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The promotion of Internet and online media services appropriate for minors

Reply to Recommendation[1]: Recommendation 1882 (2009)
Committee of Ministers

1. The Committee of Ministers has examined Parliamentary Assembly Recommendation 1882 (2009) on "The promotion of Internet and online media services appropriate for minors". It has drawn the attention of its member states to the recommendation and has forwarded it to its Steering Committee on the Media and New Communication Services (CDMC), to its Steering Committee for Education (CDED) and to the Committee of the Convention on Cybercrime (T-CY), for information and possible comments. The comments received are appended to this reply.

2. The Committee of Ministers observes that the decision taken by the Heads of State and Government of the Council of Europe member states at their Third Summit in Warsaw in 2005, that the Organisation 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, is being implemented.

3. The Committee of Ministers underlines the importance of fostering children's trust and confidence in the Internet as an integral part of their freedom of expression and their right to seek and impart information in accordance with Article 10 of the European Convention on Human Rights. The needs and concerns of children online should be addressed without undermining the benefits and opportunities offered to them on the Internet. It supports the call for 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. The Committee of Ministers recalls its declaration on protecting the dignity, security and privacy of children on the Internet, which will be followed up by the CDMC. It notes that this Committee will be examining, *inter alia,* the human rights aspects of social networks in the near future.

4. In its Recommendation Rec(2006)12 on empowering children in the new information and communications environment, the Committee of Ministers recommends that member states ensure that children become familiar with, and skilled in, the new information and communications environment and that, to this end, information literacy and training for children become an integral part of school education from an early stage in their lives. The Committee of Ministers underlines that the Council of Europe programmes of education for democratic citizenship and human rights (EDC/HRE) aim to help young people develop the skills they need to use the new media properly, particularly those relating to exercising critical judgment and using the various sources of information on offer to form their own opinion.

5. As regards "quality standards and ratings of Internet and online media services adequate for minors", the Committee of Ministers notes that children's confidence and trust online can be developed and strengthened by promoting their access to "islands of trust" otherwise known as "walled gardens" in which they can explore, learn and play. Recommendation CM/Rec(2009)5 on measures to protect children against harmful content and behaviour and to promote their active participation in the new information and communications environment, recommends that member states encourage public-private partnerships to (i) create and facilitate confidence building environments (walled gardens) for children to safely explore the

1. adopted at the 1088th meeting of the Ministers' Deputies (16 June 2010)

Internet, (ii) create a human rights based pan-European trustmark which harnesses new and existing online content labelling systems, and (iii) improve children's media literacy. The Council of Europe's online game "Wild Web Woods" based on the Organisation's "Internet Literacy handbook" is designed to help children identify the dangers while using the Internet in order to be able to avoid them.

6. The Committee of Ministers supports the call to promote policies and multi-stakeholder co-operation, including the work of the European Dialogue on Internet Governance and Safer Internet Programme. It notes the call for greater legal responsibilities for Internet service providers (ISPs) with regard to illegal content and observes that this is a very complex legal matter that concerns the work of several committees in the Council of Europe. In this context, the Declaration of the Committee of Ministers on freedom of communication on the Internet which refers to the principle of limited liability of service providers for Internet content should be recalled. The Committee of Ministers invites the relevant committees to engage in reflection on this matter pursuant to the action plan of the Reykjavik Ministerial Conference and bearing in mind the commitment and engagement of the European Association of Internet Services Providers (EuroISPA) to the Council of Europe Human Rights Guidelines for ISPs which were launched together with EuroISPA in October 2008.

7. The Committee of Ministers finally calls on all member states to sign and/or ratify the Council of Europe Convention on Cybercrime (ETS No. 185) of 2001 and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189), as well as the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201). It notes that the Council of Europe is promoting accession to the Cybercrime Convention also by states outside Europe, *inter alia* through the "Project on Cybercrime" which has, since its launch in 2006, carried out more than 110 activities, thus helping to create a global momentum towards the strengthening of legislation and the implementation of the Convention's standards worldwide.

