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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE  
COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE  
COMMITTEE OF THE REGIONS**

**on the application of the Council Recommendation of 24 September 1998 concerning the  
protection of minors and human dignity and of the Recommendation of the European  
Parliament and of the Council of 20 December 2006 on the protection of minors and  
human dignity and on the right of reply in relation to the competitiveness of the  
European audiovisual and online information services industry  
- PROTECTING CHILDREN IN THE DIGITAL WORLD -**

**- PROTECTING CHILDREN IN THE DIGITAL WORLD -**

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## 1. INTRODUCTION

The developments that are taking place in the field of **audiovisual and online information services** are rapidly changing the ways in which consumers use media. Media are increasingly being used via mobile devices, including (online) video games, there are more and more on-demand media services on the Internet while social networks are growing in both size and importance, both for the individual users and as a societal phenomenon.

Regulation cannot always keep pace with these developments. At European level (with the Audiovisual Media Services Directive) and in most of the Member States, there are specific rules only for the content of audiovisual media.

This makes it even more important that Member States and service providers are conscious of the new challenges for the protection of minors linked to these developments and that they promote appropriate framework conditions by other than purely legal means, e. g. through stakeholder cooperation and co- or self regulation<sup>1</sup>.

## 2. BACKGROUND

On 24 September 1998, the Council adopted the "**Recommendation on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity**"<sup>2</sup> ("the 1998 Recommendation"). This was the first legal instrument at EU-level concerning the content of audiovisual and information services covering all forms of delivery, from broadcasting to the Internet.

The "**Recommendation of the European Parliament and of the Council on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and online information services industry**" of 20 December 2006 ("the 2006 Recommendation")<sup>3</sup> promotes the adoption of relevant rules for all audiovisual and online information services. It focuses in particular on the Internet, highlighting the need to use it in a positive way and to combat all illegal activities harmful to minors in order to make the Internet a safe medium.

In 2001 and 2003 the Commission adopted two **evaluation reports** on the application of the 1998 Council Recommendation<sup>4</sup>. The Council meeting (Culture) responded to the 2001

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<sup>1</sup> At the same time it should be ensured that all self-regulatory measures taken are in compliance with competition law.

<sup>2</sup> 98/560/EC, OJ L 270, 07.10.1998 P. 48 – 55 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31998H0560:EN:NOT>)

<sup>3</sup> 2006/952/EC, OJ L 378, 27.12.2006, p. 72–77 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006H0952:EN:NOT>)

<sup>4</sup> COM(2001) 106 final / COD 2010/0064 ([http://ec.europa.eu/avpolicy/docs/reg/minors/ermin\\_en.pdf](http://ec.europa.eu/avpolicy/docs/reg/minors/ermin_en.pdf)) and COM(2003) 776 final (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0776:FIN:EN:PDF>)

evaluation report by adopting its Conclusions of 21 June 2001<sup>5</sup>, and the Parliament then adopted a resolution on the report on 11 April 2002<sup>6</sup>.

With the present evaluation report, the Commission is responding to the call in Point 6 of the 2006 Recommendation to submit to the European Parliament and the Council, on the basis of information supplied by the Member States, a report on the implementation and effectiveness of the measures specified in the Recommendation, and to review this Recommendation if and when the need arises.

The **Audiovisual Media Services Directive**<sup>7</sup>, which entered into force on 19 December 2007 and had to be transposed by the Member States by 19 December 2009, extends the standards for protection of minors from traditional TV programmes to the fast growing on-demand audiovisual media services, particularly on the Internet. For both, the generic term "audiovisual media service" was introduced. In the field of protection of minors, the Audiovisual Media Services Directive and the 1998 and 2006 Recommendations, which cover any online service that does not fall under the scope of Audiovisual Media Services Directive, complement each other.

In its **2008 Video Games Communication**<sup>8</sup> the Commission supported systems of graduated access to video games using age classifications and welcomed the success of PEGI, the industry's voluntary "Pan-European Games Information System"<sup>9</sup> and PEGI Online<sup>10</sup> for online games<sup>11</sup>. In this Communication, the Commission calls for better advertising and promotion of PEGI by the industry, regular review of the rating and the criteria applied, wider adoption of PEGI Online and the development and implementation of a Code of Conduct by video games retailers in order to push back "underage" sales<sup>12</sup>.

Regarding the **fight against illegal online content**, the Commission launched a proposal in March 2010 for a **new Directive on combating sexual abuse**, sexual exploitation of children and child pornography<sup>13</sup>, currently under discussion with the European Parliament and the Council.

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<sup>5</sup> [http://ec.europa.eu/avpolicy/docs/reg/minors/council\\_conc-01.htm](http://ec.europa.eu/avpolicy/docs/reg/minors/council_conc-01.htm)

<sup>6</sup>

<sup>7</sup> [http://www.europarl.europa.eu/omk/omnsapir.so/pv2?PRG=CALDOC&FILE=020411&LANGUE=EN&TPV=DEF&LASTCHAP=23&SDOCTA=8&TXTLST=1&Type\\_Doc=FIRST&POS=1](http://www.europarl.europa.eu/omk/omnsapir.so/pv2?PRG=CALDOC&FILE=020411&LANGUE=EN&TPV=DEF&LASTCHAP=23&SDOCTA=8&TXTLST=1&Type_Doc=FIRST&POS=1)  
Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services - codified version, OJ L 15.04.2010, p. 1 – 24 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:095:0001:0024:EN:PDF>)

<sup>8</sup> COM/2008/0207 final: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the protection of consumers, in particular minors, in respect of the use of video games (22 April 2008) (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008DC0207:EN:not>)

<sup>9</sup> <http://www.pegi.info/en/>

<sup>10</sup> <http://www.pegionline.eu/en/>

<sup>11</sup> The Commission under the Safer Internet Programme provided initial financial support for its development.

<sup>12</sup> The Commission's positions were backed by the European Parliament in a Resolution of 12 March 2009 on the protection of consumers, in particular minors, in respect of the use of video games ("Manders Report") (<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2009-0126>) and in a public hearing on video games of 8 July 2009 ([http://ec.europa.eu/avpolicy/reg/minors/video/hearing/index\\_en.htm](http://ec.europa.eu/avpolicy/reg/minors/video/hearing/index_en.htm))

<sup>13</sup> COM/2010/0094 final (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010PC0094:EN:NOT>)

Complementing these various initiatives, the Commission also funds since 1999 **Safer Internet Programmes**<sup>14</sup>, which aim at empowering and protecting children and young people online and fighting illegal and harmful online content and conduct. With a budget of 55 million Euros for the period 2009-2013, the current Safer Internet Programme focuses on three main goals:

First, to empower children to get to know their rights and responsibilities online. The Commission co-funds **awareness centres and helplines** in all Member States, as part of the integrated network "INSAFE". Action 40 of the Digital Agenda for Europe requests Member States to develop strategies to teach online safety in schools<sup>15</sup>.

Furthermore, the Commission promotes systematic and speedy notification of illegal content online by INHOPE hotlines<sup>16</sup> to Internet Service Providers, in an agreed procedure with law enforcement agencies.

Second, to ensure that all children have access to quality content online. In March 2009, the Commission set up a **focus group of experts** with the aim of discussing how to promote **excellence and quality in online content for children**. Following a proposal by the focus group, the Commission initiated the "European Award for Best Children's Online Content", which was organized at national level in 14 Member States in 2010-2011<sup>17</sup>. The award ceremony took place on 17th June 2011 in Brussels in the framework of the Digital Agenda Assembly<sup>18</sup>.

Third, to strengthen the fight against illegal content and promote cooperation between industry, NGOs and law enforcement authorities to protect children online.

In addition, the Commission facilitated the signature of two **self-regulatory agreements** in the area of protection of minors online: the "European Framework for Safer Mobile Use by Younger Teenagers and Children"<sup>19</sup> (signed in February 2007), implemented through national codes of conduct in the Member States, and the "Social Networking Principles for the EU"<sup>20</sup> (signed in February 2009) which are implemented directly by its 21 signatories. The Commission presented the findings of an independent assessment of the implementation of the Principles<sup>21</sup> in June 2011 for a first batch of results<sup>22</sup>.

In line with action 37 of the Digital Agenda for Europe, the Commission has launched a review of the current self-regulatory agreements which involve all stakeholders who have impact on child online safety (mobile handset manufacturers, internet service providers, and online content providers).

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<sup>14</sup> [http://ec.europa.eu/information\\_society/activities/sip/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/index_en.htm)

<sup>15</sup> Assessment report on the status of online safety education in schools across Europe ([http://ec.europa.eu/information\\_society/activities/sip/docs/forum\\_oct\\_2009/assessment\\_report.pdf](http://ec.europa.eu/information_society/activities/sip/docs/forum_oct_2009/assessment_report.pdf))

<sup>16</sup> INHOPE Association of Internet hotlines <https://www.inhope.org/> - see under 3.3.

<sup>17</sup> Belgium, the Czech Republic, Germany, Spain, France, Greece, Hungary, Iceland, Italy, Latvia, Netherlands, Poland, Portugal and Slovenia. ([http://ec.europa.eu/information\\_society/activities/sip/events/competition/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/events/competition/index_en.htm))

<sup>18</sup> [http://ec.europa.eu/information\\_society/digital-agenda/daa/index\\_en.htm](http://ec.europa.eu/information_society/digital-agenda/daa/index_en.htm)

<sup>19</sup> [http://ec.europa.eu/information\\_society/activities/sip/self\\_reg/phones/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/self_reg/phones/index_en.htm)

<sup>20</sup> [http://ec.europa.eu/information\\_society/activities/sip/self\\_reg/social\\_netwk/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/self_reg/social_netwk/index_en.htm)

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[http://ec.europa.eu/information\\_society/activities/social\\_networking/eu\\_action/implementation\\_princip\\_2010/index\\_en.htm](http://ec.europa.eu/information_society/activities/social_networking/eu_action/implementation_princip_2010/index_en.htm)

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[http://ec.europa.eu/information\\_society/activities/social\\_networking/eu\\_action/implementation\\_princip\\_2011/index\\_en.htm](http://ec.europa.eu/information_society/activities/social_networking/eu_action/implementation_princip_2011/index_en.htm)

On 15 February 2011, the Commission adopted the Communication on "An EU Agenda for the Rights of the Child"<sup>23</sup>. The Communication reiterates the Commission's commitment to support Member States and other stakeholders in strengthening prevention, empowerment and participation of children to make the most of online technologies and counter cyber-bullying behaviour, exposure to harmful content and other online risks, namely through the Safer Internet Programme and cooperation with the industry through self-regulatory initiatives. A workshop to discuss the review of the current self-regulatory agreements was organised at the Digital Agenda Assembly on 17 June 2011<sup>24</sup>.

