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# REPORT

on protecting children in the digital world  
(2012/2068(INI))

Committee on Culture and Education

Rapporteur: Silvia Costa

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on protecting children in the digital world (2012/2068(INI))

*The European Parliament,*

- having regard to Article 165 of the Treaty on the Functioning of the European Union,
- having regard to the Charter of Fundamental Rights of the European Union<sup>1</sup>,
- having regard to the European Convention on Human Rights and the Council of Europe Convention for the Protection of Individuals with regard to the Processing of Personal Data,
- having regard to United Nations Convention of 20 November 1989 on the Rights of the Child,
- having regard to Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA<sup>2</sup>,
- having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)<sup>3</sup>,
- having regard to Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce)<sup>4</sup>,
- having regard to Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007)<sup>5</sup>,
- having regard to Recommendation 2006/952/EC of the European Parliament and of the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry<sup>6</sup>,

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<sup>1</sup> OJ C 83, 30.3.2010, p. 389.

<sup>2</sup> OJ L 335, 17.12.2011, p. 1.

<sup>3</sup> OJ L 95, 15.4.2010, p. 1.

<sup>4</sup> OJ L 178, 17.7.2000, p. 1.

<sup>5</sup> OJ L 327, 24.11.2006, p. 12.

<sup>6</sup> OJ L 378, 27.12.2006, p. 72.

- having regard to the Council conclusions on the protection of children in the digital world<sup>1</sup>,
  - having regard to the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 15 February 2011 entitled ‘An EU Agenda for the Rights of the Child’ (COM(2011)0060),
  - having regard to the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 26 August 2010 entitled ‘A Digital Agenda for Europe’ (COM(2010)0245/2),
  - having regard to the communication from the Commission to the Council and the European Parliament of 28 March 2012 entitled ‘Tackling Crime in our Digital Age: Establishing a European Cybercrime Centre’ (COM(2012)0140),
  - having regard to the Council of Europe Strategy for the Rights of the Child (2012-2015) of 15 February 2012,
  - having regard to the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 2 May 2012 entitled ‘European Strategy for a Better Internet for Children’ (COM(2012)0196),
  - having regard to the report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 13 September 2011 on the application of the Council Recommendation of 24 September 1998 concerning the protection of minors and human dignity and of the Recommendation of the European Parliament and of the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and online information services industry – Protecting children in the digital world (COM(2011)0556),
  - having regard to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse,
  - having regard to its resolution of 6 July 2011 on a comprehensive approach on personal data protection in the European Union<sup>2</sup>,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Culture and Education and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A7-0353/2012),
- A. whereas the protection of minors in the digital world must be addressed at regulatory level by deploying more effective measures, including through self-regulation by engaging the industry to assume its shared responsibility, and at educational and training

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<sup>1</sup> OJ C 372, 20.12.2011, p. 15.

<sup>2</sup> Texts adopted, P7\_TA(2011)0323.

level by training children, parents and teachers in order to prevent minors from accessing illegal content;

- B. whereas there is a need to address all forms of illegal online content, and whereas the specificity of child sexual abuse must be recognised as not only is this content illegal but it is also one of the most abhorrent forms of content available online;
- C. whereas one of the main objectives of an effective child protection strategy should be to ensure that all children, young people and parents/carers are provided with the information and skills to be able to protect themselves online;
- D. whereas the rapid development of technologies makes prompt answers necessary through self- and co-regulation, as well as through permanent bodies that can adopt a holistic approach in different environments;
- E. whereas the digital world provides numerous opportunities related to education and learning; whereas the education sector is adjusting to the digital world, but at a pace and in a way that is failing to keep up with the speed of technological changes in the lives of minors, and whereas this is creating problems for parents and educators as they try to train children to use the media critically, but tend to remain on the margins of their virtual lives;
- F. whereas, while minors generally demonstrate great ease in using the internet, they need help in order to use it wisely, responsibly and safely;
- G. whereas it is important not only that minors better understand the potential dangers they face online, but also that families, schools and civil society all share responsibility in educating them and ensuring that children are properly protected when using the internet and other new media;
- H. whereas education relating to the media and in the new information and communication technologies is important in developing policies for the protection of minors in the digital world and in ensuring the safe, appropriate and critical use of these technologies;
- I. whereas the development of digital technologies represents a great opportunity to provide children and young people with opportunities to use new media and the internet effectively in ways that empower them to share their voice with others and therefore to participate and learn to play an active role in society, online and offline;
- J. whereas the exercise of citizenship and enjoyment of the ensuing rights, including participation in cultural, social and democratic life, require access, also for minors, to the use of pluralistic and safe digital tools, services and content;
- K. whereas, in addition to fighting illegal and inappropriate content, prevention and intervention measures for the protection of minors must also deal with a number of other threats such as harassment, discrimination, restriction of access to services, online surveillance, attacks on privacy and freedom of expression and information, and lack of clarity regarding the aims of collecting personal data;

