BRITISH BOARD OF FILM CLASSIFICATION SUBMISSION TO
THE EUROPEAN COMMISSION GREEN PAPER
PREPARING FOR A FULLY CONVERGED AUDIOVISUAL WORLD: GROWTH, CREATION
AND VALUES
Executive Summary

- The British Board of Film Classification (BBFC) is the UK’s regulator of film and video. The BBFC’s primary aim is to protect children and other vulnerable groups from harm through classification decisions which are legally enforceable and to empower consumers, particularly parents and children, through content information and education.

- In a converging media world, it is crucial not to dismantle or duplicate existing regimes which have the support of consumers and the industry and which protect children from potentially harmful content. The public should continue to benefit from those regulatory systems which they understand and have a perceived logic.

- Convergence of different media should not inevitably mean regulatory convergence. A balance needs to be struck between regulatory certainty and a regulatory architecture which allows innovation in the development of effective self regulatory models, applying standards and symbols that are already well understood. The key criteria should be clarity of approach and consumer and industry support. In the UK, such best practice self-regulatory models include:
  - voluntary self-regulation by the BBFC of Video-on-Demand (VOD) content applying granular age ratings and content advice;
  - the BBFC-run regulation of mobile content using a binary classification system based around the BBFC 18/R18 standard;
  - development by the BBFC and NICAM of a User Generated Content (UGC) ratings tool. This self-regulatory questionnaire is tailored to reflect national differences and is designed to be completed by those uploading the content or the audience.

- Most UK viewers consider it important to be able to check the suitability of audio-visual content they download. As more viewing takes place online, consumers expect that the same level of regulation will apply online as currently applies offline. However, online, there is a case for more co and self-regulation drawing on existing, effective, and often industry-led models which reflect national differences and culture. The BBFC sets out in its submission the key factors for the success of an online regulatory system: child protection at its core; effective labelling of content; broad coverage; low cost; efficient, flexible and innovative.

- Key to the success of BBFC digital services are consumer recognition and trust and industry support. Any harmonisation of age ratings would inevitably damage trust and erode use of those ratings because they could not reflect different national consumer expectations, cultural sensitivities or societal concerns.

- Given the success of these examples of self-regulation online, BBFC believes the Commission should promote best practice examples of self or co-regulation within Member States and encourage aggregators and content providers to join such voluntary initiatives in order to respond to consumer demand and to protect children online. It should however be noted that online pornography is a high profile example of where co or self-regulation has not worked well. Greater regulation of adult content would be welcome for the better protection of minors.

- In the UK, in 2011 all the relevant regulators, including the BBFC, launched a single website, ParentPort, to make it easier for parents to complain about any media content. ParentPort offers a best practice initiative for the Commission to consider endorsing.
Media literacy is important to encourage consumers to make full use of age ratings and tools which enable parents in particular to help keep their children safe online.
Who we are

The British Board of Film Classification (BBFC) is an independent, non-governmental body which classifies films and videos in the UK distributed by way of packaged media and, increasingly, on the internet. The BBFC operates a transparent, trusted classification regime based on years of expertise and published Guidelines which reflect public opinion. Our primary aim is to protect children and other vulnerable groups from harm through classification decisions which are legally enforceable and to empower consumers, particularly parents and children, through content information and education.

The BBFC classifies films and videos according to its Classification Guidelines, with ratings ranging from ‘U’ for Universal to ‘R18’ which are restricted videos only allowed to be sold in licensed sex shops. The BBFC’s Guidelines are the result of extensive public consultation with around 20,000 people across the UK being surveyed during the two most recent Guidelines reviews.

On 2 September 2013, the BBFC will become the independent regulator (on a self regulatory basis) of content delivered by mobile networks in the UK.

Converging media world

The BBFC welcomes the opportunity to respond to this consultation on Preparing for a fully converged audiovisual world: growth, creation and values. The BBFC supports the Commission’s intention to anticipate the implications of a fully converged media world.

Response to consultation

Given the BBFC’s strong child protection role, its submission focus on how the EU might best support and promote efforts to protect children online.

Using the experience and expertise arising from its co-regulatory role, the BBFC has been increasingly working in self-regulatory partnerships with the UK’s video/home entertainment industry, television industry and the mobile operators to bring trusted BBFC standards and age ratings into the online space, in order to better protect children and empower consumers.

The BBFC urges the Commission, in any new regulatory architecture it proposes, to continue to allow these, and other, innovative child protection initiatives to flourish. A balance needs to be struck between regulatory certainty and flexibility. The BBFC also calls on the Commission to publicly support and encourage such initiatives.

Question (11) Is there a need to adapt the definition of AVMS providers and/or the scope of the AVMSD, in order to make those currently outside subject to part or all of the obligations of the AVMSD or are there other ways to protect values? In which areas could emphasis be given to self/co-regulation?

In a converging media world, it is crucial not to dismantle or duplicate existing regimes, including for the internet, which have the support of consumers and the industry. The public should continue to benefit from those regulatory systems which they understand and which have a perceived logic. For example, UK consumers think instinctively that there should be the same classification system for films, DVDs/Blu-rays and online audio-visual content. It is the content, and not the means of distribution, that is important.

Convergence of different media also should not inevitably mean regulatory convergence. For example, in the UK, voluntary self-regulation by the BBFC of VOD content works well but this regulatory model, involving granular age ratings and content advice on professional video content, is quite different from the BBFC-run self-regulation of mobile content which is of
necessity (because of its reliance on filters) a binary classification system based around the BBFC 18/R18 standard. This system again is different from the UGC ratings tool created by the BBFC and NICAM. The key criteria should be clarity of approach and consumer and industry support.

For historical reasons, the current statutory regime for film and video/DVDs in the UK does not cover online content. The Video Recordings Act was originally passed in 1984 before digital downloads of videos/DVDs were practically possible. However, media convergence is increasingly blurring the distinction between physical and online material. In the UK, it would be theoretically possible, for example, for the VRA to be amended to extend the statutory regulatory ambit of the BBFC to cover online video content. However, the BBFC believes that the experience of the BBFC’s digital services - a self-regulatory partnership between the BBFC, content providers and online platforms - demonstrates that self-regulation can work in the online world without the need for extension of the current AVMS regime.

**Consumer expectations**

Independent research commissioned by the BBFC in June 2011 shows that while the public considers that the internet brings greater choice, freedom and flexibility, the majority of viewers still consider it important to be able to check the suitability of audio-visual content they download. As more viewing takes place online, consumers expect that the same level of regulation will apply online as currently applies offline. 85% consider it important to have consistent BBFC classifications available for VOD content, rising to 90% of parents of children under 16. 89% of parents check BBFC classifications on films that they and their children download, even though this is not always easy to do. 82% of parents with children under 16 prefer to download films which carry a BBFC online classification over those films which do not. 92% of those who regularly download films find BBFC ratings and content advice useful. (Online media regulation, Bernice Hardie, June 2011, sample base 618)

Research evidence suggests that the majority of the public assumes that VOD already comes under the BBFC’s regulatory oversight.

**BBFC and Home entertainment industry response**

The BBFC recognised some years ago the need to develop regulatory protections to online content. At the same time, the home entertainment industry also recognised the need for some form of regulation in the online space and looked to the BBFC to help provide it. Drawing on the core objective of protecting children and the vulnerable, the BBFC has therefore been working in partnership with the home entertainment industry on a number of voluntary, self regulatory services which bring trusted BBFC classification standards online. These joint, non-statutory initiatives protect children and empower parents and the BBFC believes that they should be considered by the Commission in the context of this consultation.

In terms of the BBFC’s online offerings, independent research carried out in 2011 found that the home entertainment industry strongly supported the BBFC’s presence in the online space because it future proofs their titles; reflects positively on their brand imagery; reassures customers; and obviates the need for legislation (Goldstone Perl, June 2011).

More recently, on 24 May 2013, the British Government praised the work being done by the BBFC and the video industry to bring trusted age ratings online. Referencing this work the Government said:

“customers - and particularly parents – find labels showing the age appropriateness of online videos very helpful … we are pleased to see increasing use of online age ratings”. It went on to call for online ratings more generally “to be made more prominent … far more can be done”. 
Since May 2008, BBFC digital services has offered labelling and content advice services designed for content providers and platform owners (aggregators). It covers VOD, Download To Own (DTO), Streaming and all forms of Electronic Sell Through (EST). We have worked closely with the home entertainment industry to develop this voluntary regulatory scheme with content provider partners such as Walt Disney Studios, 20th Century Fox, Warner Brothers, Paramount Pictures, Universal Pictures and Sony; and platform partners such as iTunes; Netflix; Tesco/BlinkBox; Sainsbury’s; British Airways; Virgin Atlantic; Blackberry; Barnes & Noble; Kaleidescape; BT Vision; PictureBox; TalkTalk; Vtech; Sony PlayStation and Microsoft Xbox. Talks are well advanced with other platform owners.

This service offers consumers (particularly parents) trusted and recognised BBFC classifications, category symbols and rich content advice. Displaying BBFC labelling enables consumers to make informed choices when purchasing retail and rental digital video, thereby empowering parents to protect their children. It offers the home entertainment industry an affordable risk management solution that provides regulatory assurance in the non-statutory space and a means to gate-keep by age.

**BBFC and Mobile Networks**

It was announced on 1 July 2013 that the BBFC and the four UK mobile operators (EE, O2, Three, Vodafone) had signed a contract for the BBFC to help protect children from potentially harmful content online. From 2 September, the BBFC will become the independent regulator of content delivered via mobile networks.

Under this new self regulatory system, the BBFC will create a classification framework, based on its trusted Classification Guidelines, which will set out which content should be placed behind access controls/filters. Using the standards in the BBFC’s Classification Guidelines, content which would be age rated 18 or above by the BBFC will be placed behind access controls and internet filters to restrict access to that content by those under 18. Such content will include pornography and other adult sexual content. It will include pro-smoking and pro-Ana (anorexia nervosa) websites and content which promotes or glorifies discrimination or real life violence.

The Classification Framework is updated regularly to reflect evolving public attitudes and societal concerns. It has been developed using the BBFC’s Classification Guidelines. The Guidelines are based on large scale public consultations involving around 10,000 people, and are revised every 4-5 years.

The BBFC will adjudicate on disagreements between the mobile operators and web site owners as to whether particular content needs to be put behind a child protection filter. It will also hear complaints from members of the public.

The BBFC and the mobile operators believe that this partnership will be:

- trusted by the public;
- more transparent than the previous mobile regulatory regime; and
- more able to adapt to changes in societal attitudes and concerns in relation to child protection.

The BBFC believes that this new regime, which is entirely voluntary, will be a significant contribution to protecting children from unsuitable and even harmful content accessed through mobile devices.
Criteria for Successful Self or Co-regulation

The BBFC’s online solutions are designed to meet the following 5 key criteria:

1. **Child Protection**

   Child protection is a key driver of online regulation. Research (*TNS, 2007*) has demonstrated that 97% of parents recognise the BBFC’s symbols. BBFC digital services helps them make informed viewing choices for their children by way of the classifications given and the extensive information provided to illuminate the BBFC’s reasoning.

   In future, as set out above, mobile devices in the UK will have access controls set at BBFC classification ratings of ‘18’ and above.

2. **Content Labelling**

   For effective labelling of online content, two things are critically important:

   - the standards must be trusted and understood; and
   - the symbols used must be recognisable.

   BBFC digital services satisfies both these criteria. In research to help inform drafting of the BBFC’s Guidelines the public agreed with the BBFC’s classification decisions well over 90% of the time (*Goldstone Perl, 2009*); and recognised and understood the BBFC’s symbols 89% of the time (rising to 97% for parents) (*TNS, 2007*). The BBFC also provides information to potential viewers to help with viewing choices. 88% of recent film viewers found the BBFC’s Consumer advice useful (*Slessenger, 2009*).

   BBFC believes that this trust could not be maintained if there was any attempt to harmonise ratings across different national cultures, because different cultural sensitivities could not be reflected and the ratings would cease to provide genuine guidance and would therefore no longer be trusted.

   The BBFC also publishes (on its website and App) BBFCinsight which consists of several paragraphs of information outlining the key content issues in a film. Independent research (*Slessenger, 2009*) suggests that 86% of parents of primary schoolchildren find this information useful.

3. **Broad Coverage**

   Any system of classification has to have the level of coverage that means it sets a known standard. By giving every title classified by the BBFC since 1985 (over 200,000 works) a digital classification, the BBFC has provided consumers with access to labelling and content information for a massive catalogue of films and television programmes which are now made available online. Every work that is submitted for classification under the Video Recordings Act also receives a classification that can be used online and the BBFC has found that it can offer very broad coverage for the content available on major platforms, often above 90%.

4. **Low Cost**

   Margins in the online world are very tight and the costs of regulation have to be kept to a minimum in order to prevent unregulated competitors from gaining a price advantage. The BBFC is a non profit-making body and that has ensured that BBFC digital services are very cost-effective.
5. Efficient and Innovative

In the fast-paced online world, efficiency and responsiveness to innovation is vital. For example, in January 2011, the BBFC launched its ‘Watch & Rate’ service to provide consumers with access to labelling and content information for content that will only ever be distributed online. This service is outside the BBFC’s statutory remit but has proved successful with the home entertainment industry and the public. By the start of May 2013, the amount of minutes submitted to the BBFC under Watch & Rate was up 291% on 2012’s figures.

Key therefore to the success of BBFC digital services are consumer recognition and industry support. The BBFC’s services are supported by industry because they are simple, inexpensive and user-friendly. The UK public also supports BBFC digital services because they use trusted criteria and recognised symbols. They cover the vast majority of mainstream home entertainment product without requiring legislative intervention. Our new partnership with the UK’s mobile operators should reassure parents and encourage the greatest possible usage of access controls and filters because they will be based on understood and trusted criteria.

Given the success of these examples of self-regulation online, BBFC believes the Commission should consider promoting best practice examples of self and co-regulation within Member States and encourage aggregators and content providers to join such voluntary initiatives in order to respond to consumer demand and to protect children online.