In conclusion, the evaluation report complements several actions listed in the Digital Agenda for Europe<sup>25</sup>. In particular, in order to enhance trust and security, the Commission has committed itself to "foster multi-stakeholder dialogue and self-regulation of European and global service providers (e.g. social networking platforms, mobile communications providers), especially as regards the use of their services by minors". Moreover, the Digital Agenda calls on Member States to "fully implement hotlines for reporting offensive or harmful online content, organise awareness raising campaigns on online safety for children, and offer teaching online safety in schools, and encourage providers of online services to implement self-regulatory measures regarding online safety for children by 2013".

The present report is based on replies from the Member States to a questionnaire<sup>26</sup>.

The answers are summarized in section 3 "Findings".

### 3. FINDINGS

#### Commitment against discrimination and other illegal or harmful content

*The 2006 Recommendation calls for measures aimed at avoiding "all discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, in all audiovisual and online information services, and to combat such discrimination" and other illegal or harmful content. Apart from relevant legal provisions, for example those envisaged for audiovisual media services by the Audiovisual Media Services Directive, this aims to secure self-commitments from the service and content providers.*

Content and service providers are increasingly taking steps to ban discriminating and other illegal or harmful content. They are doing this particularly through **self-commitments**, which exist in 24 Member States<sup>27</sup>, and by developing and signing up to **codes of conduct**,

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<sup>23</sup> COM (2011)60 final (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011DC0060:EN:NOT>)

<sup>24</sup> [http://ec.europa.eu/information\\_society/events/cf/daa11/item-display.cfm?id=5997](http://ec.europa.eu/information_society/events/cf/daa11/item-display.cfm?id=5997)

<sup>25</sup> COM(2010) 245 final/2: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Digital Agenda for Europe (26 August 2010 – corrected version) ([http://ec.europa.eu/information\\_society/digital-agenda/index\\_en.htm](http://ec.europa.eu/information_society/digital-agenda/index_en.htm))

<sup>26</sup> Member States responses reflect circumstances as at 2 July 2010. The Commission also received a reply from Norway. Not all of the Member States responded to all of the questions, and in the answers given, there were considerable differences concerning the level of elaboration and detail. The answers from the Member States reflect the relevant issues as perceived by them.

<sup>27</sup> Austria (only against other than discriminating illegal or harmful content), Belgium (Flemish Community: only against discriminating content; in the French Community in Belgium, service and content providers have made such commitments in the form of codes and recommendations by the

something which — in the case of online services — can be documented by a label on the website.

Altogether 23 Member States and Norway deem that the correct balance between prohibition of discriminatory content and freedom of expression and information has been reached<sup>28</sup>. According to Cyprus, this is not the case. France and Italy did not reply to this question.

### **3.1. Instruments to promote codes of conduct, positive/appropriate content and content labelling**

*Both the 1998 and the 2006 Recommendations highlighted the importance of codes of conduct for content providers, of measures promoting positive and appropriate content for minors, which keep them away from harmful content, and of content labelling.*

More and more content providers seem to consider adherence to a **code of conduct** as a distinctive quality criterion. In 12 Member States<sup>29</sup> there have been efforts to adopt a quality label, e.g. in the form of a certification that would allow users to easily check whether or not a given provider subscribes to and is in compliance with a code of conduct.

Efforts have been made in 12 Member States<sup>30</sup> to increase the use of **content labelling** systems for material distributed over the Internet.

In 18 Member States<sup>31</sup> there have been efforts to facilitate the access of minors to "**positive and appropriate content**" tailored to minors in order to keep them away and thus protect them from potentially harmful content in audiovisual and online information services and to make such content more visible and easier to find.

Germany, Italy and Portugal promote the **programming of audiovisual content** specifically dedicated to children by media service providers; Germany is urging content providers to establish a "positive list" of relevant offerings.

Germany, Luxembourg, Italy, the Netherlands and Poland put particular emphasis on specific search engines and browsers that are dedicated to or facilitate access to **websites for**

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"collège d'avis du Conseil supérieur de l'Audiovisuel (CSA)", where they are represented, e.g. in a "Recommendation on the presence and representation of women in broadcasting services"), Bulgaria, Cyprus, the Czech Republic, Estonia, Finland (only against other than discriminating illegal or harmful content), Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Romania (only against discriminating content), Slovakia (only against other than discriminating illegal or harmful content), Slovenia, Spain, Sweden and the UK, plus Norway (only against other illegal or harmful content). Denmark referred only to legal obligations; France did not reply to this question.

<sup>28</sup> Austria, Belgium (Flemish Community), Bulgaria, the Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK.

<sup>29</sup> Austria, Bulgaria, Cyprus, the Czech Republic, Denmark, Germany, Hungary, Ireland, Latvia, Lithuania, Romania and Sweden.

<sup>30</sup> Belgium (Flemish Community), Cyprus, the Czech Republic, Germany, Hungary, Lithuania, Luxembourg, Malta, the Netherlands, Slovakia, Spain and the UK, plus Norway. Estonia considers itself too small to run its own labelling system. In Lithuania, there is a legal obligation to label content potentially harmful for children.

<sup>31</sup> Austria, Belgium (Flemish Community), Cyprus (financial constraints have put such actions on hold), the Czech Republic, Estonia, Germany, Greece, Hungary, Italy, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Spain and the UK, plus Norway.

**children**<sup>32</sup>. In Luxembourg, the use of such search engines is part of primary school education. In Poland, the "Child-Friendly Website Certificate" certifies website content (not necessarily children's websites) and shows children which websites are safe and reputable.

### 3.2. Hotlines

*Hotlines can be an efficient means to detect and pursue illegal content, and they can empower consumers to do something about such content on the Internet. This contributes to the general awareness on relevant risks and to a culture of shared responsibility. Consequently, the 1998 Recommendation already formulated the objective "to promote the effective management of complaints [over hotlines] about content which does not comply with the rules on the protection of minors and/or violates the code of conduct". The survey seeks to establish the development and progress since then and the functioning of the hotlines put in place. As already mentioned, the Digital Agenda for Europe<sup>33</sup> calls on Member States to fully implement hotlines for reporting offensive or harmful online content by 2013.*

All Member States and Norway report that "**hotlines**" for reporting content have been established. They are run and funded by public institutions (e.g. police authorities), by NGOs or by commercial service providers on a self-regulatory basis.

The **European Commission's Safer Internet Programme**<sup>34</sup> co-funds hotlines in 26 European countries. Hotlines in 24 Member States<sup>35</sup> are members of the **INHOPE International Association of Internet hotlines** which was founded in 1999 under the EC Safer Internet Action Plan<sup>36</sup>. INHOPE covers countries beyond Europe<sup>37</sup> and has the goal to increase cooperation in this area.

INHOPE member hotlines must comply with the INHOPE Code of Practice.

**"Notice and take-down procedures"** require ISPs — despite having only limited liability and responsibility for Internet content under the E-Commerce-Directive<sup>38</sup> — to take down certain content (e.g. child sexual abuse content). 19 Member States<sup>39</sup> report that notice and take-down procedures have been developed and are applied. There are differences as regards

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<sup>32</sup> In Germany, "fragFINN" is part of "Ein Netz für Kinder", which is jointly run by public and private broadcasters and currently gathers 8500 attractive and safe websites for children from 8 to 12 years ([www.fragFINN.de](http://www.fragFINN.de)). There is cost-free software available which limits children's Internet access to these websites. Netherlands mentions e.g. the children's browser MYBEE from KPN and Mediasmarties, a pilot project for a system for all audiovisual media content for children between 1 ½ and 12 years old. In the Flemish Community in Belgium several Internet providers have set up their own projects.

<sup>33</sup> COM(2010) 245 final/2: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Digital Agenda for Europe (26 August 2010 – corrected version) ([http://ec.europa.eu/information\\_society/digital-agenda/index\\_en.htm](http://ec.europa.eu/information_society/digital-agenda/index_en.htm))

<sup>34</sup> [http://ec.europa.eu/information\\_society/activities/sip/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/index_en.htm)

<sup>35</sup> Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and the UK.

<sup>36</sup> <http://www.inhope.org/gns/home.aspx>

<sup>37</sup> Hotlines from 35 countries worldwide are full members of INHOPE.

<sup>38</sup> See below the introduction to section 3.4. Internet Service Providers (ISPs).

<sup>39</sup> Austria, Belgium (Flemish Community), Bulgaria, Cyprus, the Czech Republic, Denmark, Finland, Greece, Hungary, Ireland, Latvia, Luxembourg, Malta (for cases of child abuse images), the Netherlands, Poland, Portugal, Slovakia, Slovenia and the UK.

the verification of the illegality or the harm involved in the reported content, the review of such assessments, tracking of the source and of the web hosting provider and notification to the competent authorities.

For instance, whereas in Austria an ISP is required to take down the content immediately on request by the hotline operator, after which the hotline operator reviews the case, in Bulgaria, Poland and Portugal, the hotline operator first verifies the information and assesses the case before it requests the ISP to take down the content and informs the competent enforcement authorities (police). In Slovakia and Slovenia, problematic content first has to be reported to the police, who have to approve a take-down notice to the respective ISP.