- L. whereas the new information and communication options offered by the digital world, such as computers, TV on different platforms, mobile phones, video games, tablets, apps, and the level of diffusion of different media that converge in a single digital system, entail not only a host of possibilities and opportunities for children and adolescents, but also risks in terms of easy access to content that is illegal, unsuitable or harmful to the development of minors, as well as the possibility that data may be collected with the aim of targeting children as consumers, with harmful, unmeasured effects;
- M. whereas, in the free circulation of audiovisual services within the single market, the wellbeing of minors and human dignity are interests worthy of particular legal protection;
- N. whereas the measures taken by Member States to prevent illegal online content are not always effective and inevitably involve differing approaches to the prevention of harmful content; and whereas such illegal online content should be deleted immediately on the basis of due legal process;
- O. whereas the fact that personal information and data relating to minors remain online may lead to the illegal processing thereof, the exploitation of such minors or harm to their personal dignity, thus possibly inflicting enormous damage on their identity, mental faculties and social inclusion, particularly because these details may end up in the wrong hands;
- P. whereas the rapid growth of social networking resources entails certain dangers to security of the private life, personal data and personal dignity of minors;
- Q. whereas almost 15 % of internet users who are minors aged between 10 and 17 receive some form of sexual solicitation, and whereas 34 % of them encounter sexual material that they have not searched for;
- R. whereas the various codes of conduct adopted by suppliers of digital content and services do not always satisfy the requirements of European or national legislation in respect of transparency, independence, confidentiality and the processing of personal data, and may present risks in terms of profiling for commercial purposes, other forms of exploitation such as sexual abuse, and even human trafficking;
- S. whereas advertising targeted at children should be responsible and moderate;
- T. whereas minors must be protected from the dangers of the digital world in accordance with their age and developmental progress; whereas the Member States are reporting difficulties in coordinating aspects relating to the adoption of classification categories for content by age range and the risk level of the content;
- U. whereas, while acknowledging the many dangers that minors face in the digital world, we should also continue to embrace the many opportunities that the digital world brings in growing a knowledge-based society;
- V. whereas the role of parents in the process of protecting their children from the dangers stemming from the digital world is very significant;

## A framework of rights and governance

1. Points out that a new stage of protecting the rights of the child in the EU framework started with the entry into force of the Treaty of Lisbon, together with the now legally binding Charter of Fundamental Rights of the European Union, whose Article 24 defines the protection of children as a fundamental right and provides that in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration; reiterates the need for the EU to fully respect the standards of those international instruments to which the EU as such is not a party, as called for by the European Court of Justice in Case C-540/03, *European Parliament v. Council*;
2. Urges the Member States to transpose and implement, in a smooth and timely manner, Directive 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography; calls on the Member States to ensure the maximum harmonisation of their efforts in the area of the protection of minors in the digital world;
3. Reiterates its call on Member States, if they have not yet done so, to sign and ratify the international instruments on the protection of children, for example the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the Third Optional Protocol to the Convention on the Rights of the Child and the European Convention on the Exercise of Children's Rights, and to transpose these instruments, employing the necessary legal certainty and clarity, as demanded by the EU legal order;
4. Calls on the Commission to enhance existing internal mechanisms in order to ensure a consistent and coordinated approach to protecting the rights of minors in the digital world; welcomes the Commission's European strategy for a better internet for children and calls on the Commission to enhance existing internal mechanisms to ensure a consistent and coordinated approach to child safety online;
5. Stresses the need for children's rights to be mainstreamed across all EU policy areas, by analysing the impact of measures on the rights, safety, and physical and mental integrity of children, and for this to include Commission proposals regarding the digital world, drafted in a clear manner;
6. Stresses that only a comprehensive combination of legal, technical and educational measures, including prevention, can adequately address the dangers that children face online, and enhance the protection of children in the online environment;
7. Welcomes the new cyber security agency based at Europol and calls on the Commission to ensure that the child protection team within the new centre is adequately resourced and cooperates effectively with Interpol;
8. Hopes for the continuation of the Safer Internet Programme, with adequate funding to carry out its activities fully and the safeguarding of its specific character, and calls on the Commission to present a report to Parliament on its successes and failures in order to ensure maximum effectiveness in the future;

9. Urges the Member States and the Commission to take appropriate measures, including actions via the internet, such as research and education programmes, where appropriate in cooperation with relevant civil society organisations, families, schools, audiovisual services, industry and other stakeholders, aimed at reducing the risk of children becoming victims of the internet;
10. Notes the creation, at the initiative of the Commission, of the CEO coalition for child online safety; calls, in this regard, for close collaboration with civil society associations and organisations working inter alia for the protection of minors, data protection, education, representatives of parents and educators, including at European level, as well as the various Commission directorates-general that are tasked with consumer protection and justice;