Media Convergence and Pornography

Online pornography is a high profile example of where co or self-regulation has not worked well.

It is generally accepted that exposing children to pornography is potentially harmful to them and is likely at the very least to impair their development. This is why many countries, including the UK, have enacted measures to prevent children from accessing pornography.

In the UK, the BBFC classifies all pornographic content released both on video and theatrically. BBFC removes any material from pornographic works which is potentially harmful or otherwise illegal. This includes so-called “rape porn” which has been the subject of much recent political and media discussion in the UK. The BBFC intervenes to remove from a pornographic work any portrayal of sexual activity which involves lack of consent, whether real or simulated. BBFC will also remove material, including dialogue, which is likely to encourage an interest in sexually abusive activity, including rape. Other material which can feature in “rape porn” and which the BBFC removes includes penetration by any object associated with violence or likely to cause physical harm; any sexual threats, humiliation or abuse outside a clearly consenting role-playing game.

In short, "rape porn" does not exist in works classified by the BBFC. This is because the BBFC removes it under the Video Recordings Act 1984 (VRA) on harm grounds. But online, where the VRA and its harm test do not apply, "rape porn" is available. There is therefore a gap between regulatory protections online and offline. This is all the more troubling because the restrictions on accessing porn offline (works rated R18 by the BBFC may only be supplied to adults through licensed sex shops) are not maintained online, except for UK services regulated by ATVOD. These services form a very small proportion of the market, making it easier for those under 18 to access potentially harmful pornography.

As well as policing the border between legal and illegal pornography, the BBFC polices the border between the strongest, hardcore pornography, and the less strong, softcore variety. The BBFC classifies hardcore pornography as R18, which means that it may only be supplied through licensed sex shops, as an extra precaution against underage viewing.
These child protection measures are much less well developed on the internet. The risk of children accessing even the strongest legal pornography is greater online. There are fewer effective controls on the distribution online of illegal pornography which the BBFC would not classify at any category. The UK Government has recognised the dangers of extreme pornography and in 2008 made possession of extreme pornography an offence under the Criminal Justice and Immigration Act. A BBFC classification is a defence against a prosecution under this Act. So purchasing a legally classified work is a protection against inadvertently possessing extreme pornographic material.

This is not to say that there are no rules or no enforcement in respect of the distribution of online pornography. If a programme distributed online by a UK provider contains material which might seriously impair the physical, mental or moral development of persons under the age of eighteen, ATVOD’s rules require that the material must be made available in a manner which secures that such persons will not normally see or hear it.

Material classified R18 by the BBFC is deemed by ATVOD to meet this test and must be kept out of the reach of children. Conversely, content which has been classified by the BBFC in any category except R18 is presently not normally deemed material that “might seriously impair” and can be distributed without recourse to access controls, thereby providing certainty, and reducing the regulatory burden upon the distributor.

The BBFC’s voluntary online scheme includes pornographic material, but the Commission may, however, wish to note that take up by the adult industry has been low, with only two distributors ever making active use of the BBFC’s online classification services. The market imperatives which in the UK have driven the mainstream home entertainment industry to adopt best practice self regulation, work in the opposite direction in relation to adult content. While parents want the reassurance of trusted labels on online content, much of the adult industry wants to advertise its product as “uncensored”.

There is therefore a case to strengthen the definition of content likely to seriously impair the development of minors; and be clear that hard core pornography constitutes such content. One option might be a new rule which does not require a risk of serious impairment to be evident. Such a rule might state that explicit depictions of real sexual activity, or activity involving realistic infliction of pain or injury or real or simulated lack of consent to sexual activity must be provided in such a manner which ensures that under 18s cannot normally see or hear it.

(14) What initiatives at European level could contribute to improve the level of media literacy across Europe?

The Commission should build on initiatives which already exist. The BBFC itself has an extensive education offering aimed at children, parents, teachers and anyone with responsibility for looking after children. It visits schools, PTA and other similar groups around the UK as well as providing web-based learning.

BBFC further contributes to a number of media literacy initiatives run by industry, other media literacy bodies (for example Film Nation) and child protection groups advising children and adults on how to keep themselves and their family safe. For example, the BBFC contributed advice to Vodafone’s Digital Parenting magazine. BBFC also supports the work of Childnet UK and others through advice to those with childcare responsibilities, including on Safer internet Day.

BBFC contributes to websites aimed at educating parents and grandparents about the importance of abiding by age ratings to keep children safe, for example Parentport advises parents on how to protect their children from inappropriate and even harmful media content (see response to question 24).
All these initiatives deserve support and encouragement from European institutions.

(23) Should the AVMSD be modified to address, in particular, content rating, content classification and parental control across transmission channels?

As stated above in response to Question 11, key to content rating is for the standards to be trusted and understood; and any symbols used to be recognisable. BBFC achieves this in the UK through extensive public consultation which means that our ratings for film and video/DVD, and now mobile devices, are based firmly on UK public opinion as to what is age appropriate and protects children from harm. In examining this issue, the BBFC believes that it is critical to recognise that systems of classification need to recognise national differences; and to build on what is already in existence and tried and trusted by consumers.

User Generated Content

The BBFC is a third party member of the EU CEO Safer Internet Coalition. In response to this initiative, the BBFC and our counterpart, the Dutch regulator, NICAM have together developed a tool for ordinary people to age rate User Generated Content (UGC) across different countries and platforms and according to recognized and trusted national standards. It is designed to enable those with responsibility for children to make fully informed viewing choices in relation to non-professional content online. UGC is growing in significance and, as the CEO Coalition recognised, should be addressed to allow parents the tools to protect children and the vulnerable from accessing inappropriate content.

Through a single, simple, free to complete questionnaire, the international UGC tool instantaneously produces an age rating which can be shown on the video hosting platform. The ratings differ from country to country to reflect different national sensitivities and concerns over content. (For example, strong language is an issue for consumers in the UK but not in the Netherlands. The tool reflects such differences). The tool is simple. It contains six questions about the content of the UGC, on behaviour, drugs, horror, language, sex and violence. Completing the questionnaire takes fewer than a couple of minutes. It also includes a facility for viewers to report content which in their view might be illegal.

The tool is flexible, for instance, the questionnaire may be completed by those uploading content when the content is being uploaded. Alternatively, it may be completed by those viewing the content. The ratings can be linked to online filters. This new initiative will shortly be trialled by Mediaset in Italy and the BBFC and NICAM are looking for trial partners elsewhere across the EU. This is an example of the kind of initiative that can make the online world safer for children and has been welcomed by the EU Commission’s CEO Safer Internet Coalition.

(24) Should users be better informed and empowered as to where and how they can comment or complain concerning different types of content? Are current complaints handling mechanisms appropriate?

In 2010 the UK Government set up an independent review Chaired by Reg Bailey into the commercialisation and sexualisation of children which resulted in the report, ‘Bailey Review of Commercialisation and Sexualisation of Childhood - Letting Children be Children’. The Bailey review found that parents felt they could not make their voices heard, and that they often lacked the confidence to speak out on sexualisation and commercialisation issues for fear of being labelled prudish or out of touch.

The Review noted that in the UK there were a number of co-, self- and statutory regulators across the media, communications and retail industries which could be confusing for parents. Bailey, therefore, recommended regulators should work together to create a single website to
act as an interface with parents, thereby also making it easier for parents to complain about any programme, advert, product or service.

The BBFC supported this recommendation along with the other regulators in the UK. As a result on 11 October 2011 Parent Port was launched [http://www.parentport.org.uk](http://www.parentport.org.uk). The website was been jointly developed by the Advertising Standards Authority, ATVOD, the BBC Trust, BBFC, Ofcom, the Press Complaints Commission and the Video Standards Council.

ParentPort provides straightforward information on what parents can do if they feel they have seen or heard something inappropriate for their children. The site makes the process of making a complaint easier by directing parents to the right regulator for their specific area of concern. The website also provides a ‘Have Your Say’ section, which allows parents to provide informal feedback and comments which regulators use as an extra gauge of parental views. There’s also advice on how to keep children safe online and what parents can do about other products like clothing and the display of magazines in shops.

The Parent Port website offers a best practice initiative for the Commission to consider endorsing.

BBFC  
July 2013
The UK’s Children’s Charities’ Coalition on Internet Safety brings together twelve professional, national children’s and young people’s organizations with specialist knowledge and expertise across a broad range of child welfare, child development and child protection interests. The charities all share a great enthusiasm for the digital revolution which was triggered by the emergence of the internet. We can see the tremendous advantages and possibilities which a converged, always on and always available internet could deliver. We want every child and young person, in all parts of the world, to have full and equal access to the huge benefits which the new technologies can bring, within the safest possible environment.

We are grateful for the opportunity to comment on the European Commission’s Green Paper “Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values” Brussels, 24.4.2013 COM(2013) 231. Its publication is most timely. The paper correctly anticipates the magnitude and importance of a series of changes which are already clearly visible on the near horizon. Public policy making institutions generally struggle to keep up with the consequences of technological change. For once, instead of simply reacting or playing catch up, we may be in with a chance of shaping events.

Areas of interest

There are two key dimensions to the views CHIS wishes to express in relation to the emergence of a fully converged audiovisual world. These concern

- the growth and spread of wireless connectivity to the internet linked to the availability of ever greater numbers of easily portable devices which can make use of it

- the emergence of internet connected TV sets in family homes and other environments where children and young people are likely to be found
The growth and spread of wireless connectivity to the internet

Practically every new electronic device which is likely to be used or valued by a child or young person is easily portable and comes with WiFi built in as standard. This means the child or young person can connect to the internet from any of many millions of “WiFi hotspots” which are available in public and semi-public places in the UK. The high quality of the graphics and sound linked to the speed and falling costs of the connections mean there are, in principle, no barriers to accessing any kind of audiovisual material that might be available on the internet.

Once the internet is in a child’s pocket or school bag and they can connect to it in any burger bar or coffee shop, or in any railway station, the possibility of meaningful parental supervision and support of the child’s or young person’s internet usage becomes a wholly impractical proposition. Potentially anything and everything that is “out there” is available to the child or young person.

“Anything and everything” on the internet includes not only illegal and unlawful content but also legal content which is highly age inappropriate. The child or young person need not go looking for such material intentionally. Even wholly innocent searches could take a child or young person to places that are not at all suitable for them.

The 2008 Eurobarometer survey found, “parents of 6-17 year olds in the (then) EU27 were rather or very worried about their child seeing sexually/violently explicit images (65%), being a victim of online grooming (60%), getting information about self-harm, suicide or anorexia (55%), being bullied online by other children (54%), becoming isolated from other people (53%) and giving out personal/private information online (47%). A quarter of parents worry about all of these risks. And parents worry more about girls and about younger children (though, as was seen above, boys and teenagers encounter as many or more risks online).” Many surveys since have shown similar levels of parental concern.

So what are parents to do in a world of wireless connections? Bear in mind in a typical family home with two or three children there might be upwards of twenty portable WiFi enabled devices coming and going, being used, borrowed, loaned, repaired or rested at any one time. While games consoles, tablets, smartphones and laptops are the most common of these, if the technical press is to be believed they will soon be joined by internet enabled wrist watches, spectacles and other wearable devices. These gadgets might have been manufactured by five or six different companies each using their own particular terminology, icons and approaches. Could parents reasonably be expected to turn off or, an on-going basis, manage the availability of WiFi connectivity on their children’s portable devices? CHIS does not think that is realistic and in any event it partly defeats the point of having WiFi in the first place.

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1 http://stakeholders.ofcom.org.uk/.../internet-web/uk-4.22, Shows patterns at 16+.
http://stakeholders.ofcom.org.uk/binaries/research/media-literacy/online_access.pdf shows 7-16.
2 BT alone claims to have in excess of 4.5 million in the UK
http://www.lse.ac.uk/.../EU%20Reports/EUKidsOnlineFinalReport.pdf
Given the central importance of internet access to education in the 21st Century and to young people’s social, cultural and family lives we are way past the point where it is any longer realistic or in any way desirable to argue that a modern child or young person should be deprived of access to the internet either permanently or for any protracted period of time. That is a counsel of defeat.

CHIS believes we need protective solutions that operate at network level, in ways which work with all equipment manufacturers’ products. We appreciate that some might see this as letting manufacturers off the hook but putting in protective solutions at network level is likely to be much more efficient and will more effectively ensure the measures have the desired reach. CHIS is certainly not opposed in principle to controls also being pre-installed on the devices themselves and there may be individual instances where that is the better answer.

Specifically in relation to TV channels, as more and more of them present their content online, in a wireless world any notion that a parent can help determine what should and should not be watched by younger viewers evaporates.

With the BBC iPlayer, 4OD and other catch up or on-demand apps, watersheds can become meaningless. Many parents will not even know if their children have downloaded them and, up to now at any rate, the age verification and authentication components of catch up and on-demand apps are so weak as to be almost worthless. The distinction between linear and non-linear content ceases to exist.

The same is likely to be true with streaming services even though the mechanisms are different. Unless these too are associated with strong age verification systems they are likely to open up adult or restricted content to youngsters who could not buy the same materials in a shop or view in a cinema.

In the end this argues for every user to have an individual log which has been age verified and for the content or services which they can access to be configured around their individual profile. Of course there should be a parental override but that too should be linked to a robust age verification or identity authentication system to ensure they are the ones making the override decision.

Parents very much want to exercise some control over the sort of content and services their children can access online yet many have found that the filtering tools presented to them hitherto (principally by ISPs but also by others) have been bewilderingly complicated and therefore too difficult to implement. This was the primary inspiration behind the UK Government’s decision to encourage ISPs to present filtering options to parents in the simplest possible way, as a default, and for UK WiFi providers, also by default, to screen out all adult content in public spaces where children and young people are likely to be found.

Default on delivers simplicity. It also means the protective tools being referred to can be provided to children and young people in families where, for any number of reasons e.g. poor educational attainment levels on the part of parents, inability to understand the local language, such measures might otherwise never be invoked.