As regards the **public awareness of hotlines**, existing hotlines — be they private, public or jointly run on a public/private basis — inform the public about their work and procedures through a variety of means. The Czech Republic and Slovakia report that the launch of the hotline was widely supported by the government and the police and widely publicised in the media, with information on its purpose and operation. Malta reports that campaigns on the hotlines are organised on a regular basis by the agencies that operate them.

Finland reports that, in order to make it easier to report illegal content directly to the police, the police have asked service providers to provide links to the hotline on their websites. Latvia reports that Members of the Internet Association have placed information (booklets) about reporting options at ISP customer service centres.

Bulgaria and Slovenia referred to the **monitoring** of hotlines<sup>40</sup>. In this regard, Bulgaria reports that the operation of hotlines is supervised and supported by a public council including representatives of a number of governmental, private and non-governmental organisations and Slovenia reports that twice a year the police produces a report on the work of hotlines with the number of notifications and of cases passed to the public prosecutors' offices as criminal complaints.

### 3.3. Internet Service Providers (ISPs)

*Better protection of minors on the Internet requires essentially the active involvement of Internet Service Providers (ISPs). However, it has to be borne in mind that, pursuant to the E-Commerce Directive<sup>41</sup>, ISPs are under no general obligation to monitor the information they transmit or store, nor any general obligation to seek actively facts or circumstances indicating illegal activity (Article 15(1)). ISPs have limited liability for the information transmitted (Article 12(1)), for the automatic, intermediate and temporary storage of that information (Article 13(1)) and for the information stored at the request of a recipient of the service (Article 14(1)).*

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<sup>40</sup> Through their grant agreements with the Commission, co-funded hotlines must be able to show that they have procedures endorsed by the police.

<sup>41</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ("Directive on electronic commerce") (OJ L 178, 17.7.2000, p. 1):  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0031:en:NOT>.

A total of 21 Member States<sup>42</sup> and Norway replied that there are **legal requirements** regarding illegal or harmful content accessed over the Internet which apply specifically to ISPs, but only in Austria, Italy, Malta, Portugal and the Flemish Community of Belgium are ISPs legally obliged to inform the police or judicial authorities about illegal content offensive to human dignity which is available over the Internet.

Altogether 23 Member States<sup>43</sup> and Norway replied that **associations of ISPs** have been established in their country; 18 Member States<sup>44</sup> and Norway replied that ISPs have also drawn up codes of conduct. Bulgaria and Hungary referred specifically to codes of conduct for **mobile use**<sup>45</sup>.

However, ISP associations generally have no specific mandate regarding the protection of minors. Signature and observance of a code of conduct for the protection of minors is generally optional for members of the associations<sup>46</sup>. On the other hand, activities related to the protection of minors that are not covered by associations are often carried out by ISPs, either where ISPs are not members of an association or where such activities are not encompassed by the associations' code of conduct<sup>47</sup>.

Eight Member States<sup>48</sup> and Norway replied that **consumers or public authorities** are consulted when the codes of conduct are amended or revised. In six Member States, there are **evaluation systems** in place to assess the effectiveness of the code<sup>49</sup>.

A minority of Member States (11 Member States<sup>50</sup> and Norway) deem that the self-regulation system and ISPs' codes of conduct — with regard to the easy and wide access to content

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<sup>42</sup> Austria, Belgium (Flemish Community), Bulgaria, Cyprus, the Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Spain and the UK.

<sup>43</sup> Austria, Belgium (Flemish Community), Bulgaria, Denmark, the Czech Republic, Estonia, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and the UK.

<sup>44</sup> Austria, Belgium (Flemish Community), Bulgaria, the Czech Republic, Finland, Germany, Ireland, Italy, Lithuania, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and the UK.

<sup>45</sup> Under the auspices of the GSMA, which represents the interests of the worldwide mobile communications industry and with support and facilitation from the Commission, mobile operators in all Member States have signed the "European Framework for Safer Mobile Use by Younger Teenagers and Children", which gives recommendations concerning the classification of commercial content, access control mechanisms, education and awareness raising and the fight against illegal content on mobile community products and the Internet ([http://www.gsmeurope.org/safer\\_mobile/european.shtml](http://www.gsmeurope.org/safer_mobile/european.shtml)).

<sup>46</sup> For instance, in the UK, members of the Internet Service Providers' Association ISPA are free to subscribe to the ISPA code, which includes a commitment to avoid transmitting child abuse images or material inciting violence, cruelty or racial hatred. The ISPA also encourages its members to join the Internet Watch Foundation and to support its work. In the Flemish Community in Belgium, the Internet Service Providers Association works together with relevant organisations for the protection of minors. The three major telephone companies in Belgium (Mobistar, Base and Proximus) have jointly signed a code of conduct based on the European Framework for Safer Mobile Use by Younger Teenagers and Children. In the Czech Republic, in 2008 mobile operators signed an ethical code in response to this initiative of the Commission. In the Netherlands there are codes of conduct for text message services which are applicable to all operators, service providers and paid mobile Internet services.

<sup>47</sup> In the UK some ISPs do not work via the ISPA, but directly with the UK Council for Child Internet Safety, which is updating published guidance on search, moderation, instant messaging and chat.

<sup>48</sup> Austria, Belgium (Flemish Community), Cyprus, Finland, Germany, Ireland, Slovenia and the UK.

<sup>49</sup> Bulgaria, Finland, Germany, Ireland, the Netherlands and Spain.

through the Internet and new access methods such as mobile systems (e.g. via 3G) — are well-suited to the new digital environment<sup>51</sup>.

### 3.4. Social networking sites

*Although the 1998 and the 2006 Recommendations do not refer directly to "social networking sites" (e.g. Facebook, MySpace etc.), social networking sites have been the object of several initiatives by the Commission, taking into consideration their growing importance and potential risks for minors<sup>52</sup>. The Commission committed to monitor the implementation of "The Safer Social Networking Principles for EU<sup>53</sup>" which were voluntarily adopted by the industry in February 2009. On Safer Internet Day on 9 February 2010 in Strasbourg<sup>54</sup>, the Commission presented the findings of an independent assessment of the implementation of the Principles by the 20 signatories<sup>55</sup>. In June 2011 the Commission published the first batch of results of the second assessment of the implementation of the "Safer Social Networking Principles" by the signatories<sup>56</sup>. The survey amongst the Member States is looking at how this issue is assessed and what actions have been taken in this field in light of the self regulatory approach the Commission has promoted (see section 2).*

The Member States reported on various activities related to the **risks involved in social networks**. For instance, in Austria "saferinternet.at" offers teachers' handbooks concerning the safe and responsible use of social networking sites. In Luxembourg there is public funding support for projects where young people themselves create social networks<sup>57</sup>. In Estonia, public authorities, content providers and ISPs jointly organise twice a year media campaigns in which principles for the use of social networking sites, particularly addressing young people, are publicised.

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<sup>50</sup> Austria, Belgium (Flemish Community), Bulgaria, Cyprus, Finland, Germany, Ireland, Malta, the Netherlands, Portugal and Slovenia.

<sup>51</sup> Italy mentions that the Italian code of conduct lacks specific regulations relating to access via mobile terminals.

<sup>52</sup> According to the "Safer Social Networking Principles for the EU" [http://ec.europa.eu/information\\_society/activities/social\\_networking/docs/sn\\_principles.pdf](http://ec.europa.eu/information_society/activities/social_networking/docs/sn_principles.pdf)), potential online risks to children and young people fall into the following four categories: "illegal content", such as images of child abuse and unlawful hate speech; "age-inappropriate content", such as pornography or sexual content, violence, or other content with adult themes which may be inappropriate for young people; "contact", which relates to inappropriate contact from adults with a sexual interest in children or by young people who solicit other young people and "conduct", which relates to how young people behave online. This includes bullying or victimisation (behaviours such as spreading rumours, excluding peers from one's social group, and withdrawing friendship or acceptance) and potentially risky behaviours (which may include for example, divulging personal information, posting sexually provocative photographs, lying about real age or arranging to meet face-to-face with people only ever previously met online). It is also important to remember that in addition to being victims young people can also initiate or participate in anti-social or criminal activities.

<sup>53</sup> See footnote 52.

<sup>54</sup> [http://ec.europa.eu/information\\_society/activities/sip/events/day/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/events/day/index_en.htm)

<sup>55</sup>

[http://ec.europa.eu/information\\_society/activities/social\\_networking/eu\\_action/implementation\\_princip\\_2010/index\\_en.htm](http://ec.europa.eu/information_society/activities/social_networking/eu_action/implementation_princip_2010/index_en.htm)

<sup>56</sup>

[http://ec.europa.eu/information\\_society/activities/social\\_networking/eu\\_action/implementation\\_princip\\_2011/index\\_en.htm](http://ec.europa.eu/information_society/activities/social_networking/eu_action/implementation_princip_2011/index_en.htm)

<sup>57</sup>

[www.audiometropolis.lu](http://www.audiometropolis.lu)

Only 10 of the Member States<sup>58</sup> referred to **guidelines**, addressing providers of social networking sites and/or users.

In Finland, the major social media service providers committed to promoting safe Internet use among children and young people, in particular in the spring of 2010. In Germany, the multimedia voluntary self-regulatory association (FSM) developed a code of conduct for providers of social communities, which several of them have joined. In Spain, in 2008 the Ministry of Industry, Tourism and Trade produced a "Legal guide to social networking, young people and online privacy" in conjunction with the Information Security Observatory, which is part of the National Communications Technology Institute (INTECO).

Apart from that, 21 social networking providers in the Member States<sup>59</sup> have by now joined the code of conduct "**Safer social networking principles for the EU**" already mentioned (see section 2).

