content recorded on a physical device. Content can be accessed on websites, copied onto computers or sent via e-mails.

15. Given the worldwide reach of the Internet, national standards may apply to national content providers, but they might not be applicable to producers and distributors abroad.

16. With web cameras and cameras in mobile phones, audiovisual content can easily be created by individual users, including minors.

17. Social contacts and networks are expanding in the online world. Many of these are open to, and designed for, children and young people. The problem of adults grooming minors in online networks has been known about for some years. Cyber bullying and harassment are phenomena that have been noted more recently. With a growing part of their daily time spent on online networks, minors may also lose touch with real life and may isolate themselves. This is sometimes referred to as "cyber addiction".

18. The growing exploitation of the Internet and online media services for commercial purposes has also led to more aggressive advertising and selling practices. Software is used to identify users and their movements on the Internet, people's Internet conduct is profiled, and normally private information is searched for on the Internet, collected and used for commercial or other purposes. In the offline world, the privacy of minors requires a higher level of protection. It is therefore also necessary to ensure more protection online.

19. Child protection work has identified parents as the weak point in many cases of child abuse or neglect. Children and young people generally know more about the Internet and online media than their parents. Parental control over their children's use of the Internet is therefore hardly possible without adequate information and training for parents.

6. Policy responses

20. In order to better understand the challenges and opportunities created by the Internet and online media, more research and greater public awareness are necessary. Awareness needs to be supported by training and education based on research. In Europe, the so-called digital divide is more a generational problem than a question of social status. The Standing Conference of European Ministers of Education could assist national ministries by agreeing on policy guidelines for education in this respect, both for education of children in schools, as well as lifelong learning by parents.

21. Technological means exist to restrict both content and conduct on the Internet. They may include content filters used by parents or commercial providers of Internet services for children. Such filters may block content deemed by parents as being potentially harmful for their children, but they may also facilitate the search for and access to content appropriate for minors. Lawful content should obviously not be blocked by state authorities, which could be tempted to use this possibility to suppress political opposition. Filtering systems applied at state level could therefore be in violation of Article 10 of the European Convention on Human Rights (ECHR). At the level of parents, teachers, librarians or other persons in charge of children, filtering content does not raise problems in respect of Article 10 ECHR. On the contrary, parental control over the online conduct of their children and the content they access is part of the parental obligation towards their children.

22. Internet access providers in France, for example, signed an agreement with the French Government to provide parental filtering software free of charge. In 2006, the "family label" was also created in France to indicate Internet content appropriate for minors. In March 2009, the Steering Committee on the Media and New Communication Services (CDMC) of the Council of Europe proposed that the Committee of Ministers initiate a trust mark for Internet content.

23. On a voluntary basis, the ICRA (the Internet Content Rating Association) has set up a rating system for content which may be harmful for minors. It is typically used for the rating of pornographic or violent content by the providers of such content. The effect of such voluntary rating is not only that content can be restricted by parents, but also that such content can be searched for more easily by those adults who wish to see it.

24. Adult content can also be restricted by content providers themselves through age-verification systems. The effectiveness of these may, however, be questioned. For example, in Germany in 2007, the highest federal court (Bundesgerichtshof) decided that providers of pornographic Internet content must apply more adequate age control systems in order to effectively prevent minors from accessing such content.

25. Social networks may be created which adhere to strict codes of conduct and which require the verifiable registration and identification of its members. Such networks may be more appropriate for minors, especially if membership is restricted to minors. For parents, social networks with high ethical and security standards will have a competitive advantage over totally unregulated social networks. For example, in the United Kingdom in February 2009, a task force of representatives from industry, charities, law enforcement agencies and government developed and presented the "Good practice guidance for providers of social networking and other user interactive services", which gives advice to industry, parents and children on how to stay safe online. This example should be followed in other countries.

26. Easily identifiable, quality content for minors will have the same competitive advantage for parents. Trusted content providers, such as public cultural institutions or public service broadcasters, should therefore be encouraged to make quality content for minors available online.

27. Children have a natural curiosity for new things and a tendency to test limits. Forbidden content may therefore have a particular attraction. Such phenomena can best be coped with through education. Minors should be made aware of potentially harmful consequences and be able to control their own use of the Internet and online media. This is often called Internet literacy.

28. Illegal content and conduct is obviously harmful for all, not only for minors. States must therefore increase their efforts to combat cybercrime. Signing and ratifying the Convention on Cybercrime is a minimum requirement in this respect.