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[^4]: [http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/annex2.pdf](http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/annex2.pdf) see page 21
In our view convergence and ubiquity shout out for much greater harmonisation across all digital media platforms in relation to the tools which will help parents to keep their children away from age inappropriate, unlawful and illegal content.

Parents should not have to jump through hoops to make devices safe or appropriate for their children. If parents want to learn how to make the device less safe, if they want to reconfigure, liberalise or to abandon the tools altogether that is a matter for them and they should of course be free to do so, but it should work that way around, not the other.

WiFi, 4G and other wireless technologies are now a fact of life. When linked to the growth of WiFi enabled portable devices this makes close or on-going parental supervision of the whole of a child’s or young person’s internet usage a practical impossibility. This means high tech suppliers have a larger responsibility to devise mechanisms to compensate for that inevitable loss of parental engagement.

This points towards the need for “family friendly” network level controls which are turned on by default. Any reconfiguration away from the defaults should be strongly associated with individual log-ins which have been age verified in a robust way.

It is accepted that “family friendly” is a rather elastic term with potentially a significantly high degree of cultural specificity. Local law might also be relevant in certain contexts. However, a framework could be developed which either met a broadly accepted standard or allowed for a level of flexibility at national level. Any family friendly environment ought to incorporate mechanisms which block access to known illegal and unlawful sites.

The emergence of internet connected TVs

Turning to internet connected TVs: in our view this is a major, radical development which is absolutely guaranteed to push the question of internet regulation centre stage in every country where it reaches critical mass.

At the moment, how children and young people use the internet, knowledge about the sort of content they are accessing, can all too often slip under the parental radar if most of the internet usage takes place via a portable device up in a bedroom, out in the garden or on the street. Once the internet is available through the big TV screen in the family living room potentially the whole of the internet is available in that same room. Donald Duck, Pirate Bay and pornhub.com will coexist on the same screen, separated by only a few accidental or deliberate clicks of the remote.

Bear in mind that the family TV is likely to be watched most frequently by younger children, often with Mum or Dad in the room and controlling the remote, but perhaps just as often when they are not. Parental anxieties about the sorts of images and sounds that might be accessible on that TV screen are likely to increase by several orders of magnitude.
Thus the risk is, on such a sensitive issue as child protection, if measures with a wide level of acceptability among parents are not taken at European level the demand for national Parliaments or elected Assemblies to act within a given country will become irresistible. It would be a brave local politician who pleaded that they were helpless to do anything to protect British, French or Spanish children because their hands were tied by Brussels. The political damage to EU institutions could be considerable, particularly if, as would be likely, national newspapers decided to weigh in.

Either within the TV itself or at the level of the router or set top box that delivers both linear and non-linear content to the screen, controls should be put in place by default which will present and preserve a family friendly and legal environment.

It should be possible for every family to reconfigure the defaults or to abandon them altogether. However, any such changes to the defaults should be linked to a robust age verification mechanism which ensures it is an adult making the decision.

Peer2Peer networks

As CHIS we have had a longstanding concern about the abuse of Peer2Peer networks. We also have concerns about the misuse of different types of filesharing sites and the wider Darknet but Peer2Peer deserves to be considered in its own right as it is used by substantial numbers of people who do not have the technical knowledge or determination to engage with TOR clients, encryption and the like or may not yet have found their way to other forms of filesharing environments.

Many children and young people have been using Peer2Peer software to obtain unlawful access to and use of IP infringing content such as music, software and films from pirate sites. Data published by the BBFC and the Industry Trust for IP Awareness not only documents the harm to the UK economy and jobs that can be caused by this type of piracy it also outlines more immediate hazards to children’s and young people’s welfare.

The research shows that over a third (37%) of children aged 11 and 12 admitted to having recently downloaded or streamed a film rated 15 or above from a pirate site. More than a quarter of 11-15 year olds (27%) say their parents don’t know what films they are watching online, and a third (32%) wouldn’t feel comfortable with younger siblings copying their viewing habits. Almost one in five young film fans (18%) admit they have been disturbed by the movies they have watched on pirate sites and two thirds (65%) wish they had checked the film’s official age rating first.

But it is not only IP infringement that Peer2Peer software can facilitate. Our main interest in Peer2Peer historically has been in relation to its role in facilitating the widespread, large scale distribution of child abuse images (child pornography). It is very unlikely that children or young people would engage with Peer2Peer software in that way but many parents will be unsettled by the fact that such material is often accessible on the same networks.
In addition, many Peer2Peer users who are not involved with child abuse images will allow persons using the same programme to access a wide range of material that they might have collected. We have had reports, for example, that via Peer2Peer young people have been exposed to videos of decapitations carried out by terrorist groups, of them coming across images of bodies which have been severely mangled or squashed in road accidents, or of lynchings being carried out by the KKK. Such pictures could have a terribly scarring effect on even mature, rounded adults, never mind younger or more fragile minds.

The point about Peer2Peer is that while it is a difficult, resource intensive business to police it, to the best of our knowledge, because the file sizes can be extremely big, by and large in the past its use has been limited to downloads over faster fixed internet connections, typically in the home, to devices with capacious hard drives. With the emergence of 4G and soon even faster wireless connections, and with the development of cloud computing with its acres of free or cheap storage, it will become ever more practical to use Peer2Peer outside the home on exactly the sorts of devices huge numbers of children will be carrying around.

We are not arguing for a ban on Peer2Peer software. It has many perfectly legitimate uses but wherever possible, by default, access to Peer2Peer programmes should be turned off at the point of first connection on all devices likely to be used by children and young people and on the family TV’s internet connection. There needs to be a substantial public awareness raising campaign which highlights the malevolent ways in which Peer2Peer networks are being used. We need to get across to parents that Peer2Peer is not just about ripping off Hollywood or the Rolling Stones. It can pose a very real danger to children’s health and well-being.

- Within any “family friendly” online environment by default access to Peer2Peer programmes should be turned off.

- If there is no technical way of blocking Peer2Peer programmes as a group a list of the principal programmes should be created as the basis for blocking. The list should be updated automatically. The ability to turn on Peer2Peer access should only be available to an age verified adult.

- A major public awareness campaign should be mounted drawing attention to the various drawbacks and hazards to children and young people of Peer2Peer and other filesharing environments. Included in the campaign should be references to the role of these programmes in providing access to illegal content and IP infringing content.

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Response from The Danish Media Council for Children and Young People as regards to section 3.4 “Protection of minors”

The Danish Media Council for Children and Young People is a government agency appointed by the Minister for Culture. According to the Danish Film Act, the council has the responsibility to classify films and other formats of audiovisual content and to advise the general public and the government in all questions related to children and young people’s use of audiovisual media. In addition The Media Council for Children and Young People serves as an EU awareness center for children’s and young people’s use of online technologies within the framework of the EU Safer Internet Program.

The classification of film and drama series distributed in cinemas and at the retail market is done by a panel of experts also appointed by the minister. Danish video games (online as well as offline games) are classified by the industry according to the PEGI-principles.

General remarks

The Danish Media Council (DMC) welcomes the public consultation. As regards to the section on “protection of minors” we find the Green Paper closely linked to the European Strategy for a Better Internet for Children (COM 2012, 196 final) and to the development and implementation of the Connecting Europe Facility Program (CEF).

The question on “how to protect minors in the audiovisual world” must be answered by adopting a holistic view on the manifold ways children and young people consume, learn and create audiovisual content as well as the ways they have dedicated themselves to the new digital opportunities for creation and social interaction.

Protection of minors is only a part of it, when it comes to the vision of bringing audiovisual content and the new facilities to the heart of digital agenda for Europe.

“Protection” is relevant when it comes to advising parents, teachers and social workers etc. on audiovisual content that could be harmful to children and young people. Protection measures could be implemented by directly preventing children and young people the access to classified audiovisual content (which has been the dominant method for the access to films in cinemas) or by indirectly impose an obligation for audiovisual content providers such as distributors, television and video-on-demand services to advise their audiences on potential harmful content.

In this respect, the DMC finds that it is of absolute importance that the same content has the same harmfulness assessment no matter how the content is accessed by children and young people. In the converged digital world, content such as feature films and fiction drama series is distributed in many different ways, and it would only lead to consumer confusion if cinemas, television channels and the new audiovisual media services classify and advise about the same content differently. Ultimately, a different
approach to the understanding of harmfulness and a different approach to the advisory dimension at national level will undermine the whole idea of protecting minors against potentially harmful content.

When it comes to the opportunities for creation, learning and social exchange following in the wake of the digital development, the DMC has experienced a growing demand for awareness, knowledge and capacity building in relation to all aspects children’s and young people’s use of online technologies.

The needs vary a lot for different age and target groups. Parents and daycare personnel are asking for guidelines on how to introduce the youngest to the online world and teachers in primary schools are asking for knowledge tools regarding the use of the Internet as a learning platform as well as safety issues. Parents, teachers, librarians, social workers and the police are asking for a greater understanding of young people’s social life online – their opportunities and risks – in order to meet young people with a profound and updated approach. Finally, children and young people themselves can take a great part in making the Internet a better place – if they are given the opportunity to reflect on privacy issues, digital footprints, file sharing, the commercial aspects of the Internet, big data, piracy, use of knowledge sources and not the least online ethics.

These perspectives cannot be assessed by a protective approach. As it always has been, the key to raising children is dialogue and empowerment. In Denmark and throughout the world we are witnessing radical social and cultural transformations of our societies deeply influenced by the development and integration of new ICT’s. Thus, the DMC believes that the Internet must be approached as a new social infrastructure providing new opportunities for economical growth, innovation, learning and citizenship. The wish to develop a safer and better Internet for children and young people consequently cannot be advanced by a univocal focus on content regulation, parental control systems and classification of Internet content, but through media literacy, awareness raising and empowerment strategies.

Having this said, the DMC encourages national as well as European decision makers and the EU Commission to consider the future of national awareness centers and the European network activities in this field. Presently, the EU Safer Internet Program and the national Safer Internet Centers are the cornerstones for these activities, but in the light of the ongoing discussions of the Connecting Europe Facility program the DMC finds there is great risk that the future focus to a large extend will be set on technical fixes, such as classification and parental control systems and not on media literacy and awareness raising.

Safe and legal use of audiovisual content and making the Internet a safer and better place for children and young people are keys to innovation and growth in a converged audiovisual world. The DMC perspective on these matters derives from the UN Convention the Rights of the Child. The convention recognizes children’s basic rights to be protected from harmful content. The convention also underlines the civic, cultural and social rights of the child to participate, seek, receive and impart information to information, freedom of thought and information, right to privacy without interference etc.

With the UN convention as a starting point, future “protection of minors” policies in the digital era should be based on variety of instruments within the framework of a comprehensive media literacy strategy. The demand for the information and advice given by classification of films and other audiovisual works is unabated as long as the communication is uniform, transparent and clear no matter where the content is met. The demand for knowledge, learning materials and debate between generations is equivalently strong.
if we as knowledge centers enrich the awareness of the opportunities and risks which arise concurrently with the use of online technologies.

Questions

20. Are the current rules of the AVMSD appropriate to address the challenges of protecting minors in a converging media world?

The short answer is no. As the Commission also recognize in the first report on the application of the AVMS-directive (COM 2012, 203 final) the technological development might blur the boundaries between broadcasting and over the top delivery of audiovisual content and one might add: The boundaries between all ways of downstream exploitation of audiovisual content. The report also takes note that “...there is a need to maintain a consistent level of protection across different media platforms while taking into account their respective specificities.”

In light of the general remarks above, the DMC finds that there is a great need for a comprehensive legal framework for classification of films and other audiovisual works that will secure a uniform, transparent and clear national classification practice no matter how the specific audiovisual work is accessed by the audience.

Today, we find that some rules are made for broadcasting and audiovisual media services others are made for cinemas and the retail market. The same content can be regarded as “not harmful” for television broadcasting, but at same time classified “un appropriate for children under 15” in cinemas.

Adding to the consumer confusion, the rules deriving from the AVMS-directive might to a large extend conflict with the rules covering electronic rental and sale of audiovisual content by video-on-demand services.

21. Although being increasingly available on devices and platforms used to access content, take-up of parental control tools appears limited so far. Which mechanisms would be desirable to make parents aware of such tools?

Referring to the general remarks above, the DMC does not believe in the use of parental control tools to a large extend. Given the social and interactive nature of the Internet, we find that age classification of Internet content cannot be implemented the same way in which films and other audiovisual works are classified. In addition we find that a universal monitoring system for Internet content will not be effective, given the cultural diversity of Europe and the rapid development of online technologies and their use.

22. What measures would be appropriate for the effective age verification of users of online audiovisual content?

We refer to the answer to question 21. If the question is related to the distribution of films and other audiovisual works by video-on-demand services we find that age classification supplemented by a small explanation could be an appropriate advisory tool for children, young people and their parents and teachers. In this context age verification is not a way forward, but some parents might want to have a technical opportunity to prevent their children’s access to films and other audiovisual works at their home-
video-services. In this respect a comprehensive age classification system, according to the already mentioned principles, is crucial.

23. Should the AVMSD be modified to address, in particular, content rating, content classification and parental control across transmission channels?

We refer to the answer to question 20.

24. Should users be better informed and empowered as to where and how they can comment or complain concerning different types of content? Are current complaints handling mechanisms appropriate?

Referring to the general remarks above, the DMC finds that there is great need for media literacy activities in daycare centers and public schools as well as learning materials and guiding tools for children, young people and their parents in all aspects of the use of online technologies.

The DMC has for a almost a decade been working in this field together with other public institutions and private NGOs in order to raise awareness of the opportunities and risk in the digital world. We find that dialogue and debate is the best way to achieve the overall goal of making the Internet a safer and better place.

25. Are the means by which complaints are handled (funding, regulatory or other means) appropriate to provide adequate feedback following reports about harmful or illegal content, in particular involving children? What should be the respective roles/responsibilities of public authorities, NGO's and providers of products and services in making sure that adequate feed-back is properly delivered to people reporting harmful or illegal content and complaints?