In Cyprus, Finland, Germany, Luxembourg and the UK **evaluation systems** are in place to assess the effectiveness of the guidelines adopted. In Finland, the Ethical Committee for Premium Rate Services inspected all of the websites participating in the self-regulation scheme in May 2010 and found that the participating service providers had followed the self-regulation rules extremely well. The inspections and regular dialogue with the participating service providers are to continue. In Germany, the signatories to the code of conduct agreed on an evaluation by an independent research institute with practical application tests from the user viewpoint. They further agreed with the multimedia voluntary self-regulatory association (FSM) to check whether the code needs to be updated. In Luxembourg, the only social networking site has been evaluated by local experts and the results have been forwarded to the European Commission as part of the Commission monitoring of the Social networking principles.

### **3.5. Problematic Internet content from other Member States/from outside the EU**

*The 2006 Recommendation raised the issue of harmful Internet content from outside the EU and suggested that this issue be taken into consideration in relations with non-EU countries, "bearing in mind the global character of producers, distributors or providers of audiovisual content and Internet access". The survey aims to find out how Member States perceive this problem, taking into account also content from other Member States, and how it should be tackled through cooperation with the countries where the content originates.*

As to the **origin of reported problematic Internet content**, most Member States estimate the share of problematic content from their own territory as very low, the share of problematic content from other EU Member States as significantly higher and the share of problematic content from outside the EU as the highest. This applies particularly to smaller Member States, which produce less "national" content than others, and to those that joined the European Union only in 2004<sup>60</sup>.

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<sup>58</sup> Austria, Cyprus, Denmark, Finland, Germany, Luxembourg, Portugal, Spain, Sweden and the UK.

<sup>59</sup> Arto.dk, bebo.com, dailymotion.com, facebook. Com, giovani.it, google, com, hyves.nl, Microsoft Europe, mspace.com, nasza-klasa.pl, netlog.com, one.lt, rate.ee, skyrock.com, VZnet Netzwerke, stardoll.com, sulake.com, tuenti.es, Yahoo Europe, wer-kennt-we.de, zap.lu.

<sup>60</sup> Content from own territory / content from other EU Member States / content from outside the EU: Austria: 0.4% / 12.6% / 87%; Bulgaria: 5% / 25% / 70%; Cyprus: 5% / 35% / 60%; the Czech Republic: 10% / 10% / 80%; Germany: "FSM" (multimedia voluntary self-regulatory association):

The current **level of international cooperation** in this matter, particularly within Europe, is seen as sufficient in 13 Member States<sup>61</sup> and in Norway.

Ten Member States<sup>62</sup> do **not** consider the current level of **international cooperation** in this matter, particularly within Europe, to be **sufficient**. Amongst them, Germany deems that effective international cooperation in practice only exists in the field of child sexual abuse material, but would welcome improved cooperation regarding other illegal and harmful content, especially racist content.

Germany also considers it easier to achieve further **harmonisation of standards** at European than at international level. Romania and Slovenia agree to adopt common standards at European level. The UK proposes that the list of child abuse sites prepared by the Internet Watch Foundation be used more widely in Europe, at least as a basis for national measures, given that most of such material comes from outside the EU. The Czech Republic regards cooperation among EU Member States as good, but deems it a problem when content from third countries is classified as illegal by one or more EU Member States, but not by the country of origin. The UK further sees potential for greater European coordination of work to encourage those countries outside the EU which host the bulk of illegal material, including child abuse and race hate material, to take action domestically.

A total of 20 Member States<sup>63</sup> and Norway deem that the threat from Internet content from outside the EU could be countered by **concluding agreements with third countries**. Austria takes the view, given the global dimension of the Internet, that priority should be given to multilateral cooperation and coordination. Sweden mentions as an example of successful bilateral cooperation the collaboration between the Swedish Examination Board for Radio and TV and Ofcom in the UK regarding broadcasters that are established in the UK, but direct their offers to Sweden. Malta deems that the effectiveness of agreements with third countries depends on how the countries classify content and points out that there may be cultural differences. The Czech Republic stresses the need to also implement and enforce agreements that have been concluded.

### 3.6. Media literacy and awareness-raising initiatives

*The 1998 Recommendation already stressed the "need to raise awareness among parents, educators and teachers of the potential of the new services and of the means whereby they may be made safe for minors". This was reiterated by the 2006 Recommendation, which goes even further by addressing actions to improve media literacy<sup>64</sup>.*

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35 % / 12.4 % / 52.6 %; "jugendschutz.net": 42 % / 22.6 % / 35.4 %; Hungary: 8 % / 67 % / 25 %; Ireland: 1 % / 14 % / 85 %; Latvia: 10 % / 20 % / 70 %; Lithuania: 5 % / 25 % / 70 %; Luxembourg: 25 % / 31 % / 44 %; Poland: 30 % / 20 % / 50 %; Portugal: 29 % / 7 % / 64 %; Romania: 45 % / 20 % / 35 %; Slovakia: 9 % / 20 % / 71 %; Slovenia: 2 % own territory / 98 % outside the EU; Sweden: 50 % / 25 % / 25 %; the UK deems that the majority of problematic material, and almost all the most problematic and illegal material, is hosted outside the UK and outside Europe.

<sup>61</sup> Bulgaria, Cyprus, Estonia, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Poland, Portugal, Slovakia and Spain.

<sup>62</sup> Austria, Belgium (Flemish Community), Finland, Germany, the Netherlands, Malta, Romania, Slovenia, Sweden and the UK.

<sup>63</sup> Austria, Bulgaria, Cyprus, the Czech Republic, Denmark, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK.

<sup>64</sup> Media literacy is defined as "the ability to access the media, to understand and to critically evaluate different aspects of the media and media contents and to create communications in a variety of

All Member States and Norway mentioned initiatives raising media literacy and awareness. Concerning education in online safety, however, an assessment was carried out by the Commission in 2009 which showed that while the topic is included in national curricula in 23 Member States and in Norway<sup>65</sup>, the implementation of such education is fragmented and not standardised. In all of these countries, they target also parents and teachers.

In 15 Member States<sup>66</sup> these initiatives are part of a national/regional media literacy strategy. Several Member States referred to the **European Commission's Safer Internet Programme**<sup>67</sup> which inter alia aims at increasing the awareness of children, parents and teachers, through Safer Internet Centres (present in all Member States). These centres are responsible for implementing campaigns, coordinating actions, developing synergy at national level and working in close cooperation with all relevant actors at European, regional and local level. They form part of the European awareness centre network **INSAFE**<sup>68</sup>.

Some Member States refer to **EU Kids Online** projects, which is also funded by the Safer Internet Programme. 19 Member States<sup>69</sup>, Iceland and Norway have taken part in the EU Kids online I project. The EU Kids online II project<sup>70</sup> is now ongoing; it is a comparable quantitative survey of children's use of online technologies across 25 European countries, focusing on online risks and safety. It also addresses the parents' experiences, practices and concerns regarding their children's online risk and safety.

In 23 Member States<sup>71</sup>, in the Flemish and French Communities in Belgium and in Norway, awareness-raising and media literacy measures are financed by a mixture of public and private funding. In the German-speaking Community in Belgium, in Romania and in Slovenia, they are exclusively supported by public funds. France did not reply clearly to this question.

### **3.7. Technical systems (filtering, age verification systems, parental control systems, etc.)**

*Parental control measures, filtering and age verification systems were already addressed in the 1998 Recommendation; the 2006 Recommendation added the rating or classification of*

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contexts" in the Media Literacy Communication of 20 December 2007 ("Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — A European approach to media literacy in the digital environment", COM(2007) 833 final, <http://ec.europa.eu/culture/media/literacy/docs/com/en.pdf>).

<sup>65</sup> Austria, Belgium (French, German-speaking and Flemish Communities), Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia and the UK ([http://ec.europa.eu/information\\_society/activities/sip/docs/forum\\_oct\\_2009/assessment\\_report.pdf](http://ec.europa.eu/information_society/activities/sip/docs/forum_oct_2009/assessment_report.pdf)).

<sup>66</sup> Belgium (French, German-speaking and Flemish Communities), Bulgaria, Cyprus, Estonia, France, Germany, Latvia, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Spain and Sweden, plus Norway.

<sup>67</sup> [http://ec.europa.eu/information\\_society/activities/sip/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/index_en.htm).

<sup>68</sup> <http://www.saferinternet.org/web/guest/home>.

<sup>69</sup> Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, France, Germany, Greece, Ireland, Italy, the Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and the UK - [http://www2.lse.ac.uk/media@lse/research/EUKidsOnline/EU%20Kids%20I%20\(2006-9\)/Participants/Home.aspx](http://www2.lse.ac.uk/media@lse/research/EUKidsOnline/EU%20Kids%20I%20(2006-9)/Participants/Home.aspx)

<sup>70</sup> <http://www2.lse.ac.uk/media@lse/research/EUKidsOnline/Home.aspx>.

<sup>71</sup> Austria, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Spain, Sweden and the UK.

*audiovisual content. The survey aims to establish how such technical systems are being used in the Member States to ensure graduated and age-appropriate access to audiovisual content.*

Altogether 15 Member States<sup>72</sup> consider that technical measures aimed at avoiding potentially harmful content are generally useful.

However, ten Member States<sup>73</sup> and Norway were hesitant – albeit for a great variety of reasons: effectiveness, feasibility, reliability, transparency, freedom of expression, etc.

As to their **effectiveness**, Portugal distinguishes between computers that are publicly accessible (e.g. in schools or libraries), where technical measures are considered useful, and personal/family computers, where they are deemed rather ineffective. Portugal also argues that content filtering and parental control systems could give a false sense of security, as often even very young children have sufficient technical knowledge to circumvent them.

Austria and Greece also have doubts as to the **technical feasibility and reliability of technical systems**<sup>74</sup>. Like Finland, Ireland and Lithuania, they stress the importance of **parental supervision**. Sweden considers that children should learn to deal with reality rather than be protected by filters. Luxembourg also considers that the use of technical systems must be accompanied by **awareness-raising and prevention campaigns**.