Appendix 1 to the reply

Comments of the Steering Committee on the Media and New Communication Services (CDMC)

1. The Steering Committee on the Media and New Communication Services (CDMC) welcomes Parliamentary Assembly Recommendation 1882 (2009) and takes note of the recommendations contained therein.

2. The CDMC notes that Parliamentary Assembly Recommendation 1882 (2009) embodies many existing standards in the field of the media and new communication services, prepared by the CDMC and adopted by the Committee of Ministers, which stress the importance of children's accessibility to and safety on the Internet, with particular reference to media literacy, access to information, fair and transparent use of the Internet resources and the promotion of human rights, the rule of law and democracy, social cohesion and diversity through ICTs. Parliamentary Assembly Recommendation 1882 (2009) should therefore be considered together with several other relevant recommendations of the Committee of Ministers (many of which are referred to below) and the adopted texts of the 1st Council of Europe Conference of Ministers responsible for Media and New Communication Services, held on 28 and 29 May 2009 in Reykjavik.

3. Parliamentary Assembly Recommendation 1882 (2009) places the Internet within a cultural context enabling children (and adults) to broaden their social and cultural horizons. These opportunities underline the high public service value of the Internet in line with Recommendation CM/Rec(2007)16 on measures to promote the public service value of the Internet.

4. From the outset, the CDMC would underline the importance of fostering children's trust and confidence in the Internet as an integral part of their freedom of expression and their right to seek and impart information in accordance with Article 10 of the European Convention on Human Rights. The needs and concerns of children online should be addressed without undermining the benefits and opportunities offered to them on the Internet.

5. The CDMC generally supports the call for "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".

6. The CDMC stresses the need to protect children's dignity, security and privacy on the Internet, in particular, by ensuring that there are no lasting or permanently accessible records of the content they create which renders them vulnerable now or at a later stage in their lives. This accords with the Committee of Ministers Declaration on protecting the dignity, security and privacy of children on the internet, the follow-up of which will be carried out by the CDMC subordinate Committee of Experts on New Media (MC-NM).

7. The CDMC notes that growing numbers of children rely on the Internet for many of their everyday activities. The Internet has become an important tool for their social life, for learning and their feeling of general well-being. Children's engagement in social networking can help them communicate and to positively project themselves (their image and personality) thereby helping them to build confidence and trust both in themselves and in others. The MC-NM will be examining the human rights aspects of social networks in the near future. In this connection, the CDMC shares the concerns about the "reducing effectiveness of traditional media policies for the protection of minors" with regard to user generated content and social networks.

8. The CDMC underlines the need for children to be empowered to use the Internet and online services so that they can acquire the necessary skills to create, produce and distribute content and communications. This accords with Committee of Ministers Recommendation Rec(2006)12 which recommends that member states ensure children become familiar with, and skilled in, the new information and communications environment and that, to this end, information literacy and training for children become an integral part of school education from an early stage in their lives.

9. In line with the discussions and texts adopted during the Reykjavik Ministerial Conference, the CDMC strongly supports efforts to develop and promote media literacy in order to promote "informal and formal education, creativity, social interaction and civic participation" and to address gender based "negative effects on children and adolescents". In this connection, the CDMC notes the decision of the Committee of Ministers of 20 October 2009 to support a transversal approach to media literacy under the stewardship of the Directorate General of Education, Culture and Heritage, Youth and Sport.

10. In building a Europe for and with children, the CDMC considers that these efforts could be usefully carried out taking into account their needs and concerns noting, in this regard, that public service media can participate actively in spreading media literacy among children and young people, parents and teachers as well as the public at large. As a trustworthy information source, public service media can also help overcome the risks of broadcasting negative stereotypes and violent content online.

11. In accessing online content, the CDMC recalls that children's access to filters should be age appropriate and "intelligent" as a means of encouraging access to and confident use of the Internet and as a complement to strategies which tackle access to harmful content. The use of such filters should be proportionate and should not lead to the overprotection of children in accordance with Recommendation CM/Rec(2008)6 on measures to promote the respect for freedom of expression and information with regard to Internet filters.