We refer to the answer to question 24.
GREEN PAPER

Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values

Response from the European NGO Alliance for Child Safety Online (eNACSO)

Introduction:

The European NGO Alliance for Child Safety Online is a network of 27 children’s rights NGOs from across the EU working towards a safer online environment for children. Our mission, based on the 1989 UN Convention on the Rights of the Child (UNCRC), is to promote and support actions at national, European and international levels, to protect children and promote their rights in relation to new technologies. eNACSO is funded by the European Commission’s Safer Internet Programme.

Taking into consideration the challenges and opportunities that the landscape of converged media pose to children, eNACSO decided to reply to the consultation on the Green Paper, “Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values“.

The response will be based on contributions provided by eNACSO members and staff and on prominent research work and studies conducted on child safety online, above all on the work carried out by EU Kids Online.
Question 14: What initiatives at European level could contribute to improve the level of media literacy across Europe?

“Media literacy refers to skills, knowledge and understanding that allow consumers to use media effectively and safely”\(^1\). eNACSO believes that a significant engagement on the part of EU institutions, Member States, companies and civil society is essential in order to provide an effective and innovative approach to increasing media literacy. Formal and informal education are both fundamental to reach out to wider audiences. Considering that children get internet safety advice mainly from parents, teachers and peers, all these groups are key targets and have to be active players—even through peer-based programmes—within media literacy campaigns and initiatives.\(^2\) We should also consider that “over the last five to six years there has been a substantial increase in internet usage by children under nine years old.”\(^3\) Therefore, specific curricula and methodologies for this group have to be taken into consideration.

Moreover, according to the “Report on the Implementation of the Audiovisual Media Services Directive” (February 2013), we stress the necessity to update the curricula of media education activities and to give particular attention to data protection issues.

Finally, **Media and ICT industry** should support media literacy programs according to the commitments and pledges expressed in the ICT and CEO coalitions.

**Recommendations:**

1. It is particularly important to produce education and awareness programmes which **reach out directly to children and young people**. Campaigns and actions based on **peer-based education** initiatives should be given priority.

2. To this end the use of new media and new forms of participation should become an integral part of formal and informal education, and the involvement of **teachers and parents** in promoting and implementing media education is particularly crucial.\(^4\)

3. **Partnerships with law enforcement are also vital** to ensure appropriate messaging is developed and properly integrated into wider education and awareness measures.

4. **Media and ICT companies** have a particular role to play in helping all stakeholders to develop and promote effective educational resources, as well as developing materials for use with their own customers and markets.

5. Specific media literacy programmes addressing **children under 9 years old** are needed.

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\(^1\) Art. 47, AVMSD


\(^3\) Donell Holloway, Lelia Green and Sonia Livingstone, Zero to Eight, Young Children and their internet use “ August 2013, [http://eprints.lse.ac.uk/52630/1/Zero_to_eight.pdf](http://eprints.lse.ac.uk/52630/1/Zero_to_eight.pdf).

6 Curricula of media education activities should be updated and include data protection and other children safety issues (advertising, peer2peer, etc.).

**Question 17:** Will the current rules of the AVMSD regarding commercial communications still be appropriate when a converged experience progressively becomes reality? Could you provide some concrete example?

Art 9. Point g of the AVMSD states that: “audiovisual commercial communications shall not cause physical or moral detriment to minors. Therefore they shall not directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity, directly encourage them to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations.”

Converged media offers new potential forms of exploitations addressed to children and young people, since they are not only a vehicle for linear and non-linear broadcasting, but can host highly interactive contents such as social networks, voice and video over-ip apps and videogames.

Therefore, new forms of commercial communication such advergames employing immersive marketing techniques, which routinely integrate advertising and “content” in such a way as to make the two indistinguishable, will freely run on converged media. Today, marketers can effortlessly incorporate brands into the flow of the immersive experience, using a highly sophisticated, finely tuned strategy that combines product placement, behavioural targeting, and viral marketing to foster deep, ongoing relationships between brands and individuals, or so-called “brand loyalty”. Digital marketers have perfected software for tracking consumer behaviour in video games and other interactive platforms. Immersive marketing campaigns are incorporated – more than ever before – in social media. The latter are extremely appealing to teens, who through them are developing a sense of who they are and where they fit in within their communities, and are more easily influenced by their peers. The combination of all of these elements creates an experience that is designed to extend the engagement with the brand over long periods of time. Such marketing techniques may be particularly challenging for young people to resist.

Moreover, a recent study on interactive games concluded that “the more immersive an environment is, the more likely a player is to have intent to buy a product they see.” Virtual worlds are particularly effective at inducing a state of flow, because they “create opportunities for participants to lose track of time in enjoyable brand-related activities.” This mental state “contributes to a participant’s

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attitude about a brand. Ultimately, this strongly influences the participant’s intention to purchase a product from that brand.”

Hence, these new marketing techniques – through their immersive environments – are often purposely aimed at circumventing conscious processing and eliciting emotional responses. Digital marketing routinely relies on implicit persuasion, involving mental processes that “are activated automatically and effortlessly without intention or awareness, and are thus difficult to control.”

Given the peculiarities of these new features, it is possible to affirm that current regulation needs to be updated and that the challenges posed by the “converged experience” need to be taken into consideration.

A second aspect that AVSMD did not consider is the use of children’s personal data for commercial purposes.

Data collection is at the core of contemporary digital marketing. The capacity to collect and analyse data from internet users/individual consumers, which are tagged with unique identifiers when they engage with online services, and are then tracked, profiled, and targeted for personalised marketing, allows advertisers to reach a much wider audience, and mostly without them even knowing – especially when it comes to children and young people.

“Data has become one of the most valuable commodities in the real-time bidding system,” explains a recent industry report. “There is a fundamental shift in media buying from buying placements to buying audiences.”

A complex array of data is collected and used for consumer profiling, tracking, and targeting on “exchange” and “demand-side” platforms. Mobile, video, and social media are increasingly being integrated into the data collection and targeting real-time bidding apparatus, and with no proper and updated regulation an internet-connected TV would be yet another platform from which to collect data.

Question 18: What regulatory instruments would be most appropriate to address the rapidly changing advertising techniques? Is there more scope for self/co-regulation?

Rapidly changing advertising techniques and complex marketing tools render the task of determining a perfectly appropriate legal regime a very difficult one. Because of these new advertising techniques’ inherent and immersive characteristics, such as advergames, there are risks involved in setting an overly narrow definition, which could be easily circumvented by companies and marketers.

It is, however necessary to find a way to address the issue, based on the imperative “protection of vulnerable consumers”.

As suggested by some studies, one of the possible ways could be to negotiate a solution with the

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8 Ibid note 6
10 Ibid note 4.
11 Fabien Gagnerot, “The Regulation of Advergames in the European Union” University of Exeter, 2010
stakeholders, and to make use of self-regulation, but reinforcing it by adding some complementary hard law measure.\textsuperscript{12} In fact, self-regulation per se has failed to regulate food marketing to children, for example. And, as Grimes suggests, mixing media regulation, consumer protection law, self-regulation and contract law, within an integrated approach could be the appropriate solution.

Moreover, this type of approach has already been suggested by an authoritative actor, the World Health Organization (WHO), regarding the marketing of foods and non-alcoholic beverages to children. Recommendation 6, in particular, advocates a “variety of approach” in the policy implementation process, including self-regulation.\textsuperscript{13}

\textbf{Question 20: Are the current rules of the AVMSD appropriate to address the challenges of protecting minors in a converging media world?}

With regard to internet-connected TVs: in our view this is a major, radical development that is absolutely guaranteed to push the question of internet regulation to centre stage in every country where it reaches a critical mass.

At the moment, how children and young people use the Internet, and knowledge about the sort of content they are accessing, can all too often slip under the parental radar if most of the internet usage takes place via a portable device in a bedroom, out in the garden or on the street. Once the Internet is available through the big TV screen in the family living room the entire internet is potentially available in that same room. Donald Duck, Pirate Bay and pornhub.com will coexist on the same screen, separated by only a few accidental or deliberate clicks of the remote. Bear in mind that the family TV is likely to be watched most frequently by younger children, often with Mum or Dad in the room and controlling the remote, but perhaps just as often when they are not. Parental anxieties about the sorts of images and sounds that might be accessible on that TV screen are likely to increase by several orders of magnitude.

Secondly, WiFi, 4G and other wireless technologies are now a fact of life. When linked to the growth of WiFi-enabled portable devices this makes close or on-going parental supervision of the whole of a child’s or young person’s internet usage a practical impossibility. This means high tech suppliers have a larger responsibility to devise mechanisms to compensate for that inevitable loss of parental engagement.

Moreover, the directive mainly refers to media broadcasters – on demand and televisions – while a greater emphasis is required for user-generated contents and peer2peer. In this new framework, children are not only users but also creators and broadcasters. This new dimension and all its consequences – which include commercial exploitation and privacy concerns – have to be addressed with a revamped approach.

\textbf{Recommendations:}

1 Either within the TV itself, or at the level of the router or set top box that delivers both linear and non-linear content to the screen, \textbf{controls should be put in place by default} which will present and preserve a family-friendly and legal environment.

\textsuperscript{12} Ibid note 10, see also S. Grimes, Kids’ at Play: Regulating Children’s Advergames in the Converging Media Context, Int’l J. Comm. L. & Pol’y, issue 12 (2008), p. 165 - 175

\textsuperscript{13} World Health Organization Resolution on the Marketing of food and non-alcoholic beverages to children, WHA63.14,21 May 2010
2 It should be possible for every family to reconfigure the defaults or abandon them altogether. However, any such changes to the defaults should be linked to a robust age verification mechanism that ensures it is an adult making the decision.

3 The ability to turn on Peer2Peer access should only be available to an age-verified adult.

4 A proper monitor and evaluation process of the age verification mechanism has to be established.

5 The access of linear and non-linear audiovisual contents through mobile devices (tablets, laptops, smartphones) require media\ICT companies to apply specific actions to protect children from inappropriate contents.

Question 21: Although being increasingly available on devices and platforms used to access content, take-up of parental control tools appears limited so far. Which mechanisms would be desirable to make parents aware of such tools?

In 2004, Professor Sonia Livingstone published the results of a survey she had carried out on UK parents' "wish lists" for a safer internet. 85% wanted to see "tougher laws on online pornography" and two thirds wanted improved filtering software, while more than half wanted more effective means to limit and monitor their children's usage of the Internet. In April this year, another survey in the UK, carried out by YouGov, showed that vast numbers of parents continue not to want their children to have ready access to pornography on the Internet.

European data reveals a similar pattern. In the latest EU Kids' Online survey, to be published shortly, we learned that 31% of parents of 9-16 year olds still "worry a lot" about their child seeing inappropriate content, and at 30% parents of teens voiced much the same opinion.

Almost two-thirds of European parents do not use filtering software or monitoring software14; among these are above all ones who are not internet users. Generally, the level of knowledge and awareness on parental control tools is not sufficient.

According to a recent study15, parental control tools are effective but risk diminishing children’s digital skills and opportunities if they are not accompanied by a proper engagement on the part of the adults. Furthermore, it is of paramount importance not to overestimate the effectiveness of monitoring and filtering software or consider them as the final solution to child safety online.

Recommendations:

1. The data on current practices need to be presented and referenced by platform, device-type service-type and take up.

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2. “Default on” is a powerful tool, above all for the TV environment.

3. Further investigation and development on **effectiveness and customization** (according to age and by users\family) of parental control tools must be undertaken.

4. Education and awareness will always be of paramount importance, but there are certain families and situations where technical tools may offer the best or even the only hope.

5. **Awareness-raising on parental control tools** and their appropriate use is necessary.

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**Question 22: What measures would be appropriate for the effective age verification of users of online audiovisual content?**

There is a huge debate about the age at which young people can be considered competent to disclose information about themselves to online commercial or other entities without first obtaining verifiable parental consent to join or use an online service.

**eNACSO thinks it is unlikely that a single age can or should be applied** to every aspect of privacy or data protection policy. We think we are likely to need a graded or more granular approach. That would at least get us nearer to the idea of a child’s “evolving capacities”. The "**rule of 13**", which was developed in the USA in the 20th century under the terms of Children’s Online Privacy Protection Act of 1998, is outdated, and a more flexible system of different fixed age limits might be preferable. However, a proper investigation and further research is required.

The above notwithstanding, it should always be the case that, whatever fixed ages may be assigned to any aspect of privacy policy, were a company to learn that a particular individual in fact did not properly understand the environment they were in or the service they were using, the company should be under some form of obligation to act swiftly to remedy that situation, whether through the provision of extra support/information to the identified individual or by terminating their account.

**Recommendations:**

1. **Fixed age limits** are the only practical way to proceed in the online space.

2. **There is no evidence to support the adoption of the age of 13** or any other specific age as a standard. Research is needed but it is unlikely that a single age will be appropriate for every issue.

3. **Age-based standards without age verification systems are likely to be ineffective** and may encourage a false sense of security or even be deceptive.

4. An independent mechanism needs to be developed to **assess the efficacy of measures** being taken to age verify users or to identify users who are non-compliant by virtue of age.
Question 23: Should the AVMSD be modified to address, in particular, content rating, content classification and parental control across transmission channels?

The AVMSD mainly takes into account two kinds of contents: linear and non-linear (on demand) services. Converged media proffer a third category: user-generated contents (UGC). Considering the dynamism of UGC and the incredible speed of upload/download data flow (100 hours video uploaded on YouTube every minute), a strong engagement of Media and the ICT industry in monitoring and labelling contents accompanied by robust age verification, notification and parental control tools is necessary.

Recommendations:

1. The main challenge for UGC is to get more companies to engage proactively in enforcing their terms and conditions. This requires clarification of the eCommerce Directive.

2. Awareness and information on key groups about labelling and classification systems need to be developed.

3. User-based feedback and classification systems should be promoted.

Question 24: Should users be better informed and empowered as to where and how they can comment or complain concerning different types of content? Are current complaints handling mechanisms appropriate?