The Czech Republic and Denmark take the view that technical measures should allow children and parents to choose and use the systems for themselves, and that they should target specific age groups (Denmark)<sup>75</sup>. The Czech Republic stresses the need for **transparency** as regards the inclusion of certain content in a **black list** and the possibility of having it removed from the blacklist.

Sweden emphasises the need to respect **adults' right to information** when filtering is discussed. The Czech Republic, Estonia and Finland stress that filtering must not be misused to **ensor** content, Estonia referring to its Constitution and Finland to freedom of speech on the Internet.

A wide variety of initiatives have been launched by industry or public authorities in 20 Member States to **develop a filtering and rating system** for the Internet: these are ongoing in Austria, Belgium (Flemish and French Communities), Cyprus, the Czech Republic, Denmark (on the basis of private initiatives; a voluntary scheme has been established whereby the police work together with Save the Children Denmark to maintain lists of addresses to be blocked; all major Danish Internet providers have put filters on their network connections to

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<sup>72</sup> Belgium (Flemish, French and German-speaking Communities), Bulgaria, Cyprus, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Poland, Romania, Slovakia, Spain and the UK. Poland considers that there is insufficient understanding of how filtering software works and unfounded fears of difficulties in accessing Internet services.

<sup>73</sup> Austria, the Czech Republic, Finland, Ireland, Luxembourg, Malta, the Netherlands, Portugal, Slovenia and Sweden.

<sup>74</sup> The Safer Internet Programme has commissioned a benchmarking study of the effectiveness of available filtering solutions available in Europe. The first results were published in January 2011 ([http://ec.europa.eu/information\\_society/activities/sip/projects/filter\\_label/sip\\_bench2/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/projects/filter_label/sip_bench2/index_en.htm)).

<sup>75</sup> Denmark further refers to an analysis carried out in 2008 of online social networking sites on the Internet and the existing technical solutions. It found that technical solutions alone cannot protect children and young people and concluded that children should have the greatest possible freedom of choice and scope to explore, while they themselves and their right to privacy are protected.

block access to *child pornography*), Estonia, Finland (filtering is carried out voluntarily, but there is a legal obligation to filter child pornography), France, Germany, Hungary, Ireland (a centralised content filter managed by the National Centre for Technology in Education (NCTE) has been put in place for schools which blocks access to illegal and harmful websites from schools in Ireland and works with blacklists that are regularly updated; hundreds of these sites are automatically blocked on a weekly basis), Italy, Latvia (through the participation of various organisations and State bodies), Lithuania (access providers have to install and operate filtering software for harmful Internet content that must have been approved by the Information Society Development Committee, which also lays down the procedure), Malta (the Malta Communications Authority (MCA) is encouraging all ISPs to provide these filtering services), the Netherlands, Slovakia, Spain (INTECO, the National Institute of Communication Technologies, has produced a list of free parental control software, together with a guide to using parental control tools, targeting parents and teachers), Sweden and the UK.

In 16 Member States<sup>76</sup> there are obligations, either by law or in relevant codes of conduct for ISPs or mobile operators, to make available and/or **inform subscribers about available filtering and rating systems and age verification software**: for instance, in Poland, this is one of the conditions for ISPs to obtain the ‘UKE Safe Internet Certificate’. In Ireland and the UK, this is part of the ISPs’ code of practice and ethics. In Germany, there is such a legal obligation and parallel efforts are being made by self-regulatory bodies, broadcasters and the industry to ensure consistent implementation of youth protection programmes.

According to the survey, **parental control tools** are provided to consumers in 24 Member States<sup>77</sup> and in Norway. In 15 Member States<sup>78</sup> those tools are available free of charge. Finland, Poland, Portugal and the UK report that parental control tools are also available upon payment. Greece and Ireland report that parental control tools are only available upon payment.

### 3.8. Age rating and classification of content

*The technical instruments mentioned and described above can only promote graduated and age-appropriate access to audiovisual content on the basis of reasonable and reliable rating and classification systems. The survey takes a closer look at whether and how such systems exist in the Member States and how they work.*

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<sup>76</sup> Austria, Belgium (French Community), Bulgaria, Cyprus, the Czech Republic (not for mobile operators), Denmark, France, Germany, Hungary, Ireland, Italy, Latvia, Malta, Poland, Slovakia and Spain.

<sup>77</sup> Austria, Belgium (Flemish and French Communities), Bulgaria, Cyprus, the Czech Republic (used mainly by mobile operators that offer parents the possibility of blocking harmful content or premium-rate calls for mobile phone numbers used by their children. Apart from blocking access to erotic or porn pages, the parental control tools usually also block access to gambling and lottery sites), Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia and the UK.

<sup>78</sup> Austria, Belgium (French Community), Bulgaria, Cyprus, Estonia, Finland, Germany, Italy, Lithuania, the Netherlands, Poland, Portugal, Slovakia, Slovenia and the UK.

Altogether, there are **legal obligations** in 21 Member States<sup>79</sup> and in Norway and **co- or self-regulatory obligations** in 13 Member States<sup>80</sup> regarding the age rating and classification of audiovisual content, applicable to audiovisual content in cinemas or on DVDs, television or the Internet. Denmark is envisaging establishing a coordinated classification and labelling scheme for films, DVDs, TV and video-on-demand services. This system would extend across all technologies and would cover any content that might be "seriously" or "mildly" harmful to minors.

The rating or classification systems for audiovisual content (cinema, television, on-demand services, DVDs) in place are considered **sufficient and effective** by 12 Member States<sup>81</sup>, whereas 13 Member States<sup>82</sup> and Norway deem they **should be improved**. The Flemish, French and German-speaking Communities in Belgium and Bulgaria consider the rating system for audiovisual content applied in cinemas and for DVDs as unsatisfactory. The Flemish, French and German-speaking Communities in Belgium refer to a lack of effective controls in cinemas and differences in cinema and DVD ratings for the same content.

As regards the question of **consistency/divergence of age ratings and classifications**, 16 Member States<sup>83</sup> and Norway responded that they have differences in the age ratings and classifications for the same content in cinemas, on DVDs, on television or on the Internet (including cases where there is an age rating/classification only for some of these media). Eight Member States<sup>84</sup> responded that they have the same age ratings and classifications for the same content in cinemas, on DVDs, on television or on the Internet.

Ten Member States<sup>85</sup> and Norway consider **the lack of consistency a problem**. Austria, the French and the German-speaking Communities in Belgium and Portugal deem that different

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<sup>79</sup> Austria, Belgium (French Community), the Czech Republic, Denmark, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and the UK.

<sup>80</sup> Austria, Bulgaria, the Czech Republic, Estonia, Germany, Greece, Latvia, the Netherlands, Poland, Portugal, Slovenia, Sweden and the UK.

<sup>81</sup> Bulgaria, Belgium (French Community), Cyprus, Denmark (for cinema and DVDs), France, Germany, Ireland, the Netherlands, Romania, Slovakia, Sweden and the UK. Cyprus considers that awareness of these systems needs to be improved. Slovakia points out that it is still too early for an assessment concerning on-demand audiovisual media services, for which ratings have been mandatory only since 15 December 2009.

<sup>82</sup> Austria, the Czech Republic, Estonia, Finland, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Portugal, Slovenia and Spain. Luxembourg points that a particular classification system for Luxembourg is not necessary, given that most of the content comes from abroad and has already been classified there. Italy considers its classification for cinema outdated and is currently reforming the rating system for television and video-on-demand with regard to adult content and conditional access.

<sup>83</sup> Austria, Belgium (French Community: possible differences between cinema and television, and German-speaking Community), Bulgaria, the Czech Republic, Denmark (consistency only between the classifications of films and DVDs), Finland, France, Greece, Ireland (classification for cinema, but not for DVDs), Lithuania (different systems/age groups for cinema, TV and Internet), Malta, Poland, Portugal (identical for cinema and DVDs, but different age ranges for TV, no classification for Internet), Slovenia, Spain and the UK. In Italy, there are different classifications for audiovisual content which is not cinematographical. Luxembourg points out that, since it does not have its own classification system, the age ratings and classifications for content are taken over from the country of origin, which can lead to different age ratings and classifications.

<sup>84</sup> Cyprus, Estonia, Germany, Hungary (different authorities competent for film distribution and broadcasting, but which generally come to the same ratings and classifications), Latvia, Romania, Slovakia and Sweden.

<sup>85</sup> Austria, Belgium (French and German-speaking Communities), Bulgaria, Cyprus, the Czech Republic, Denmark, Finland, Greece, Malta and Portugal.

age rating and classification systems and different age ratings are incomprehensible for consumers. However, the UK considers it appropriate to have different age ratings and classification systems, given the different contexts and technologies and deems this is only a problem if viewers are confused about what they might expect within a given media environment.

Eight Member States<sup>86</sup> and Norway point out that there are measures or initiatives being considered to **introduce greater consistency** in this field.

Altogether 15 Member States<sup>87</sup> and Norway consider **cross-media and/or pan-European classification systems** for media content **helpful and feasible**. Nine Member States<sup>88</sup> do not consider cross-media and/or pan-European classification systems for media content helpful and/or feasible, due to the different cultures in the Member States.

### 3.9. Audiovisual media services

*As regards protection of minors, the provisions of the 1998 and 2006 Recommendations also apply — in general terms — to television broadcasting. The Recommendations refer to the specific rules in Article 22 of the Television without Frontiers Directive of 3 October 1989<sup>89</sup>. The Recommendations and the Television without Frontiers Directive — and its successor, the Audiovisual Media Services Directive — complement each other.*

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<sup>86</sup> Austria, Belgium (French Community), Cyprus, the Czech Republic, Denmark, Finland, Spain and Sweden.