12. As regards "quality standards and ratings of Internet and online media services adequate for minors", the CDMC stresses that children's confidence and trust online can be developed and strengthened by promoting their access to "islands of trust" otherwise known as "walled gardens" in which they can explore, learn and play. The CDMC recalls Committee of Ministers Recommendation CM/Rec(2009)5 on measures to protect children against harmful content and behaviour and to promote their active participation in the new information and communications environment which recommends that member states encourage public-private partnerships to (i) create and facilitate confidence building environments ("walled gardens") for children to safely explore the Internet, (ii) create a human rights based pan-European trustmark which harnesses new and existing online content labelling systems, and (iii) improve children's media literacy. The CDMC notes that the Council of Europe has been invited to facilitate the implementation of this recommendation. It would also underline that the development of sustainable strategies for delivering a sufficient amount of trustworthy and diverse online content for children merits consideration.

13. The CDMC shares the concern about the harmful effects on children of certain types of content and behaviours. It should be pointed out that, pursuant to the Action Plan of the Reykjavik Ministerial Conference, the CDMC will be "exploring the question of the possible use of newer or emerging services of mass communication to shape opinion and consumption of different groups in society in a surreptitious, subliminal or otherwise manipulative manner and, with due regard to Articles 8 and 10 of the European Convention on Human Rights, explore ways in which to protect the users or public from such use".

14. The CDMC takes note of, and stands ready to carry out the instruction in the recommendation to "analyse the potential psychological risks for children and adolescents using Internet and online media [services] excessively",[2] in particular social online networks and games as well as sites containing negative gender stereotypes, and to propose appropriate action by the Council of Europe and member states. Further research, analysis and multi-stakeholder coordination with regard to the risk of harm could be carried out by the CDMC and/or its subordinate bodies. Useful consideration could also be given to the Council of Europe Human Rights Guidelines for Online Games Providers which were launched together with the Interactive Software Federation in Europe (ISFE) in October 2008.

15. The results of such analysis would assist educational and cultural institutions, as well as public service broadcasters, in creating and delivering more meaningful, attractive and competitive content online to children which promotes cultural heritage as well as linguistic and cultural diversity in Europe.

16. The CDMC strongly supports the call to promote policies and multi-stakeholder co-operation, including the work of the European Dialogue on Internet Governance and Safer Internet Programme. It would underline that the effectiveness of such policies and cooperation depends on maximising the outreach and engagement of a panoply of actors, in national, local and regional multi-stakeholder settings, which have a direct and indirect influence on children. These actors (e.g. parents, social institutions, schools, state, industry) play important roles in children's lives and reflection on their responsibilities is welcome.

17. The CDMC takes note of the call for greater legal responsibilities for Internet service providers (ISPs) with regard to illegal content. This is a very complex legal matter that concerns the work of other steering committees in the Council of Europe. In this context, the Declaration of the Committee of Ministers on freedom of communication on the Internet which refers to the principle of limited liability of service providers for Internet content should be recalled. The CDMC stands ready to engage in reflection on this matter pursuant to the Action Plan of the Reykjavik Ministerial Conference and bearing in mind the commitment and engagement of the European Association of Internet Services Providers (EuroISPA) to the Council of Europe Human Rights guidelines for ISPs which were launched together with EuroISPA in October 2008.

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2. Paragraph 16.4 of Parliamentary Assembly Recommendation 1882 (2009).

18. In conclusion, the CDMC considers that the promotion of Internet and online media services appropriate for minors involves striking a balance between the positive and negative aspects of media and new communication services so that children (and their parents and teachers) may develop the confidence and trust they need to fully exercise and enjoy their rights and freedoms, in particular the right to freedom of expression and information, and to be active citizens.