Every website, broadcasting and online service has its own colour scheme, its own look and feel, its own way of structuring its relationship with its users and members. It would therefore be inappropriate to suggest that every site or hardware platform be required to handle the question of reporting tools in exactly the same way, using exactly the same language, colours and icons. Yet the idea underpinning such a notion has some merit and further commitments for consistency are needed.

Consequently, eNACSO is calling for: a greater degree of consistency in relation to the prominence given on different web pages/audiovisual material to available reporting tools as well as their positioning on the page, and a greater degree of consistency, both in terms of the language used and the icons deployed, to denote where reporting tools are available.

The duties and expectations of web sites are clearly higher if they know they have substantial numbers of children among their users. The percentages are less important than the numbers.

Finally, according to EU Kids Online research, one third of the children who reported inappropriate contents did not find it helpful. Industry has to set up a robust system that guarantees appropriate and timely replies and reparatory actions.

Recommen

dations:

1 There is a need for greater consistency in the look and feel and positioning on the page of reporting tools and mechanisms.

2 A greater degree of consistency across platforms and device-types is also desirable.

3 Icons should be used to highlight and signpost specific issues. Greater emphasis is needed on using accessible language.

4 Web sites and Broadcasters need to know who their customers are and tailor their offering accordingly, i.e. a site with many users who are children should be aware of that and act accordingly.

5 An effective and timely response and action system has to be set up by the industry.

Question 25: Are the means by which complaints are handled (funding, regulatory or other means) appropriate to provide adequate feedback following reports about harmful or illegal content, in particular involving children? What should be the respective roles/responsibilities of public authorities, NGO’s and providers of products and services in making sure that adequate feedback is properly delivered to people reporting harmful or illegal content and complaints?

We would like to see all of the agencies involved in this field combining their intelligence to publish the fullest possible account of the true size of the problem. The only data, which normally find its way into the public domain, are those that are published by hotlines, but we are acutely aware of the fact that they do not have full visibility of the terrain. They only see what is reported to them whereas law enforcement agencies generally see everything that the hotlines report to them and also have intelligence they acquire from their own independent activities. Thus, the real scale of the challenge is currently unknown outside the police service, because no single national or international organization has been in the position to assemble all of the information from all the sources. Efforts should be made to correct this. Our view is that work in this area is substantially under-resourced.

Action to combat online child abuse material is now a legal obligation within the EU. The EU Directive on combating the sexual abuse and sexual exploitation of children and child pornography obliges all Member States to take appropriate steps to ensure the prompt removal of child abuse images from the Internet. Under the Directive, the Commission too has obligations to report on progress.

The Commission and Member States have encouraged the practice of “Notice and Take Down” (N&TD) as a means of securing the removal of child abuse images from web sites. The notices inform the online service provider of the existence of material on their site that is thought to be illegal, and typically, the notice also acts as a trigger for police action to identify and arrest the perpetrators and identify and rescue the child victims. Hotlines are key tools in the N&TD system. However, the overall effectiveness of how hotlines work has yet to be conclusively demonstrated.
It also seems clear that the web is no longer the sole major source of child abuse material. Police officers repeatedly say that Peer2Peer networks in particular, but also other closed environments and Newsgroups, are now of at least equal if not of even greater importance. Yet few hotlines have either the legal authority or the appropriate training and resources to engage with these alternative sources of illegal images.

Perhaps in many countries it would not be possible or appropriate for hotlines to become involved this type of work in any event. Either way, the point we wish to take note of is that the Commission’s and the industry’s primary or major focus on the web may be falling short of what is required. Collectively, we need to reassess how best to make an impact in other relevant parts of the Internet. There is said to be much uncertainty about several legal aspects of how technical measures might be deployed in the fight against child abuse material, whether in the stream, i.e. as they pass across networks or when they are being stored. Facebook and Microsoft already deploy PhotoDNA. Other companies are also doing so or are planning to. Several companies sell products to businesses that wish to detect known illegal images on their networks.

Recommendations:

1. It is important to develop independent metrics and methods of assessing sites’ and services’ performance in dealing with reports received from children and young people.

2. It is vital that comprehensive data about the scale of the problem are obtained and published so as to guide policy.

3. An effective and timely response and action system has to be set up by service providers and law enforcement agencies.

4. We need to find new ways to improve the detection and removal rates of illegal contents in environments in converged media and improve the rate of identification and rescue of victims.

5. In future, technical tools to detect and remove illegal contents will likely become increasingly important. A reliable country by country assessment of the legality of such methods is essential.

For any further information, please get in contact with:

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Response to the Green Paper:
“Preparing for a Fully Converged Audiovisual World:
Growth, Creation and Values” ¹
August 15, 2013

Introduction

The EU Kids Online network values the opportunity to contribute to the debate on the ongoing transformation of the audiovisual landscape arising from convergence in the communications and media sector. Our focus is on the implications of convergence for the protection of minors, identified as one of the key issues that underpin European regulatory arrangements for audiovisual media services.

The Green Paper’s recognition that convergence has potentially far-reaching consequences for child protection is very timely and welcome. As a network supported since 2006 by the European Commission’s Safer Internet Programmes, EU Kids Online has sought to enhance knowledge about children and young people’s use of online and mobile technologies, informing policies designed to protect them from harm and ensuring their rights and opportunities. Our response to this consultation is grounded in the evidence base to which we have contributed through a series of significant research initiatives.

As a major part of its activities, EU Kids Online conducted during 2010 a face-to-face, in-home survey of over 25,000 9-16 year old internet users and their parents in 25 countries, using a stratified random sample and self-completion methods for sensitive questions. Now including researchers and stakeholders from 33 countries in Europe and beyond, the network continues to analyse and update the evidence base to inform policy. See www.eukidsonline.net for all news and reports.

In the following, we address those items set out for public consultation which concern children and young people’s audiovisual and media experiences, focusing on policies regarding Media Literacy (Question 14) and the Protection of Minors (Questions 20-25).

Question 14: What initiatives at European level could contribute to improve the level of media literacy across Europe?

We recognise the important role that media literacy has played in European audiovisual policy, especially within AVMSD, and its prioritisation of the ‘skills, knowledge and understanding that allow consumers to use media effectively and safely’. Our comments here refer principally to the availability of information and advice about safe online use. Our survey of 9-16 year olds experiences of risk and safety online asked them and their parents about their actual and preferred sources of information on internet safety.

Our findings show that children and young people currently get internet safety advice first from parents (63%), then teachers (58%) and then peers (44%). This pattern is fairly consistent across Europe, though for older teenagers and for children from lower SES homes, advice from teachers overtakes that of parents. Importantly, our research shows that parental advice to children is the only the factor that can be most consistently related to a lower risk of encountering online risks; it is also linked to a decrease in the likelihood of acting in a nasty or hurtful way towards others.

In the first instance, therefore, support for parents should remain a policy priority with increased emphasis upon educational and awareness-raising efforts that improve public understanding of media literacy.

Our findings further show that parents currently get internet safety advice first from family and friends (48%) rather than from more formal channels such as traditional media (32%), the child’s school (27%), government or local authorities (7%) or children’s welfare organization (4%).

There is a clear appetite for more information on internet safety amongst parents as only around 9% say that they don’t want further information on internet safety. A direct comparison between the actual and desired sources of information suggests that more parents would like information to come to them through schools and from the government. However, ‘there is no ‘one size fits all’ solution. Most parents will disseminate information about safe internet use to their children, regardless of the method by which they have acquired it. But parents who have not received any online safety information are less likely to have given such advice to their children, compared with parents who have received advice.

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When asked to identify their preferred source of information about internet safety, the child’s school was the most popular choice among parents. Schools uniquely have the ability to reach all children and consequently, we have argued that levels of teacher involvement in promoting media literacy should be further prioritised.\(^5\)

It is noteworthy that the youngest children in our survey (9-10 years) report getting the least safety advice from their teachers, even though ever younger children are gaining access to the internet across a variety of devices. Thus we argue that primary schools in particular should increase their education efforts around media literacy and safety guidance for pupils.

The low take up of information support from industry sources is a cause for concern:

- Traditional media (radio, television, newspapers or magazines) are mentioned by 32% of parents;
- Internet service providers are cited by just 22%, and websites with information by 21% of parents;
- Information supplied by manufacturers and retailers selling products are used by just 10% of parents.
- Children also appear to lack trust when it comes to reporting or talking to someone in authority: when something upset them online, just 7% spoke with a teacher and 2% to a person whose job it is to support children.

There is considerable scope, therefore, for industry to increase awareness of its own efforts in relation to internet safety and to build trust in its capacity to respond to children’s concerns. The ‘Strategy for a Better Internet for Children’\(^6\) calls on industry to step up its support for user-friendly tools and safety features and to work proactively with NGOs and schools to support digital and media literacy. This important emphasis on industry tools and awareness should be further encouraged through co-regulatory measures, and it should be verified through independent evaluation.

Civil society, NGOs and independent groups are also important actors in awareness-raising for online safety. However, across the EU their initiatives do not follow a common strategy, and are often fragmented even within individual countries. This arises partly from their diverse funding sources and partly because they work in different cultural/political/economic contexts. There is a need, therefore, for greater cohesiveness across the sector in relation to approaches to media literacy. Sustainable funding mechanisms for literacy and safety initiatives, as well as independent evaluation of their effectiveness, are now vital to guide and improve future developments in this area.


EU Kids Online welcomes the establishment of the CEO Coalition of 31 leading companies to address the five key objectives of i) simple and robust tools for users, ii) age-appropriate privacy settings, iii) wider use content classification; iv) wider availability and use of parental control and v) effective removal of child abuse material. We note that members of the self-regulatory ICT Coalition have pledged to support education and awareness-raising of internet safety on behalf of its members.\(^7\)

We urge that industry support for media literacy, as recommended in the Strategy for a Better Internet for Children, features strongly in the CEO Coalition’s commitments.

Appropriate mechanisms to promote pan-industry support for partnerships in digital and media literacy would be a valuable means of connecting industry knowledge of current technological trends with the pedagogical expertise of civil society groups.

**Question 20: Are the current rules of the AVMSD appropriate to address the challenges of protecting minors in a converging media world?**

One of the principal challenges to the effectiveness of AVMSD in protecting minors is the increasingly blurred boundary in a converging media world between traditional forms of media consumption and new connected services and devices adopted by children and young people. In particular, the anomaly noted in the Green Paper (p.11) whereby content on the same device may be subject to different regulatory regimes, resulting in user confusion, has important implications for safety provision and awareness-raising.

Noting that the remit of AVMSD extends only to media service providers (i.e. to professional media organisations which retain overall editorial responsibility for output), there are grounds for concern regarding the proliferation of user-generated content, as well as other content from outside the European Union, that is not subject to any regulatory oversight except under terms of service applied by internet service providers.

Our evidence suggests that such content, while an intrinsic feature of a dynamic and open internet, affords potential harm to children. When asked if there were things on the internet that would bother children their own age, 55% of 9-16 year olds in Europe confirmed that there were things online that made them uncomfortable, upset or felt they shouldn’t have seen it.\(^8\)

In response to open-ended questions about what bothers them online, potentially harmful content tops the list of children’s concerns, constituting 58% of all risks mentioned by children. Pornography (22%) and violent and aggressive content (18%) were among the main forms of content cited by children.\(^9\) 21% of 9-16 year olds (and nearly a third of all older teenagers) had seen one or more types of potentially harmful user-generated content. The particularly graphic nature of gory or violent content online, including real

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depictions of cruelty, killings and abuse of animals, added to the depth of many children’s reactions.

The wide availability of potentially harmful online content and its negative impact on many children suggests that current arrangements are not working. Beyond the provisions for protection of minors under AVMSD, a range of self- and co-regulatory initiatives (such as the CEO Coalition to make the internet a better place for kids), have been charged with the task of developing pragmatic solutions to fostering better safety. These include, inter alia, reporting tools, wider use of content classification and parental controls.

**We argue that to be effective such solutions need to supported and updated by evidence from children themselves of the problems they encounter. Also vital are appropriate evaluations of the effectiveness of proposed and actual solutions.** Expert assessments, while useful, may not reflect all areas of concern for children and the involvement of children in the testing and assessment process should be an important principle of evaluation. Evaluation, furthermore, should be periodic in nature and independently conducted to determine progress made.

**Question 21:** Although being increasingly available on devices and platforms used to access content, take-up of parental control tools appears limited so far. Which mechanisms would be desirable to make parents aware of such tools?

Our research investigated the use of parental controls in the context of children’s internet use. Parents, as our research shows, are very concerned about their children’s online safety: one third of parents say they worry a lot about their children being contacted by strangers on the internet or seeing inappropriate material.\(^{10}\) While parental fears and worries may not always be the most accurate compass for what is actually harmful for children online, it is illustrative of some genuinely-felt concerns.

We asked the parent most involved with the child’s internet use if they use filtering or monitoring software at home. One in three European parents claims to filter their child’s internet use and a quarter use monitoring software. There are no notable gender differences, but middle class parents are a little more likely to use parental controls, and parents of younger children are a lot more likely to use them.

As some two thirds of parents in Europe do not use filtering or monitoring software at present, there is clearly scope to increase take up of these tools. At present, wide country differences are apparent with parental control tools used most in UK and Ireland (54% and 48% respectively) and least in Romania and Lithuania (11% and 9%).

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Further analysis of our findings shows that parents are more likely to use filters:

- If they are regular users of the internet themselves;
- If they are confident in using the internet;
- If they say that they worry a lot about their child seeing inappropriate material on the internet or being contacted by strangers on the internet.

Older parents, parents of older children or of children who use the internet daily or of children who spend more time online are all less likely to make use of filters.