<sup>87</sup> Austria, Belgium (French and German-speaking Communities), Bulgaria, Cyprus, Estonia, Finland, Greece, Ireland, Lithuania, Malta, Poland, Romania, Slovakia, Spain and Sweden. Germany points out that its national legislation already and increasingly pursues a cross-media approach, with cross-media binding age ratings. Austria deems that the ideal solution would be a legally obligatory pan-European rating system for retailers and content providers providing additional information for parents. According to Cyprus, a cross-media and/or pan-European classification system would reduce confusion among stakeholders. Poland and Slovakia consider that it would help create a level playing field for media content providers. Spain calls for a cross-media classification system, given that young people can access identical or similar content through different, but often interrelated media, such as television, the Internet, DVDs, video games. The Netherlands refers to the "Kijkwijzer" system that was introduced in 2002 by NICAM (the Netherlands Institute for the Classification of Audiovisual Media) as a uniform cross-media system for classifying television programmes, films, DVDs and mobile content.

<sup>88</sup> Germany, Belgium (French and German-speaking Communities), Greece, Hungary, Luxembourg, Portugal, Slovenia, Spain and the UK. Portugal considers the principles of subsidiarity and cultural identity more important than a pan-European classification system. The French Community in Belgium and Germany consider that better cooperation between the Member States below the level of a pan-European classification system would be useful. The French Community in Belgium proposes examining whether a common identification system for and method of describing content could be found, with an accompanying "intensity factor". Such common indicators could then help inform consumers, e.g. through an easily recognisable logo. Member States could then classify programmes according to their own socio-cultural characteristics and offer users filters for automatically pre-selecting content. The Czech Republic mentions the PEGI system for video games as a successful example of a pan-European rating system, but considers it difficult to achieve agreements for audiovisual content.

<sup>89</sup> Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities, OJ L 298, 17.10.1989, p. 23. Directive as amended by Directive 97/36/EC of the European Parliament and of the Council (OJ L 202, 30.7.1997, p. 60) (<http://eur-lex.europa.eu/LexUriServ/site/en/consleg/1989/L/01989L0552-19970730-en.pdf>).

The rules for television broadcasts (now named "linear audiovisual media services"<sup>90</sup>) are retained by the Audiovisual Media Services Directive that entered into force on 19 December 2007 (see above in section background). At the same time, this Directive introduces some basic rules for the protection of minors in relation to on-demand audiovisual media services ("non-linear audiovisual media services"<sup>91</sup>) that are less strict than those laid down for traditional television broadcasts.

This is illustrated by the table below:

	Linear services (TV)	Non-linear services (via Internet or « on-demand »)
Content which might seriously impair minors must ...	<p>... not be included in any programme (total ban)</p> <p><a href="#">Article 27(1)</a> of the AVMS Directive</p>	<p>... only be made available in such a way that ensures that minors will not normally hear or see such on-demand audiovisual media services</p> <p><a href="#">Article 12</a></p>
Content which is likely to impair minors must ...	<p>... be ensured, by selecting the time of the broadcast or by any technical measure (e.g. encryption), that minors in the area of transmission will not normally hear or see such broadcasts.</p> <p><a href="#">Article 27(2),(3)</a></p>	<p><b>No restrictions</b></p>

This system of "graduated regulation" takes account of the fact that users of on-demand audiovisual media services can decide what they watch and when, whereas viewers of television programmes can only switch the television set on or switch it off. The different rules for linear and non-linear audiovisual media services concern essentially the transmission of harmful content and the requirements to restrict its availability for minors (Articles 12 and 27), but also restrictions for commercial communications/advertising with a potential impact on minors (Articles 9(1)(g) and 22).

*The survey put particular focus on systems of co-/self-regulation, which the Audiovisual Media Services Directive welcomes and considers appropriate for the implementation of the relevant rules<sup>92</sup>.*

<sup>90</sup> Article 1(1)(e): "'television broadcasting" or "television broadcast" (i.e. a linear audiovisual media service) means an audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule".

<sup>91</sup> Article 1(1)(g): "'on-demand audiovisual media service" (i.e. a non-linear audiovisual media service) means an audiovisual media service provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider".

<sup>92</sup> Article 4(7): "Member States shall encourage co-regulation and/or self-regulatory regimes at national level in the fields coordinated by this Directive to the extent permitted by their legal systems. These regimes shall be such that they are broadly accepted by the main stakeholders in the Member States concerned and provide for effective enforcement."

In 14 Member States<sup>93</sup> **television broadcasters** have established a **system of co-/self-regulation** relating to the protection of minors. Those systems include a code of conduct regarding the protection of minors from harmful content in 11 Member States<sup>94</sup>.

In Greece, the broadcasting law requires TV and radio broadcasters to draw up multilateral self-regulating agreements. The Swedish Media Council is encouraging broadcasters to create self-regulating instruments. In the German-speaking Community in Belgium a code of conduct is currently being prepared. In Estonia the broadcasters are preparing to launch a self-regulation system for the protection of minors in the near future. In Portugal there is no integrated system of co-/self-regulation relating to the protection of minors, but certain individual measures have been taken, including specific agreements, e.g. between the three mainstream broadcasters, which lay down a classification system for television programmes. In Poland, a self-regulatory system was replaced by legal regulation because broadcasters did not comply with their self-commitments. In the UK, the regulator Ofcom has established a co-regulatory arrangement with the Advertising Standards Authority in relation to television advertising, which is being applied by Ofcom also in the field of protection of minors. In Hungary, the two commercial television stations with national coverage agreed to draw up a common code of ethics for afternoon talkshows, including the principles of conduct of the German code of ethics applied to daytime talkshows.

As to the **legal nature and enforceability** of the codes of conduct, in Bulgaria and Spain, non-compliance with self-regulatory codes constitutes a breach of administrative law and operators can be penalised accordingly.

In 14 Member States<sup>95</sup>, **on-screen icons for and acoustic warnings before potentially harmful television programmes** are required by law, in Italy also by codes of conduct. In Bulgaria, Cyprus, Denmark, the UK and the German-speaking and Flemish Communities in Belgium the law allows TV broadcasters to choose between on-screen icons and acoustic warnings. In Austria, France, the French Community in Belgium, Poland, Portugal and Slovakia only on-screen icons are required by law, in Portugal also by codes of conduct. In Estonia only acoustic warnings before potentially harmful television programmes are required by law. In Ireland, prior warnings for potentially harmful programme material are required, but with no further specification.

Generally, on-screen icons for and acoustic warnings before potentially harmful television programmes are considered **useful and effective**, which is according to Cyprus and Italy also due to the legal possibility to sanction their absence.

As regards **reliance** on such labelling and warning systems, the French Community in Belgium, Finland, Germany and Portugal emphasise in this context the importance of **parental responsibility**. Reference was also made to the importance to carefully select the

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<sup>93</sup> Austria, Belgium (French and German-speaking Communities), Bulgaria, Cyprus, Finland, Germany, Greece, Italy, Luxembourg, the Netherlands, Poland, Romania, Slovenia and Spain.

<sup>94</sup> Austria, Belgium (French Community), Bulgaria, Cyprus, Finland, Germany, Italy, Luxembourg, Romania, Slovenia and Spain. In the Czech Republic, there is no common system for broadcast providers. Individual TV broadcasters follow their own ethical codes, in which they have also committed themselves to protecting minors.

<sup>95</sup> The Czech Republic, Finland, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Malta, the Netherlands, Romania, Slovenia, Spain and Sweden.

transmission time for potentially harmful programmes ("watershed"). Germany deems that a labelling obligation cannot replace other youth protection measures.

Broadcasters established in 13 Member States<sup>96</sup> use **technical filtering devices or software**, mainly integrated into TV decoders and hard disc recorders, to ensure that minors cannot view harmful programmes. In Cyprus and Spain these devices are applicable to subscription-only television channels. Germany is discussing an obligation for broadcasters to use age-labelling for potentially harmful content and for industry to set up digital receivers and hard disc recorders to use these labels.

In Germany and Romania, there are also **pre-locking systems** in use, which means that viewers have to enter an at least four-digit PIN code to unlock the programme. In Germany digital content providers can pre-lock potentially harmful programmes. In Romania digital providers have to use a pre-lock for the transmission of over-18 content.

Nine Member States<sup>97</sup> hold technical filtering devices or software to be an **effective means** for the protection of minors. As to the effectiveness of pre-lock systems, Germany and Romania point to the need to withhold the PIN code from the minors. Sweden considers it doubtful whether code functions work satisfactorily. In Germany, particularly youth protection associations provide information about the possibility of pre-locking programmes. Given the increasing use of mobiles, smartphones and laptops by children in the Netherlands, NICAM (the Netherlands Institute for the Classification of Audiovisual Media) is to look into the question of whether the parental control functions are known and work properly<sup>98</sup>.

### 3.10. On-demand (non-linear) audiovisual media services

In eight Member States<sup>99</sup>, providers of on-demand (non-linear) audiovisual media services have established **systems of co-/self-regulation** which, with the exception of Poland, include a code of conduct regarding the protection of minors<sup>100</sup>. In the UK, advertising is co-regulated by the Advertising Standards Authority. A system of self-regulation was operated by most major providers from 2003 onwards, but has, following implementation of the AVMS Directive, been converted into co-regulation by the Association for Television On-Demand, which providers of on-demand audiovisual media services within the scope of the Directive are required to notify. In Ireland, following the encouragement in the AVMSD, a code of conduct is being developed.

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<sup>96</sup> Austria, Belgium (French Community), Bulgaria, Cyprus, Germany, Italy, Latvia, Poland, the Netherlands, Romania, Spain, Sweden and the UK.

<sup>97</sup> Austria, Belgium (French Community), Cyprus, Germany, Italy, Latvia, the Netherlands, Poland and the UK.

<sup>98</sup> Tests and assessments of mobile filtering solutions: [http://ec.europa.eu/information\\_society/activities/sip/projects/filter\\_label/sip\\_bench2/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/projects/filter_label/sip_bench2/index_en.htm)

<sup>99</sup> Bulgaria, Belgium (French Community), the Czech Republic (only advertising covered), Germany, Ireland, Poland, Sweden and the UK.