Appendix 2 to the reply

Comments of the Bureau of the Steering Committee for Education (CDED)

The Bureau of the Steering Committee for Education (CDED):

1. Welcomes the adoption of Parliamentary Assembly Recommendation 1882 (2009) on "The promotion of Internet and online media services appropriate for minors";

2. Points out that minors are one of the main target groups of its intergovernmental programme of activities in the area of formal education and therefore it feels particularly concerned by the issues raised by this recommendation;

3. Emphasises the important part that education plays in ensuring that the new media are used properly by minors while recognising that responsibility in this sphere must be shared between teachers, educators, parents and industry;

4. Takes this opportunity to inform the Committee of Ministers that its Pestalozzi programme now includes a module on the use of the new media with reference to human rights, aimed at trainers of trainers, as the latter act as multipliers in the education field;

5. Points out that its programmes of education for democratic citizenship and human rights (EDC/HRE) aim to help young people develop the skills they need to use the new media properly, particularly those relating to exercising critical judgment and using the various sources of information on offer to form their own opinion;

6. Supports the recommendation in paragraph 9 referring to the minimum standards which states should establish;

7. Endorses the proposal in paragraph 14.2 concerning awareness-raising campaigns and strongly suggests that the education sector should be involved in such projects through partnerships. The question of partnerships and their contribution to the quality of education will, moreover, be addressed at the next Standing Conference of Ministers of Education (Brdo, Slovenia, 4-5 June 2010);

8. Supports the recommendation in paragraph 15.3 calling for research as a means of providing information for the parties concerned, namely young people and their parents. Universities and higher education networks should be put to work on these projects, as should teachers, who should be fully involved in research work;

9. Takes due note of the Parliamentary Assembly's invitation in paragraph 17 and agrees that teaching media literacy is one of the best means of prevention;

10. Like the Parliamentary Assembly, welcomes the European Commission's Safer Internet Programme (2009-2013) and, by extension, supports the recommendation in paragraph 15.2 calling for increased co-operation between the European Union and the Council of Europe;

11. Reaffirms its commitment to Parliamentary Assembly Recommendation 1836 (2008) on "Realising the full potential of e-learning for education and training", Parliamentary Assembly Recommendation 1466 (2000) on "Media education" and the Declaration of 20 February 2008 on protecting the dignity, security and privacy of children on the Internet and the Council of Europe Convention on Cybercrime (ETS No. 185) of 2001.

Appendix 3 to the reply

Comments of the Cybercrime Convention Committee (T-CY)

1. The Cybercrime Convention Committee (T-CY) has carefully studied Parliamentary Assembly Recommendation 1882 (2009), in particular its paragraphs 16.5 and 16.6 thereof.

2. The T-CY welcomes the call for signature and ratification of the Convention on Cybercrime worldwide. The Convention is more than a European instrument; indeed it is a truly international treaty which should become the legal framework of reference for fighting cybercrime at global level, as has just been reaffirmed in the European Union's "Stockholm Programme".

3. The T-CY recalls that the "Project on Cybercrime" under the Directorate General of Human Rights and Legal Affairs has, since its launch in 2006, carried out more than 110 activities, thus helping to create a global momentum towards the strengthening of legislation and the implementation of the Convention's standards worldwide. The important work carried out by the "Project on Cybercrime", which is now in its second phase, should continue to be supported by member states.

4. As regards greater legal responsibility of Internet service providers (ISPs), the T-CY notes that the Parliamentary Assembly has not specified whether it aims at criminal, administrative or civil responsibility. At European Union level, ISP liability is to a certain extent harmonised in the E-Commerce directive 2000/31. This directive provides for a legal regime under which providers of hosting, caching and mere conduit services are exempt from liability under certain conditions. Furthermore, the E-Commerce directive states that the providers of these services cannot be subject to any general monitoring obligation.

5. ISPs are a path through which illegal contents enter and re-enter the public network. There is a need to consider their role and responsibilities in the light of new technological developments. The T-CY is an appropriate forum to examine further the critical issue of responsibility of ISPs, with a view to developing, if necessary, common standards for government regulation and/or self-regulation. Such examinations should form part of a dialogue between all stakeholders, including in particular ISPs and the competent national and international authorities. The overall objective is to effectively prevent and combat cybercrime in order to provide a safer and better Internet for all, including in particular minors.