We acknowledge that there are a range of views on the appropriateness of filtering tools, especially for older children and teenagers, especially if these are used in preference to more active forms of mediation on internet safety (e.g. discussion between parent and child, sharing online activities together). **As a minimum, more attention should be given to raising awareness of the role that such tools can play in supporting safer internet use by children. Furthermore, concerns about their effectiveness should be addressed to ensure that they meet parents’ needs.**

Our analysis shows that use of parental controls does appear to reduce children’s online risk; however, this is at the expense of children’s digital skills and opportunities. On the other hand, we have found some evidence that active mediation (i.e. greater parental engagement) reduces risk but not skills or opportunities.¹¹

In summary, while parental controls are widely promoted as a useful way to keep children safe online, particularly younger children, current strategies to support their adoption are clearly insufficient, since some two thirds of parents do not use them. We urge that the use of parental controls or filtering software should not be regarded as the sole solution for keeping children safe online. Technical solutions can create a false sense of security for parents, teachers and carers who may think that by applying certain types of software, children will be safe online without them having to do more or engage with their children’s internet use. In addition, the use of parental controls is associated with reduced digital skills and opportunities among children’s, while active mediation (such as sitting with your child, talking to your child) reduces risk, but not skills and opportunities.

Where appropriate, parents could be encouraged to consider making more use of parental controls and other technical solutions, although this will require greater availability of easy-to-use, carefully tailored, affordable and effective tools. **In particular, greater attention should be given to ensuring that parental controls allow for the customisation of the online environment in order to cater for the diverse backgrounds, contexts of use, family interactions and parental styles of the European parents and children for whom these tools will be designed.**

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**Question 22: What measures would be appropriate for the effective age verification of users of online audiovisual content?**

The topic of age limits and systems of effective age verification has prompted much debate among child safety experts and industry providers. The adoption of fixed age limits for access to various forms of online content and communications services, while setting an industry-wide standard, does not always take into account children’s differing stages of development or levels of maturity. In the absence of any alternative method for assessing individual children’s or young people’s competence or level of cognitive development, it is widely held that fixed age limits need to be applied.

The problem is that there is little consensus about the precise age limits that should apply to different kinds of services. Most large internet companies (Facebook, Google etc.) have followed privacy legislation in the United States\(^\text{12}\) and adopted 13 as the age limit for access to many internet services. Some social networking services do not have an age limit but require parental consent below a certain age: 16 in the case of Hyves based in the Netherlands\(^\text{13}\) or 14 in the case of Iwiw\(^\text{14}\), Hungary’s largest social networking provider, and Tuenti, based in Spain\(^\text{15}\). Nonetheless, we consider that the age of 13 years or thereabouts is a reasonable threshold. This threshold receives little dissent among researchers of children and youth, and considerable support from developmental psychology.

More problematic is the fact that the registration process instituted by many social media services relies upon the *professed* age of the user. In the absence of any independent age verification mechanism, this enables easy circumvention by underage users. Our findings in relation to children’s use of social networking services reveal that large numbers of children under the age limit set by the company have registered a profile on the service.\(^\text{16}\) Specifically, across Europe, we have found that 27% of 9-12 year olds display an incorrect age on a social networking profile. In the case of Facebook, the most popular social networking service in Europe, 20% or one fifth of 9-12 year olds have registered a profile using a false age in contravention of the company’s age restriction. This includes 46% of 9-12 year olds in the Czech Republic, 42% in Denmark, and 34% in the UK.

Among the safety issues that arise are concerns for children’s privacy and their ability to consent to collection of personal data, the basis on which legislation operates in the United States and is proposed in reform of data protection legislation in Europe.\(^\text{17}\) We have found that over a quarter of 9-12 year old SNS users have their profile ‘set to public’, only just different from the proportion of 13-16 year olds. Although fewer 9-12 year olds have

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profiles, it is a concern that, among those who do, they are no more likely to keep their profile private than older children. In most countries (15 of the 25 nations involved in EU Kids Online II), younger children are more likely than older children to have their profiles public. Furthermore, just under half (45%) of younger Facebook users (11-12 year olds) know how to change privacy settings. Similarly, about 4 in 10 do not know how to block another user, a vital safety skill when encountering potentially harmful contact.

In summary, the application of age restrictions on popular social media services is only partially effective. Fewer younger than older children use social networking but, nonetheless, many ‘under-age’ children are using SNS. Setting aside the question of whether it is appropriate for young children to use SNS services, it seems clear that measures to ensure that under-aged users are rejected or deleted from the service are not successful among the top SNS services used by children in Europe. We recommend that, either, age verification measures are made fully effective (to prevent ‘under-age’ use) or that the presence of younger users is acknowledged and addressed. Given that our research also shows that many parents of ‘under-age’ users seek to ban their children from using Facebook and similar services, our preference is for the former solution.

Question 23: Should the AVMSD be modified to address, in particular, content rating, content classification and parental control across transmission channels?

As we observe under Question 20 above, convergence in the delivery of audiovisual media content and the increasingly blurred lines between content and communications platforms pose challenges for ensuring protection of minors in today’s media environment. Parental controls are widely available across a variety of channels - transmission-based, i.e. terrestrial/satellite broadcast as well as via the internet. However, as we have found, parental controls for internet devices are only used by a third of parents across Europe, more in some countries and in others hardly at all.

A challenge for content rating is to develop suitable approaches to deal with the wide range of user-generated content which, as we note above, can contain material that is potentially harmful and upsetting for children. One in five 11-16 year olds, our research shows, have come across one or more types of potentially harmful user-generated content in the past 12 months. Content rating is also needed for other commercially-produced content which is not suitable for children or which some people may consider offensive. A rating system to be informative and effective needs to be supported by appropriate education and awareness raising efforts and be consistently applied across the range of services accessed by children.

Our recommendation is for more support to encourage parents to make more use of the array of parental controls, while noting that industry can do more to provide easy-to-use, carefully tailored, affordable and effective tools. We note also that active mediation by parents of their children’s internet use – parents talking to their child about the internet, staying nearby or sitting with them while they go online, encouraging them to explore the internet, and sharing online activities with them – can reduce online risks, notably without reducing their opportunities.
Information and guidance in the form of content ratings and content classification will undoubtedly assist parents in making more informed decisions about how to support their children’s internet use. Research conducted for Ofcom in the UK demonstrated strong support for the labelling of content through the provision of detailed descriptions of content in trailers and in EPG information, and audio-visual indicators and warnings about potentially offensive or unsuitable content.\(^{18}\)

Similarly, research in Australia has indicated that parents appreciate information about the possibly troubling content of media (“consumer advice”) and may find this more useful than recommendations around the appropriate minimum age of viewers.\(^{19}\) The provision of consumer advice regarding material classified as PG and above can encourage in-family discussion and an active mediation style, complementing the value of parental controls.

Additionally, while industry players might argue that their responsibility is to mitigate harm rather than offence, we note that tagging and other tools which allow users to comment on the content can provide valuable information to future users about the type of content contained. **Clear and appropriate labelling of content should be promoted, to aid parents and other users, and as a defence against complaints about the nature of available media content.**

In summary, most parents believe it is worth engaging with their child’s internet use, and they employ a wide range of strategies, depending partly on the age of the child. But our survey identified that there are some parents who do not do very much, even for young children, and there are some children who would like their parents to take more interest and play a more proactive role. It is a policy priority now to reach these parents with awareness raising messages and resources. Interestingly, our findings show that over half of parents across Europe (53%) think they should do more in relation to their children’s internet use, so clearly additional supports would be welcome.

**Question 24:** Should users be better informed and empowered as to where and how they can comment or complain concerning different types of content? Are current complaints handling mechanisms appropriate?

The capacity to report distressing or inappropriate material to the internet service or site provider, and to have such reports acted upon in a timely way, is a vital element of an effective self-regulatory system. According to our research, the take up of reporting mechanisms is low indicating that there is considerable scope to further promote their availability, age-appropriateness and use. Our findings reveal that only 13% of 9-16 year olds who were upset or bothered by an online risk used actively reporting tools to address their distress. This includes 9% of those upset by sexual messages, 15% of those upset by


sexual images, 10% of those upset by meeting an online contact offline, and 9% of those upset by bullying messages.

Moreover, two thirds of children who reported content or conduct risks found the response helpful, but one third did not. Our analysis shows that reporting tools offer a particular benefit to girls, more vulnerable children, and those from poorer homes, perhaps because of the lack of alternative resources for these children. Therefore, extending their availability and ease of use is highly desirable.

It is the case that the more widely and deeply children use the internet, the more they will encounter risk and the more they are likely to use reporting tools if upset. Therefore, as children gain internet access via more diverse and personal platforms, ensuring that there are consistent, easy-to-use reporting mechanisms and safety information on all devices is vital. In our submission to the CEO Coalition’s working group tasked with the development of simple and robust reporting tools for users, we recommended making industry-provided reporting mechanisms more accessible and trusted.

This should include:

- Clear, child-friendly communication about reporting tools and procedures - how they work, what they are for.
- Making them more prominent and accessible in all areas where they might be needed, not just on a ‘hidden corner’ or very deep in the website’s navigation.
- Responding to and acting upon all reports of inappropriate content or behaviour expeditiously.
- Making them open so that both predefined and also new risks and concerns can be reported - it is vital to keep listening to children so as to recognise and provide appropriate support for the changing array of risks that children face online.
- Making them available and easy to use by children and adults – including non-users. Not only users but also non-users such as a parent or teacher without a SNS account may also want to report certain situations or content to the provider. In such cases, they should not be obliged to create an account before being able to submit a report.
- Ensuring that there are effective protocols and re-direct mechanisms in place with relevant local organisations (e.g. Safer Internet Centres, law enforcement, helplines, children’s charities).
- There must also be effective ‘back office’ mechanisms to ensure the prompt review of inappropriate, abusive or illegal content or behaviour.
- Independent evaluation of the effectiveness of reporting is crucial, both to measure whether improvements have been made (against benchmarks) but more importantly, whether those improvements work - i.e. are they actually meeting children’s needs.

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In order for children/users to gain trust in the reporting mechanisms it is essential that:

1. **Users get a reply** (i.e. that they know/feel that something will be done) such as sending them some sort of acknowledgment that their report has been received and that it will be dealt with.

2. **Action is taken** so that the child/user’s problem (if justified) is really “solved” and even if the problem is not solved completely, users should be left with the feeling that something was done to help them solve their problem. If after reporting users do not get this impression, trust in the available reporting mechanisms will be lost.

3. **Users are given feedback** on the outcome of the report so they are not left wondering about its status.

**Question 25:** Are the means by which complaints are handled (funding, regulatory or other means) appropriate to provide adequate feedback following reports about harmful or illegal content, in particular involving children? What should be the respective roles/responsibilities of public authorities, NGO’s and providers of products and services in making sure that adequate feedback is properly delivered to people reporting harmful or illegal content and complaints?

As we have found in our research, use of reporting tools by children who are upset by something online is rather low. We cannot determine from the EU Kids Online survey whether this is because there are no tools available or children find them difficult to locate or use; they may also prefer other coping strategies (e.g. to tell a parent or teacher).

Usability studies carried out with 12-17 year olds on social networking sites demonstrate that even though young users recognise the usefulness of reporting mechanisms, they face difficulties using them. Lack of user-friendly reporting mechanisms may therefore discourage users from sending reports.

**Better handling of reports, including the provision of adequate feedback is undoubtedly a step in the right direction. In this respect it would be very valuable if industry players, including members of the CEO Coalition, made public their data around response rates and response times.**

Where laws have been broken, all complaints should include notification to law enforcement agencies who can require and ensure appropriate take-down action and investigate criminal behaviour. Where the complaint is one of harm, rather than of illegality, this can be addressed according to the response to Question 24.

**For more on EU Kids Online, visit** [www.eukidsonline.net](http://www.eukidsonline.net)

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Απάντηση στις ερωτήσεις 20-25 αναφορικά με τη Δημόσια Διαβούλευση «Προετοιμασία προς μια πλήρη σύγκλιση του οπτικοακουστικού περιεχομένου: ανάπτυξη, δημιουργία και αξίες» και την προστασία των ανηλίκων

Δρ. Βερόνικα Σαμαρά - Συντονιστριά του Ελληνικού Κέντρου Ασφαλούς Διαδικτύου & Επικεφαλής της Δράσης Ενημέρωσης Saferinternet.gr του Ε.Κ.Α.Δ.

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(Ερώτηση 20)

Κατά την άποψή μας, όχι. Το διαδίκτυο και γενικώς οι online πλατφόρμες αποτελούν διαδραστικά περιβάλλοντα και όχι παθητικό μέσο όπως η τηλεόραση. Επίσης, οι γονείς δεν είναι τόσο ενημερωμένοι σε θέματα διαδικτύου, όπως είναι οι ανήλικοι χρήστες του. Έχουμε, λοιπόν, δύο πολύ σοβαρά ζητήματα. Συνεπώς οι διατάξεις της οδηγίας πρέπει να τροποποιηθούν, λαμβάνοντας υπόψη τους τις παραπάνω, πολύ σημαντικές παραμέτρους.

Επιπλέον, επειδή το διαδίκτυο εγείρει πολλά περισσότερα θέματα απ’ότι η τηλεόραση πχ. ερωτήματα προσβασιμότητας σε περιεχόμενο ή τύπους περιεχομένου, δικαιώματα πνευματικής ιδιοκτησίας, προστασία προσωπικών δεδομένων, ελευθερία της έκφρασης, ηλεκτρονικό εμπόριο, συγκεκριμένου τύπου εγκλημάτων μέσω υπολογιστών που μπορούν να συνδέονται με οπτικοακουστικό περιεχόμενο, επιπλέον περαιτέρω κανονιστικό πλαίσιο πέρα από την αυτορρύθμιση των χρηστών και των εταιρειών που προωθείται μέχρι σήμερα, το οποίο θα επιλύσει επιπλέον προβλήματα στο Διαδίκτυο.