<sup>100</sup> In the French Community in Belgium the co-/self-regulation system for on-demand services is identical to the one for linear services. In Bulgaria all kinds of online business communication fall within the scope of the National Self-Regulation Board's Code of Ethics. In Germany, the FSM (multimedia voluntary self-regulatory association) code of conduct for providers covers both linear (TV) and non-linear (on-demand) audiovisual media services.

As to the question how providers of on-demand (non-linear) audiovisual media services **ensure that content which might seriously impair the development of minors is not heard or seen by minors**, the Member States referred to the following methods, most of which are imposed by law: **age classifications**<sup>101</sup>, combined with **transmission time restrictions**<sup>102</sup>, **technical access restrictions** such as filtering, encryption, pre-locking/PIN codes or other age verification systems<sup>103</sup>.

Altogether 11 Member States<sup>104</sup> where technical access restrictions are used consider them **effective**. Italy considers technical access restrictions to be the only means to balance the protection of minors with the freedom of expression and information for adults. Ireland and Slovakia, where such systems are very new, consider it too early to evaluate their effectiveness. In the UK, their effectiveness is still under the scrutiny of the Association for Television On-Demand, but the UK expects that PIN codes will not be considered sufficient. Poland considers that adults are not sufficiently acquainted with how to install the relevant safeguards.

### 3.11. Video games

*It was only with the Video Games Communication of 22 April 2008 that the issue of video games and their potential risks for minors was addressed at European level. The survey among the Member States aimed to update the replies they gave to the survey conducted in preparation for the Communication. A particular focus is put on preventive measures in the field of media literacy and awareness raising, including the integration of relevant measures in school education and measures addressing the under-age retail sale of video games.*

Asked how they promote the protection of minors playing video games, most of the Member States referred to **PEGI** (the Pan-European Games Information System) and **PEGI Online**.

Ten Member States<sup>105</sup> and Norway consider the current measures to protect minors from harmful video games to be **effective or even very good** (Finland, Germany and the UK); Germany regards the youth protection standards of its own national system<sup>106</sup> as higher than the PEGI standards.

A total of 17 Member States<sup>107</sup> and Norway consider the functioning of the **age rating system** in place in their countries as **satisfactory**.

Ten Member States<sup>108</sup> consider the current measures to protect minors from harmful video games to be **ineffective or only partially effective**. 15 Member States<sup>109</sup> and Norway

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<sup>101</sup> Finland, Germany, Italy, Latvia, the Netherlands (the "Kijkwijzer" system) and Spain.

<sup>102</sup> Finland, Germany, Italy.

<sup>103</sup> Bulgaria, Cyprus, the Czech Republic, Estonia, Germany, Greece, Hungary, Italy, Latvia (providers are required to cover harmful pictures and to replace rude words with a noise), Lithuania, Romania and Spain.

<sup>104</sup> Bulgaria, Belgium (French Community), Cyprus, Estonia, Germany, Italy, Latvia, Lithuania, Luxembourg, Slovenia and Spain.

<sup>105</sup> Germany, Denmark, Hungary, Ireland, Italy, Latvia, Malta, Portugal, Slovakia and Sweden. The UK points out that there are few data available to provide empirical evidence of effectiveness.

<sup>106</sup> "USK system" ("Unterhaltungssoftware Selbstkontrolle" — organisation for the voluntary monitoring of entertainment software).

<sup>107</sup> Cyprus, the Czech Republic, Denmark, Estonia, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia and Sweden.

consider **further action** concerning video games **necessary**. The Czech Republic deems it necessary to make parents more familiar with the content rating of video games through e.g. an **advertising campaign and awareness-raising** activities carried out under the "Safer Internet" Programme.

As to the question what should be done to improve the protection of minors from harmful video games, 12 Member States<sup>110</sup> refer to **awareness-raising** measures concerning the possible risks of video games and the existing protection tools.

In 22 Member States<sup>111</sup> and in Norway measures have been taken to improve awareness and **media literacy** with regard to video games (see also section 3.7.). Eight Member States<sup>112</sup> and Norway report that such measures are integrated in **school education**; initiatives of this nature partly took place as single actions, not on a continuous basis (Finland) or only on an informal basis (Ireland). Sweden intends to include media awareness in all curricula, but not as a separate subject or topic. Austria advocates the extension of media literacy measures. Cyprus is launching media literacy campaigns in schools, covering video games. Lithuania takes the view that school education on information technologies might only insufficiently draw attention to the detrimental effect of video games. The UK reports that video games might be part of ICT or other courses, but are not part of the national curriculum.

Awareness-raising measures are deemed to be **sufficient** ("in general", "with a view to minors" and "with a view to parents and teachers") in 11 Member States<sup>113</sup> and **insufficient** in 11 other Member States<sup>114</sup> and in Norway. Sweden and Romania see deficits in awareness-raising targeted at parents and teachers.<sup>115</sup>

Concerning **further measures** in the field of video games, the UK reports that steps have been taken to extend the number of games that would be covered by statutory measures. Finland and Poland refer specifically to the **retail sale of video games**.

Regarding **online games**, including those referred to as "**casual games**" ("easy" games that can be played speedily and are often offered for free to users, as they are financed by

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<sup>108</sup> Austria (considers their effectiveness hindered by the inconsistent application of protection systems, due to different laws on the protection of minors applicable in different parts of the country, and advocates harmonisation in this field), Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, Poland, Romania and Slovenia.

<sup>109</sup> Austria, Belgium (Flemish Community), Bulgaria, Cyprus, the Czech Republic, Estonia, Germany, Ireland, Latvia, the Netherlands, Malta, Poland, Romania, Slovenia and Sweden.

<sup>110</sup> Austria, Bulgaria, Cyprus, Denmark, Estonia, Finland, Greece, Hungary, Lithuania, Portugal, Romania and Slovenia.

<sup>111</sup> Austria, Belgium (only Flemish community), Bulgaria, Cyprus, the Czech Republic, Denmark, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Sweden and the UK. Bulgaria refers to activities aimed at raising awareness of and explaining the PEGI system; the UK referred to awareness-raising campaigns on video games, including industry members, third sector and trade bodies and additional statutory measures, which are currently being extended.

<sup>112</sup> The Czech Republic, Denmark, Finland, Germany, Latvia, Luxembourg, Poland and Slovakia.

<sup>113</sup> Austria, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Lithuania and Portugal.

<sup>114</sup> Austria, Bulgaria, Cyprus, Estonia, Finland, Greece, Hungary, Lithuania, Luxembourg (mentions increased efforts in this field), Malta, Portugal.

<sup>115</sup> See [http://ec.europa.eu/information\\_society/activities/sip/docs/forum\\_oct\\_2009/assessment\\_report.pdf](http://ec.europa.eu/information_society/activities/sip/docs/forum_oct_2009/assessment_report.pdf) also:

advertising), 12 Member States<sup>116</sup> and Norway consider the level of protection achieved as **satisfactory** and six Member States<sup>117</sup> as **unsatisfactory**. In Bulgaria there are no established standards for online games. Cyprus and Poland point out that there are no access barriers in place for online games, such as filtering or age verification systems. Slovakia does not have enough information to evaluate the protection standards for online games. In Germany, online games are covered by the relevant cross-media regulation that is applicable to any online content. Germany is of the opinion that providers of online games should take even more responsibility.

Denmark, Portugal and Sweden deem **PEGI Online** to be working well, but deplore the fact that this system is not used widely enough. Austria regrets that providers do not seem very motivated to implement self-regulation systems, such as PEGI online.

**Evaluation systems** for assessing any **possible favourable or adverse effects of video games** on minors' development or health are in place in five Member States<sup>118</sup> and in Norway.

Regarding the **retail sale of video games in shops, awareness-raising measures** have been taken in six Member States<sup>119</sup> and in Norway, aimed at informing retailers and ensuring that they enforce the ratings. Finland considers that the retail sector needs information on age limits and their enforcement. Poland is considering requiring stores selling video games to set up a special section where over-18 games would be sold. Latvia deems more enforcement and preventive measures by the police authorities necessary. Estonia sees the introduction of specific legal requirements for video games as necessary. Austria, Cyprus and Hungary propose to make PEGI mandatory by law for all video games, including online games. Ireland announces that it will examine this. Poland advocates better parental control. Malta points out that there should be collaboration between those who run the system and the regulatory authorities in order to improve the effectiveness of any measures implemented.

Video games retailers in four Member States have implemented a **code of conduct** to address the risk of games being sold to minors below the age specified in the ratings<sup>120</sup>.

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<sup>116</sup> Estonia, Finland, Hungary, Ireland, Italy, Lithuania, Malta, Portugal, Romania, Slovenia, Sweden and the UK.

<sup>117</sup> Austria, Bulgaria, Cyprus, the Czech Republic, the Netherlands and Poland.

<sup>118</sup> Denmark, Finland, Hungary, Latvia and Luxembourg. Several studies on the effects of video games have been conducted in Finland. UK points out that academic research is monitored on a regular basis.

<sup>119</sup> Austria, Finland, Germany, Poland, Sweden and the UK. The Austrian Trade Commission has provided information leaflets on PEGI for retailers, and on the Safer Internet Day 2009 saferinternet.at conducted a test on how the rating systems are applied. Most of the retailers in Germany have trained their staff to comply with the age ratings. Sale to under-age children is classed in the German youth protection act as an administrative offence punishable with a fine of up to €50 000. The UK mentions in this connection that regular training is provided by trade associations and regulators. In Finland, Poland and Sweden, such measures, which include staff training, are organised by games producers' and retailers' associations. In Finland, the Board of Film Classification and the Finnish Games and Multimedia Association have carried out joint spot checks on retailers regarding compliance with the ratings and have publicised the results of the checks to the general public. Denmark points out that there is no law prohibiting the sale of labelled computer games to children and young people, but that Danish industry associations urge their members to exercise care and good marketing practice in this and other areas. Denmark points out that many retail chains have, however, introduced internal codes.