29. In addition, it is helpful to have Internet hotlines which can be contacted by users having come across potentially illegal or harmful content or conduct. The International Association of Internet Hotlines (INHOPE) has been very successful in this respect. In the United Kingdom, for example, the Internet Watch Foundation provides a hotline for reporting child pornography and other Internet content related to child abuse, as well as criminally obscene Internet content and online incitement to racial hatred.

30. Internet hotlines may be provided by Internet service providers, as well as by police authorities. For instance, the Virtual Global Taskforce, which fights online child abuse, is made up of police forces from Australia, Canada, Italy, the United Kingdom, the United States and Interpol.

31. Self-regulation by the Internet industry may be useful in areas where legislation does not exist. This is particularly relevant with regard to the protection of the privacy of minors, as well as commercial activities targeted at minors. The Internet industry should therefore develop codes of conduct and ensure that they are applied.

Reporting committee: Committee on Culture, Science and Education

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Members of the committee: Mrs Anne **Brasseur**, (Chairperson), Mr Detlef **Dzembritzki** (1st Vice-Chairperson), Mr Mehmet **Tekelioğlu** (2nd Vice-Chairperson), Mrs Miroslava Němcová (3rd Vice-Chairperson), Mr Vicenç Alay Ferrer, Mr Florin Serghei **Anghel**, Mrs Aneliya Atanasova, Mr Lokman **Ayva**, Mr Walter Bartoš (alternate: Mrs Alena **Gajdůšková**), Mrs Deborah **Bergamini**, Mrs Oksana **Bilozir** (alternate: Mrs Olha **Herasym'yuk**), Mrs Guðfinna S. Bjarnadóttir, Mrs Rossana **Boldi**, Mr Ivan Brajović, Mr Petru **Călian**, Mr Miklós Csapody, Mr Vlad Cubreacov, Mrs Lena Dąbkowska-Cichocka, Mr Joseph **Debono Grech**, Mr Ferdinand Devínsky, Mr Daniel Ducarme, Ms Åse Gunhild Woie **Duesund**, Mrs Anke Eymer, Mr Gianni **Farina**, Mr Relu Fenechiu, Mrs Blanca Fernández-Capel Baños, Mr Axel **Fischer**, Mr Gvozden Srećko **Flego**, Mr Dario Franceschini, Mr José **Freire Antunes** (alternate: Mr José Luis **Arnaut**), Mrs Gisèle **Gautier**, Mr Ioannis Giannellis-Theodosiadis, Mr Martin Graf, Mr Oliver Heald, Mr Rafael **Huseynov**, Mr Fazail İbrahimli, Mr Mogens **Jensen**, Mr Morgan Johansson, Mrs Francine John-Calame, Ms Flora Kadriu, Mrs Liana Kanelli, Mr Jan **Kaźmierczak**, Miss Cecilia **Keaveney**, Mrs Svetlana Khorkina (alternate: Mr Igor **Chernyshenko**), Mr Serhii Kivalov, Mr Anatoliy **Korobeynikov**, Ms Elvira **Kovács**, Mr József **Kozma**, Mr Jean-Pierre Kucheida, Mr Ertuğrul **Kumcuoğlu**, Ms Dalia Kuodytė, Mr Markku **Laukkanen**, Mr René van der Linden, Mrs Milica **Marković**, Mrs Muriel **Marland-Militello**, Mr Andrew McIntosh, Mrs Maria Manuela de **Melo**, Mrs Assunta Meloni (alternate: Mr Pier Marino **Mularoni**), Mr Paskal Milo, Ms Christine **Muttonen** (alternate: Mr Albrecht **Konecny**), Mr Tomislav Nikolić, Mr Edward **O'Hara**, Mr Kent **Olsson**, Mr Andrey Pantev, Mrs Antigoni Papadopoulos, Mrs Zatuhi **Postanjyan**, Mrs Adoración Quesada Bravo, Mr Frédéric **Reiss**, Mrs Mailis Reps, Mrs Andreja **Rihter**, Mr Nicolae **Robu**, Mr Paul Rowen, Mrs Anta Rugāte, Mrs Ana Sánchez Hernández, Mr Leander **Schädler**, Mr Yury **Solonin**, Mr Christophe Steiner, Mrs Doris **Stump**, Mr Valeriy **Sudarenkov**, Mr Petro Symonenko, Mr Guiorgui Targamadzé, Mr Hugo Vandenberghe, Mr Klaas De Vries, Mr Piotr **Wach**, Mr Wolfgang **Wodarg**

NB: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the committee: Mr Ary, Mr Dossow