(Ερώτηση 21)

Η Ε.Ε. και το έργο Saferinternet.gr στην Ελλάδα μέσα από την εκστρατεία ενημέρωσης, ασχολείται ήδη από το 2004 με το μείζον ζήτημα των εργαλείων γονικού ελέγχου, ιδίως για τα μικρά παιδιά. Ωστόσο, οι γονείς δεν γνωρίζουν τα εργαλεία αυτά, και οι περισσότεροι δεν μπορούν να τα ενεργοποιήσουν / προσαρμόσουν στις ανάγκες της οικογένειάς τους, απλά γιατί δεν ξέρουν πώς, αλλά και γιατί δεν θέλουν να μάθουν! Πώς εξάλλου να ενημερώσουμε για ένα μέσο, όταν 1 στους 2 Έλληνες δεν το χρησιμοποιεί; Επίσης, είναι σημαντικό να τονίσουμε ότι πολλά από τα μεγαλύτερα παιδιά γνωρίζουν πώς να απενεργοποιήσουν τα φίλτρα γονικού ελέγχου, καθώς γνωρίζουν πολύ περισσότερα από τεχνικής άποψης από τους γονείς τους, και δεν υπάρχει στην οικογένεια ένα «συμβόλαιο χρήσης» με κανόνες και όρια που τα παιδιά οφείλουν να τηρούν. Επιπλέον, τα προγράμματα λογισμικού επιτρέπουν στους γονείς να αποκλείουν την πρόσβαση σε ορισμένες ιστοσελίδες, είναι όμως λιγότερο αποτελεσματικά στο φιλτράρισμα π.χ. των ιστότοπων κοινωνικής δικτύωσης. Επιπλέον, τίθεται θέμα με το φιλτράρισμα περιεχομένου ιστοσελίδων στις οποίες η πρόσβαση γίνεται από κινητά τηλέφωνα ή από κονσόλες παιχνιδιών, σε μια εποχή που στην Ευρώπη πολλά παιδιά χρησιμοποιούν αυτόν τον τρόπο για σύνδεση με το Διαδίκτυο.

Η Πολιτεία πρέπει να βοηθήσει, λοιπόν, Ευρωπαϊκές δράσεις, όπως το Saferinternet.gr, που έχουν αναπτύξει όλα τα απαραίτητα εργαλεία ευαισθητοποίησης, να δημιουργήσουν μηχανισμούς που θα φτάσουν στους γονείς άμεσα και σε όλη την Ελλάδα (π.χ. ενημέρωση μέσα από τις σχολές γονέων, ενημέρωση μέσω του εκπαιδευτικού συστήματος, κ.λ.π.) τόσο για να ενημερώσουν για τις τεχνικές λύσεις, αλλά και για τη σπουδαίτερη τους λύσεως μέσα στην οικογένεια. Τέλος, η σημασία της εκπαίδευσης τους μέσω μέσα από το σχολείο είναι πια επιτακτική. Οι έρευνες του Saferinternet.gr αναδεικνύουν ότι ήδη παιδιά νηπιαγωγείου πρέπει να εκπαιδευτούν στην ορθή και ηθική χρήση τέτοιων τεχνολογιών. Και το παραπάνω είναι πολύ πιο σπουδαίο από οποιοδήποτε τεχνικό
εργαλείο.

(Ερώτηση 22)
Η αυτορύθμιση είναι πολύ σημαντική. Οι εταιρείες πρέπει (πέραν από την απλή ενημέρωση μέσα από τους «Όρους Χρήσης» του ιστοχώρου τους που συνήθως ουδείς διαβάζει) να δημιουργήσουν αποτελεσματικούς μηχανισμούς ελέγχου της ηλικίας των ανήλικων χρηστών, π.χ. με την απαίτηση των γονέων να επαληθεύουν την ηλικία με βάση στοιχεία, π.χ. με αντίστοιχους μηχανισμούς που χρησιμοποιούν ήδη πάροχοι περιεχομένου για ενήλικες μόνο (π.χ. νόμιμο τζόγο στο Διαδίκτυο) και όχι με την απλή συγκατάθεση του τύπου «ναι είμαι άνω των 18 ετών».

Επιπλέον, η χρήση ειδικής σήμανσης περιεχομένου στο Διαδίκτυο, όπως επισημαίνεται και στην επόμενη ερώτηση, θα βοηθήσει τους ανήλικους να πλοηγούνται με έναν οδηγό βοήθειας σε ιστότοπους που αρμόζουν στην ηλικία τους, καθώς πολλές περιπτώσεις οδηγούνται κατά λάθος σε ακατάλληλο γι'αυτά περιεχόμενο.

Βέβαια, πολλές φορές οι γονείς ψεύδονται οι ίδιοι για την ηλικία των παιδιών τους για να έχουν αυτά πρόσβαση σε υπηρεσίες. Σε τέτοιες περιπτώσεις, η εκπαίδευση των γονέων για την ορθή και ηθική χρήση των τεχνολογιών και η σημασία που έχει αυτή στην ορθή διαπαιδαγώγηση των παιδιών τους αλλά και στην ευημερία και σωστή ανάπτυξη τους πρέπει να αναδειχθεί μέσα από ενημέρωση και ευαισθητοποίηση. Και πάλι η Πολιτεία μπορεί να στηρίξει το Saferinternet.gr που έχει κλείσει μια δεκαετία ενημέρωσης στην Ελλάδα, με μόνη στήριξη από την Ε.Ε. και χορηγούς.

(Ερώτηση 23)
Σαφώς. Ήδη μιλήσαμε παραπάνω για το γονικό έλεγχο. Αναφορικά με το χαρακτηρισμό περιεχομένου: ήδη υπάρχει το σύστημα PEGI (Pan-European Game Information) για τον χαρακτηρισμό περιεχομένου στα ηλεκτρονικά και τα online παιχνίδια, το οποίο αποτελεί αυτορρύθμιση της ίδιας της βιομηχανίας, με έλεγχο από το ISFE. Όμως, θεωρούμε ότι αντίστοιχος χαρακτηρισμός και ηλικιακή διαβάθμιση πρέπει να εφαρμοστεί (και σε αυτή την περίπτωση υποχρεωτικά, όπως γίνεται στην τηλεόραση για κάθε εκπομπή) σε όλο το φάσμα του οπτικοακουστικού περιεχομένου, ειδικά αυτού που μπορεί να αποδειχθεί ακατάλληλο ή επιβλαβές για τα παιδιά ή για κάποιες συγκεκριμένες ηλικίες.

(Ερώτηση 24)
Εδώ μπορούμε να μιλήσουμε για το έργο του Ε.Κ.Α.Δ., δεν μπορούμε να αξιολογήσουμε έργο τρίτων φορέων.

Εδώ και 10 χρόνια η Ανοιχτή Γραμμή SafeLine του Ελληνικού Κέντρου Ασφαλούς Διαδικτύου δέχεται καταγγελίες για παράνομο ή ύποπτο περιεχόμενο στο Διαδίκτυο, ανώνυμα μάλιστα, εάν κάποιος το θέλησε αυτό. Οι καταγγελίες μπορούν να αφορούν οποιοδήποτε διαδικτυακό περιεχόμενο, οπούδήποτε στον κόσμο, καθώς η SafeLine μπορεί μέσω του Δικτύου INHOPE στο οποίο ανήκει, να προωθήσει άμεσα την καταγγελία σε παγκόσμιο επίπεδο. Η Πολιτεία μπορεί και οφείλει, κατά την άποψή μας, να στηρίζει τέτοιες ενημερώσεις και να αναφέρει ακατάλληλο ή επιβλαβές για τα παιδιά ή για κάποιες συγκεκριμένες ηλικίες.
Κέντρα Saferinternet οι εταιρίες να αναλάβουν το ρόλο τους σε αυτό το ζήτημα. Εδώ οι πάροχοι υπηρεσιών διαδικτύου πρέπει να αναλάβουν το ρόλο τους και να ελέγχουν το περιεχόμενο που φιλοξενείται στους servers τους, αναφέροντας παρανομίες. Σε αυτό πρέπει να βοηθήσει και η νομοθεσία, η οποία γενικώς πρέπει να ‘τρέξει’ περισσότερο για να προλάβει τις αλλαγές στο χώρο.

(Ερώτηση 25)

Και εδώ μπορούμε να αναφερθούμε μόνο στο έργο του Ε.Κ.Α.Δ, δεν μπορούμε να αξιολογήσουμε μέσα τρίτων φορέων.

Τα μέσα που διατίθενται αυτή τη στιγμή είναι πενιχρά σε σχέση με τα ζητήματα ασφάλειας που αντιμετωπίζουμε, τουλάχιστον εμείς, στο Ελληνικό Κέντρο Ασφαλούς Διαδικτύου, και οι 3 δράσεις του: ενημέρωση Saferinternet.gr, Γραμμή Βοήθειας ΥποΣΤΗΡΙΖΩ, Ανοιχτή Γραμμή Καταγγελιών SafeLine. Παρόλα αυτά, η SafeLine, σε περίπτωση επόνυμης αναφοράς, ενημερώνει πάντα τι απέγινε η αναφορά, και πού κατέληξε. Μέσω, δε, των απευθείας διασυνδέσεων με μεγάλες εταιρίες του κλάδου και με το εξωτερικό, αποφεύγεται η –πολλές φορές τεράστια- γραφειοκρατία και το χάσιμο χρόνου από τη στιγμή της αναφοράς, μέχρι την διεκπεραίωσή της («Notice and Takedown»). Είναι πολύ σημαντικό να αναφέρουμε ότι και οι τρεις δράσεις του Ε.Κ.Α.Δ αναπληρώνουν και την απουσία εκπροσώπησης μεγάλων εταιρειών στη χώρα μας (πχ. Facebook), καθώς διαμεσολαβούν πολλές φορές για υποβληθέντες αναφορές, προκειμένου η ανταπόκριση της εταιρείας να είναι άμεση, αφού δεν υπάρχει εθνικός εκπρόσωπος της.

Αντίστοιχες πρακτικές ενημέρωσης της δρομολόγησης / κατάληξης μιας αναφοράς έχουν ξεκινήσει και κάποιες μεγάλες εταιρίες στο χώρο του διαδικτύου, αλλά αυτό πρέπει να γίνει πανάκεια για όλους, ιδιωτικούς ή δημόσιους φορείς, που δέχονται τέτοιου είδους αναφορές, έτσι ώστε οι χρήστες να αισθάνονται ότι η συμβολή τους όπως λαμβάνεται υπόψη και δεν χάνεται, όπως δυστυχώς γίνεται πολλές φορές στη χώρα μας. Ο χρήστης πρέπει να γνωρίζει εάν η αναφορά που έκανε ολοκληρώθηκε, έστω και αν τελικά το περιεχόμενο που ανέφερε δεν θεωρείται ακατάλληλο ή επιβλαβές.
RESPONSE OF THE ICT COALITION FOR THE SAFER USE OF CONNECTED DEVICES AND ONLINE SERVICES BY CHILDREN AND YOUNG PEOPLE IN THE EU

QUESTIONS FOR PUBLIC CONSULTATION:

(20) Are the current rules of the AVMSD appropriate to address the challenges of protecting minors in a converging media world?

Convergence facilitates the way similar linear, non-linear and other audio-visual content can be viewed on the same device. However, the still existent difference among linear and non-linear services justifies that they are subjected to different legal requirements for the protection of minors. The current graduated regulatory approach sets by the AVMSD, provides that content that might seriously impair minors is not admissible in linear media, pursuant to Art. 27 para. 1 AVMSD. In non-linear media the services can be "only made available in such a way as to ensure that minors will not normally hear or see such...services". For content, which might only impair minors, broadcast services in adherence to Art. 27 para. 2 have to consider broadcasting times or other technical measures to protect minors. No such requirement applies to non-linear content.

This graduated regulatory regime is still appropriate based on the different level of user control, and viewing practices that substantially differentiate the linear and non linear content consumption, together with the possibility of allowing users, especially parents and carers, to apply specific protective measures in the field of non-linear media. In contrast to linear audio-visual content, access to non-linear can be easily restricted through the provider of the content or platform most of all through age verification systems regarding to content which might seriously impair minors, such as pornography. Moreover, electronic communications providers as well as the software market as such provide an abundance of software tools effectively allowing parents and carers to protect minors from inappropriate content. It is the parents’ responsibility to apply such tools to protect their children. These technical solutions can be supplemented by awareness raising measures, such as educational material, warning signs, reporting tools and clear terms of use to provide guidance and advice to parents and children. Moreover, parental control tools are increasingly being made...
available also on devices to allow parents to restrict access to UGC services or other types of service or content available over the Internet.

Besides the national provisions implementing the AVMS directive, members of the “ICT Coalition for the Safer Use of Connected Devices and Online Services by Children and Young People in the EU”\(^1\) have also established an effective self-regulatory framework, and are committed to providing such safeguards in the respective countries they operate.

Generally speaking, we believe that the current rules are still appropriate to address the convergence challenge. Rather, more focus should be put on awareness raising and education of users, including minors, about the benefits and the risks linked to the use of internet and the technologies.\(^{(21)}\) Although being increasingly available on devices and platforms used to access content, take-up of parental control tools appears limited so far. Which mechanisms would be desirable to make parents aware of such tools?

The ICT Coalition aims to provide a safe and trusted environment for customers and users – including minors. Throughout the European Union, the ICT Coalition is committed to providing parental control tools to empower parents to let their children use linear and non-linear services in a safer environment. This also includes a convenient and intuitive usability of these tools. As a matter of fact, the market provides a great number of these tools.

Besides this, a pre-condition for any take-up of parental control tools is that parents and carers are aware of potential risks in the web. Awareness-raising is key for encouraging the take-up of the parental control tools available. Governments, schools, industry and children’s organisations can all play a role here in fostering parents’ involvement in their children’s viewing and browsing habits, and encouraging dialogue between parents and children so as to set boundaries for safer and responsible use of ICT services. ICT Coalition members are fully committed towards this objective.

\(^{(22)}\) What measures would be appropriate for the effective age verification of users of online audiovisual content?

The AVMSD already provides for age verification systems in Art. 12 and 27 para. 2 – though without explicitly requiring them. This has led to very different transposition of these rules throughout the Union, which coupled with the fast-paced changed on the online world, it may required further collaboration among key players to provide appropriate age verification tools.