<sup>120</sup> Austria, Poland, Sweden and the UK. In the UK the code is issued and maintained by the Video Standards Council. In Austria, some individual companies have voluntarily upgraded their cash register to give visual signals when scanning 16+ or 18+ games so as to prompt the sales person to check the

Beyond the information given by the Member States, one initiative is worth mentioning: In the Netherlands, "buro240a"<sup>121</sup> is monitoring the enforcement of age ratings for different media in retail shops. This includes awareness raising initiatives, "mystery shopping" campaigns in video games shops<sup>122</sup> and particularly trainings for retailers' staff<sup>123</sup>.

As regards a **pan-European code of conduct for the retail sale of video games**, the Interactive Software Federation of Europe<sup>124</sup> through PEGI S.A. developed a "PEGI Retail Code" and recommends the game publishers in the PEGI contracts (by which they acquire the PEGI label) to apply it. However, the ISFE has no power to enforce its application in relation to the retailers. In addition to that, the games publishers often do not have a direct relationship with the retailers, but sell their games to a wholesale distributor. A further problem is the lack of a pan-European retailers association; the "Global Entertainment Retail Association-Europe" covers only six European countries<sup>125</sup>.

Latvia and Romania referred to possible negative effects of excessive use of video games.

### 3.12. Right of reply in online media

*For television programmes, the 1989 Television without Frontiers Directive already provided for a right of reply or equivalent remedies in relation to broadcasters<sup>126</sup>. The 2006 Recommendation then suggested that Member States consider "the introduction of measures regarding the right of reply or equivalent remedies in relation to online media". However, as this was not included in the 2007 Audiovisual Media Services Directive, there is no obligation on the Member States. The survey aimed to find out the current state of play in this field.*

As to the relevance of a right of reply in online media, 13 Member States<sup>127</sup> answered that concrete problems concerning the right of reply, in particular problems involving cross-border aspects, have not occurred in the past two years.

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age of the purchaser. The implementation of a retailers' code of conduct would be welcomed by Romania and is envisaged by Cyprus.

<sup>121</sup> <http://www.buro240a.nl>

<sup>122</sup> According to their information given, at the recent campaign, while in general compliance rates are increasing, the compliance rate in video shops was only at 28%, with a decreasing tendency. Buro240a considers that this is due to the increasing amount of age rated video games and to the growing competition of age rated physical video games to online games, which would be putting pressure on retail shops to sell as much as possible.

<sup>123</sup> On 28 October 2009, the Dutch minister of Justice signed a covenant with the management of big retail companies, cinema distributors and DVD rental companies. The purpose of this covenant is that the companies ensure the compliance with age classifications for games and films.

<sup>124</sup> ISFE (<http://www.isfe-eu.org>)

<sup>125</sup> GERA (<http://www.gera-europe.org/ourmembers.html>): Austria, Belgium, France, Germany, the Netherlands and UK.

<sup>126</sup> Article 23(1), now Article 28(1) AVMS: "Without prejudice to other provisions adopted by the Member States under civil, administrative or criminal law, any natural or legal person, regardless of nationality, whose legitimate interests, in particular reputation and good name, have been damaged by an assertion of incorrect facts in a television programme must have a right of reply or equivalent remedies. Member States shall ensure that the actual exercise of the right of reply or equivalent remedies is not hindered by the imposition of unreasonable terms or conditions. The reply shall be transmitted within a reasonable time subsequent to the request being substantiated and at a time and in a manner appropriate to the broadcast to which the request refers."

<sup>127</sup> Austria, Bulgaria, Cyprus, Estonia, Finland, Germany, Ireland, Lithuania, Luxembourg, Romania, Slovakia, Slovenia and the UK.

Differentiated by the **types of media**, in 16 Member States<sup>128</sup> there is a right of reply against **providers of online newspapers/periodicals**, in 13 Member States<sup>129</sup> **against Internet-based news services**, in 17 Member States<sup>130</sup> against **online television services**, in 15 Member States<sup>131</sup> against **online radio services** and in nine Member States<sup>132</sup> against **other online services**<sup>133</sup>.

Relevant **obligations** are applicable in 12 Member States<sup>134</sup> by law, in six other Member States<sup>135</sup> through co- or self-regulation. In five Member States<sup>136</sup>, the right of reply or equivalent remedies also applies to **social networking sites** (e.g. Facebook, MySpace).

The **level of protection** from an assertion of facts<sup>137</sup> in a publication or transmission, in online services and on social networking sites and the **effectiveness of the respective system(s)** in place is assessed as **sufficient and effective** by nine Member States<sup>138</sup>.

Eight Member States<sup>139</sup> consider it **necessary to improve** the situation, and Bulgaria and Romania regard the situation as **unsatisfactory**.

### 3.13. Further questions

- Link between public fears concerning harmful and illegal Internet content and the development of the Internet

Altogether 20 Member States<sup>140</sup> do not see any indications that the development of the Internet in their countries has been slowed down by public fears concerning harmful and illegal content which can be accessed over the Internet. In this context, Austria, Cyprus, the Czech Republic, Lithuania, Poland, Portugal and Romania point out that Internet use is steadily increasing in their countries. The Czech Republic and Slovakia consider that, for the development of the Internet, affordability of the Internet connection for the various sections of

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<sup>128</sup> Belgium (Flemish Community), Bulgaria, Estonia, Finland, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovenia, Spain and the UK.

<sup>129</sup> Belgium (Flemish Community), Estonia, Finland, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal and Spain.

<sup>130</sup> Belgium (Flemish and German-speaking Communities), Cyprus, the Czech Republic, Finland, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovenia, Spain, Sweden and the UK.

<sup>131</sup> Belgium (Flemish and German-speaking Communities), Cyprus, Finland, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovenia, Spain, Sweden and the UK.

<sup>132</sup> Belgium (Flemish Community), Finland, Germany, Italy, Latvia, Lithuania, Malta, Poland and Spain.

<sup>133</sup> France referred to a right of reply in general terms against "public online communication services".

<sup>134</sup> Austria, Belgium (Flemish Community), Finland, Germany, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia and Slovenia.

<sup>135</sup> Estonia, Hungary, the Netherlands, Romania, Slovakia, Sweden (the right to reply is addressed in the Ethical Press Rules to which the major publishers" and journalists" associations subscribe. The rules only apply to online newspapers/magazines that are associated with a paper publication) and the UK. Latvia, Lithuania, Malta, Poland and Spain.

<sup>136</sup> In the sense of 2006 Recommendation, Annex 1 – Indicative Guidelines for the Implementation, at national level, of measures in domestic law or practice so as to ensure the right of reply or equivalent remedies in relation to on-line media.

<sup>137</sup> Belgium (Flemish Community), the Czech Republic, Finland, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain and the UK.

<sup>138</sup> Cyprus, Estonia, Greece, Hungary, Latvia, Malta, Poland and Slovenia.

<sup>139</sup> Austria, Bulgaria, Cyprus, the Czech Republic, Estonia, Finland, Germany, Greece, Hungary, Ireland Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden and the UK.

society is more crucial than public fears concerning harmful and illegal Internet content. The UK suggests that public fears concerning harmful and illegal content are not the most significant factors affecting take-up of the Internet. It postulates that parents may be insufficiently concerned about the lack of application of parental controls, although they should be aware of their availability. The UK suggests that concerns about fraud, theft and privacy seem greater and have more impact on use, if not on take-up. It considers that the main reason for non-take-up of Internet is some people's perception that there are no benefits for them.

- Initiatives for monitoring online chat groups, in particular to protect minors from abuse

Cyprus, Estonia, Germany and Portugal report that monitoring of online chat groups by public authorities does not take place. Germany points out that the monitoring of online chat groups falls within the power of the providers, who have to obey the general legal requirements.

Austria, Romania, Sweden and the UK mention public initiatives in this field. Bulgaria, the Czech Republic, Slovakia and Sweden point out that many websites for children and young people have moderated online chat services. In Hungary, the public "Safe Browsing Programme" also offers a solution against harassment in chat rooms. In Luxembourg there are online chat groups which are monitored more or less actively, but this is done at the initiative of the providers, as there is no such legal obligation.

Estonia rejects Internet monitoring and puts the focus on enhancing the awareness of minors and their parents; this is intended to help them recognise the dangers of grooming and teach them how to behave in an emergency. Portugal deems monitoring online chat groups a violation of privacy and makes it subject to a court warrant or police powers.

- Involvement of consumer associations, voluntary associations and non-governmental organisations in implementation of the 1998 and 2006 Recommendations

As to the involvement of consumer associations, voluntary associations and non-governmental organisations in implementation of the 1998 and 2006 Recommendations, the Member States made rather general reference to a dialogue with these groups on the issue of protection of minors. Only Austria, Germany, Poland and Portugal related this exchange directly to the implementation of the Recommendations. The Czech Republic mentioned that providers of online services were involved in transposition of the Audiovisual Media Services Directive, some of whose provisions are in line with both Recommendations.

- Scientific approaches regarding violence or other harmful content and their impact on minors; voluntary agreements in this field between broadcasters and content providers

A total of 18 Member States<sup>141</sup> replied that efforts in their country with respect to the protection of minors have been accompanied by scientific boards and specific studies regarding violence or other harmful content and their impact on minors. Broadcasters and online content providers in Estonia, Finland, Germany, Portugal, the UK and Norway had concluded voluntary agreements in this field.

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<sup>141</sup> Austria, Belgium (French Community), Bulgaria, the Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Latvia, Lithuania, Luxembourg, Poland, Portugal, Romania, Sweden and the UK.

### **Final remarks**

As this Staff Working Paper is intended as a neutral survey of policy issues to accompany a Commission Report, it is inappropriate for it to draw conclusions, which would inevitably have a more political character. Readers should therefore refer to the Report on the Recommendations on Protection of Minors in order to find out which issues are priorities for the Commission and how it plans to address them.