When developing guidelines for requirements it is of key importance to understand that no such system can provide for absolute safety. Requirements for effectiveness must be balanced with the usability of any of such age verification systems. For example, face-to-face requirements (at the

\(^{1}\) ICT Coalition website: http://ictcoalition.eu/
moment of the installation of the service) and specific PIN codes may lead to higher effectiveness. However, although it might be possible to verify whether a person is over 18, it is very difficult to verify a specific age below this threshold, and would in fact carry its own risks as it would involve companies in collecting and retaining personal data from children. Also, these mechanisms may lead to lower usability for the user. And this might hamper the take-up of such systems and lead to increasing usage of circumvention techniques or an alternative, not always legal, provision of adult content. What is important to stress is that parents have the ultimate responsibility for deciding what is appropriate for their children, as young people mature at different rates and what may be appropriate for one child may not be so for another child of the same age. Parental discretion is key, as it is with cinema viewing or with a child’s choice of books.

(23) Should the AVMSD be modified to address, in particular, content rating, content classification and parental control across transmission channels?

This is not a matter for the AVMSD, but will be a matter for individual Member States, due to the difference in cultural norms and expectations, or for industry via self-regulation, where necessary and within the framework of the existing legislations. This would allow to set a framework keeping pace with technological and social innovation.

(24) Should users be better informed and empowered as to where and how they can comment or complain concerning different types of content? Are current complaints handling mechanisms appropriate?

ICT Coalition members do provide for efficient complaint mechanisms built-in in their services, where needed. The kind of complaint mechanism offered and the way in which complaints are effectively dealt with vary between the wide range of products and services and amongst the member countries. They should be transparent and easy to use. When discussing about complain mechanisms, one should in any case take into account the difference existing amongst illegal and inappropriate content, and the subsequent different management of the cases.

The definition of what kind of content should be considered as inappropriate differs between cultures and Member States. Users are generally well-informed about how to complain, given that most countries already have well-established complaints mechanisms for audio-visual media. Many individual service providers will also have their own established mechanisms for complaints handling, such as “flagging” and “report abuse” buttons for specific items of content which may potentially

The members of the **ICT Coalition for the Safer Use of Connected Devices and Online Services by Children and Young People in the EU** are:

AVG, Blackberry, bwin.party digital entertainment plc, Deutsche Telekom AG, Facebook, Orange, Google, LG Electronics, Massive Media NV, Nasza Klasa Sp. z o.o, Nokia, Portugal Telecom, Royal KPN N.V., skyrocks.com, TDC, Telecom Italia, Telefónica, Telenor ASA, TeliaSonera, Telekom Austria, Unibet, Vodafone
cause offence. These are located within the body of the content or the institutional webpages of the service providers, making it easy for users to complain.

Responsibility to offer complaint mechanisms must refer to a provider’s own services which might potentially present risks to minors. Reporting mechanisms are generally provided in User Generated platforms and social networking websites and it is important that parents engage with their children to discuss the appropriate use of such services.

(25) Are the means by which complaints are handled (funding, regulatory or other means) appropriate to provide adequate feedback following reports about harmful or illegal content, in particular involving children? What should be the respective roles/ responsibilities of public authorities, NGO's and providers of products and services in making sure that adequate feed-back is properly delivered to people reporting harmful or illegal content and complaints?

As already said, harmful and illegal content must be clearly distinguished as they are subjected to different regulations and demand different treatment. Particularly, the definition of harmful content differs between cultures and Member States. Law enforcement authorities are responsible to prosecute regarding illegal content. Private entities, such as EU-wide networks, with support of the industry, may support the process but should not be in charged of prosecution. The European Commission should continue funding the EU-wide INHOPE network2, which is currently under threat of budget constraints, to ensure its important and independent work.

The ICT Coalition has identified the following principles for managing complaints and supporting the removal of illegal content

Child Abuse/illegal Content

- Co-operating with law enforcement authorities, as provided for in local law, regarding child sexual abuse content or unlawful contact.
- Facilitating the notification of suspected child sexual abuse content to the appropriate law enforcement channels, in accordance with existing laws and data protection rules.
- Ensuring the prompt removal of illegal child sexual abuse content (once it has been confirmed as illegal by the relevant public authority) in liaison with national law enforcement.
- Providing relevant additional information and/or links to users so they can write a report or receive expert advice, at national and EU level (e.g. law enforcement agencies, national INHOPE hotlines and emergency services).

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Service Mis-Use

- Providing a clear and simple process whereby users can report content or behaviour which breaches the service’s terms and conditions.
- Implementing appropriate procedures for reviewing user reports on images, videos, text and other content or behaviour.
- Providing clear information to users on all available report and reviewing procedures.
- Regularly adding and reviewing links to these reporting options in appropriate areas of the service (e.g. where users view user-generated content or interact with other users) and provide guidance on what to report.
- Adding links to relevant child welfare organisations or specialist providers of advice (e.g. about anorexia or bullying) and other confidential helplines/support services in appropriate areas.
- Ensuring that moderators who review user reports are properly trained to determine or escalate content or behaviour presented to them.
Hilversum, 17 June 2013

Dear Commission,

Re: response from NICAM to the Green Paper on ‘Preparing for a Fully Converged Audio-visual World’ (COM(2013) 231 final)

The Netherlands Institute for the Classification of Audio-visual Media (NICAM) would like to take this opportunity to respond to the Green Paper ‘Preparing for a Fully Converged Audio-visual World’. Our response is based on more than ten years’ experience of the development and introduction of systems to protect children (minors) against harmful effects from audio-visual productions. We will therefore focus principally on Paragraph 3.4 of the Green Paper, ‘Protection of Minors’.

In the Netherlands, NICAM manages the cross-media classification and information system known as ‘Kijkwijzer’, which applies to television, film and DVD and aims to protect children up to 16 years of age. For Europe, NICAM is responsible, together with VSC (The Video Standards Council) in the UK, for the day-to-day implementation of PEGI, the European classification system for games. NICAM recently, in cooperation with the BBFC in the UK and following a request from the Working Party ‘Wider Use of Content Classification’ within the framework of the Commission’s ‘Better Internet for Kids Coalition’ initiative, developed a system for the classification of User Generated Content called You Rate It (see the appendix for a concrete description of this system).

Basic principles and points of departure for NICAM

NICAM and the Kijkwijzer and PEGI classification systems are a response to the explosive growth in the supply of audio-visual media over the past 25 years. All of the audio-visual media sectors in the Netherlands cooperate in NICAM – television, film, games, DVD, cinema, retail.

With Kijkwijzer and PEGI, the suppliers of television programmes, films and games themselves take responsibility for the classification and informing of parents of the potential risks to children posed by the products they offer. This helps parents and allows them to make well-informed, considered choices for their children from the range of media products available.
We believe that the protection of minors is a shared responsibility. Suppliers of audio-visual media are responsible for the classification of their products and the provision of clear information on these.

Parents are responsible for the choices they make, assisted in these choices by the classification information. In the Netherlands, the government provides a (statutory) framework for this, through supervision at arm’s length.

On the basis of this principle and with a view to the converging audio-visual world, NICAM operates on the basis that it is desirable and useful to classify audio-visual productions with the aim of providing information to parents, users and children on the basis of which they can then make ‘informed’ decisions, irrespective of the means of distribution of the audio-visual production in question. I.e. classification is important in relation to both offline and online, linear and non-linear content.

Before addressing the protection of minors in the converging audio-visual media world in greater detail, we would like to comment on the considerations stated in the introduction to the Green Paper.

We support the observation that the familiar media consumption patterns of the twentieth century are undergoing great changes. And that it is therefore important and essential to respond to these changes. There are however no indications that a (generalised) shift is taking place or will take place from passive consumption to active participation. Forms of ‘traditional’ media use, such as television and cinema visits, remain as popular as ever – even recently – perhaps contrary to the expectations of some ‘prophets’. Online media use, bringing options for active participation, has arrived alongside and in addition to this existing use. For this reason, we believe it is better to work on the basis of both patterns: active participation and passive consumption.

Protection of Minors 3.4
What consequences is convergence having for the protection of minors?
Convergence is leading to hybridisation and thereby to the blurring of boundaries between linear and non-linear, internet and video-on-demand. This situation demands a level playing field for suppliers of offline and online audio-visual product. Because it is not the method of distribution, nor the question of who the supplier is, that is the decisive factor in the protection of minors, but rather the content and any risks this may entail. The suppliers of product, on all relevant platforms, are responsible for the provision of adequate information to the users (parents and children).

Page 17 of the Green paper: ‘The continuum of content across the differently regulated linear and non-linear transmission channels weakens the impact of the current regulatory regime for linear on children’s access to content.’
It is precisely because traditional broadcasters and internet are merging that it is extremely important that the rules are the same for all parties. The cross-media Kijkwijzer system can act as a provider of information across all platforms.
In doing so, Kijkwijzer offers an application for content derived from professional suppliers and content from non-professional suppliers, for example uploaders of 'user-generated content' sites such as YouTube. Specially for this last category, NICAM has developed the ‘You Rate It’ system referred to above.

Responses to specific questions
(20) Are the current rules as laid down in the Audio-visual Media Services Directive (AVMSD) sufficient to protect minors in a converging media world?

NICAM:
No, the regulations for the protection of minors – by means of consistent classification as a form of product information on all the audio-visual media supply as the responsibility of the suppliers themselves – should be expanded and also applied to audio-visual offline and online supply. The Kijkwijzer system is suitable for this.

(21) Although being increasingly available on devices and platforms used to access content, take-up of parental control tools appears limited so far. Which mechanisms would be desirable to make parents aware of such tools?

NICAM:
An essential precondition for the effective functioning of such tools is consistent classification of all of the supply, in order that the tools for parental control can be set up by parents in the appropriate way. Classification is therefore the first step. A second step should be to share the classification data with the tools for parental control in a standardised and automated manner. Finally, it must be possible to install and set up the tools for parental control in an extremely easy manner. Simplicity and standardisation are two crucial aspects of this, which have to date hampered successful implementation.

(22) What measures would be appropriate for the effective age verification of users of online audio-visual content?

NICAM:
Age verification online can be either manual or automated. Manual age verification could for example consist of parents entering their children’s ages themselves, making use of effective tools for parental control. In terms of automated verification, both the government and the commercial sector are currently thinking along the lines of solutions such as DigID/EID. Our thinking on this is that manual verification by the parent and/or guardian could be feasible for products with an age category that is not set by law. In our opinion, automated verification through the government would be suitable principally for those products in relation to which observance of the age category is
required by law. Irrespective of the verification, the availability of a reliable classification of (data) for the audio-visual products is an absolute precondition for the functioning of such systems.

(23) Should the AVMSD be modified to address, in particular, content rating, content classification and parental control across transmission channels?

NICAM:
In this respect too, the directive should start from a level playing field and therefore cover all forms of transmission. In the event that TV stations specifically target an audience within a country with their programmes e.g. by means of subtitling, using another, foreign licence, they must adhere and conform to the rules for the protection of minors applicable in the country they are targeting (not being the country of origin).

(24) Should users be better informed and empowered as to where and how they can comment or complain concerning different types of content? Are current complaints handling mechanisms appropriate?

NICAM:
NICAM/Kijkwijzer has an extensive complaints procedure, which can also be used for other platforms. NICAM also implements the complaints procedure for all complaints from Europe for PEGI, which also has an effective system for handling complaints.

The You Rate It system also offers opportunities to clearly draw attention to an effective complaints procedure. The current state of the art technically offers many options in this area. The main thing is to ensure that the initial structure is well organised.

These are our responses to the paragraph in the Green Paper on the protection of minors. We hope we have been able to contribute to the formation of the right policy in this area, and of course remain happy to provide further explanation.

We wish you every success with this important dossier.

Yours sincerely,

Tineke Lodders-Elfferich
chair

Wim Bekkers
director

Appendix: NICAM/BBFC description of You Rate It
Working together in response to an initiative of the CEO Coalition, the BBFC and NICAM have developed a tool for rating User Generated Content (UGC) across different territories and platforms. It is designed to enable those with responsibility for children to make fully informed viewing choices in relation to non-professional content online. Through a single, simple, free to complete questionnaire, the tool instantaneously produces an age rating and content advice. The ratings will differ from country to country to reflect different national sensitivities and concerns over content. (For example, strong language is an issue for consumers in the UK but less in other countries. The tool reflects such differences). Look and appearance can be fully customized to any website or platform as can how the data arising from the tool’s use is stored. The rating may be linked to internet filters, or shown visibly to all users, or both. Unrated content could be identified as such by uploading sites and users would simply click on a “not (yet) rated” icon to rate it.

The tool is simple. It contains six questions about the content of the UGC, on behaviour, drugs, horror, language, sex/nudity and violence. Completing the questionnaire takes fewer than a couple of minutes. It also includes a facility for viewers to report to the appropriate law enforcement body content which in their view might be illegal.

Equally importantly, the tool is flexible. It is not designed to be used in a rigid way. Rather, its use can be adapted to meet the needs of different users. How it is used depends on what different countries, publics and platforms want. For instance, the questionnaire may be completed by those uploading content while the content is being uploaded. Alternatively, it may be completed by those viewing the content. Or both.

The role of existing classification bodies can be as extensive or as limited as users want. For example, in some countries, national classification bodies could act as an independent administrator to check a proportion of ratings and handle certain complaints about incorrect ratings.

The tool has the option of using either existing, well understood age ratings and labels or new, simplified ratings. This depends on the choices of different countries or platforms. The tool may also be linked to filtering devices to enable those with responsibility for children to prevent children accessing inappropriate content.

NICAM and the BBFC offer the UGC rating tool as an option for presently unrated non-professional content. The Netherlands Institute for the Classification of Audio-visual Media (NICAM) is responsible for the coordination of the Kijkwijzer system in the Netherlands. The British Board of Film Classification (BBFC) is an independent, non-governmental body which classifies films and videos. BBFC and NICAM would welcome the involvement of other ratings bodies and platforms to develop the tool still further, in particular through pilot projects to test the efficacy of the tool.

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