#### **Media and new media: access and education**

11. Points out that the internet provides children and young people with immensely valuable tools, which can be used to express or assert their views, access information and learning and claim their rights, as well as being an excellent tool of communication, providing opportunities for openness to the world and personal growth;
12. Stresses, nonetheless, that the online environment and social media sources pose substantial potential risks to the privacy and dignity of children, who are among its most vulnerable users;
13. Recalls that the internet also exposes children to risks, through phenomena such as child pornography, the exchange of material on violence, cybercrime, intimidation, bullying, grooming, children being able to access or acquire legally restricted or age-inappropriate goods and services, exposure to age-inappropriate, aggressive or misleading advertising, scams, identity theft, fraud and similar risks of a financial nature that can originate traumatic experiences;
14. Supports, in this connection, Member States' efforts to promote systematic education and training for children, parents, educators, schoolteachers and social workers, aimed at enabling them to understand the digital world and identify those dangers which could harm the physical or mental integrity of children, at reducing the risks related to digital media and at providing information concerning reporting points and how to deal with child victims; points out at the same time that children need to understand that their own use of digital technology may impinge on the rights of others or even constitute criminal behaviour;
15. Believes it to be extremely important that training in media skills should begin at the earliest possible stage, educating children and adolescents to decide in a critical and informed manner which paths they wish to follow in the internet and which they wish to avoid, as well as promoting fundamental values in relation to coexistence and a respectful and tolerant attitude to other people;
16. Identifies in 'Media Education' the essential tool for allowing minors to engage in the critical use of media and opportunities of the digital world and invites Member States to include it in the school curriculum; reminds the Commission that 'Consumer Education'



is also important, given the continued growth of digital marketing;

17. Reiterates the importance of the digital and media literacy and skills of minors as well as their parents; stresses also that digital literacy, digital skills and safe internet use by minors must be considered a priority in the Member States and in the Union's social, educational and youth policies, and a crucial component of the Europe 2020 Strategy;
18. Encourages ongoing digital training for educators who work with students in schools on a permanent basis;
19. Underlines the need for an educational alliance among families, school, civil society and interested parties, including those involved in media and audiovisual services, in order to guarantee a balanced and proactive dynamic between the digital world and minors; encourages the Commission to support awareness-raising initiatives aimed at parents and educators in order to ensure that they can best support minors in the use of digital tools and services;
20. Encourages the Commission and Member States to support the equal access of minors to safe and high-quality pluralistic digital content in existing and new programmes and services, dedicated to young people and education, culture and arts;
21. Calls on Member States, public authorities and access providers to intensify their communication campaigns in order to make minors, adolescents, parents and educators aware of uncontrolled digital dangers;
22. Acknowledges the role of public service media in promoting a safe and trusted online space for minors;
23. Urges the Commission to include in its main priorities the protection of children from aggressive or misleading TV and online advertising;
24. Highlights, in particular, the role of the private sector and industry, as well as other stakeholders, as regards their responsibility in relation to these issues as well as child-safe labelling for web pages, and promotion of 'netiquette' for children; stresses that any such measures should be fully compatible with the rule of law and with legal certainty, take account of the rights of end-users, and comply with existing legal and judicial procedures, as well as with the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Charter of Fundamental Rights of the European Union, and ECJ and ECtHR case-law; calls on the industry to respect and fully implement the existing codes of conduct and similar initiatives, such as the EU pledge and the Barcelona Declaration of the Consumer Goods Forum;
25. Emphasises that special attention must be given to online marketing of harmful substances, such as alcohol, which may reach young people; points out that owing to the nature and scope of online marketing methods, for example through social networks, the online marketing of alcohol is very difficult to monitor for individual Member States, and that action by the Commission would therefore provide added value in this respect;
26. Highlights the effectiveness of formal, informal, non-formal and peer education in the

dissemination of safe practices and with regard to the potential threats (through concrete examples) among minors in using the internet, social networks, video games and mobile telephones, and encourages 'European Schoolnet' to facilitate mentoring among students in this field; stresses the need also to inform parents about safe practices and threats;

27. Calls on the Commission and Member States to develop schemes aimed at equipping children and young people with adequate skills and securing informed access to the internet and new media for them, and highlights in this regard the importance of mainstreaming digital media literacy at all levels of formal and non-formal education, including a lifelong learning approach from the earliest stage possible;

## **Right to protection**

### *Combating illegal content*

28. Stresses the challenges that criminal law is faced with as regards its operation in the online environment in relation to the principles of legal certainty and legality, the presumption of innocence, the rights of the victim and the rights of the suspect; points out, in this regard, the challenges that have arisen in the past regarding provision of a clear definition, as in the cases of online grooming and child pornography – preferably termed 'child sex abuse material';
29. Calls on the Commission, therefore, to collect, in the framework of its reporting obligation on the transposition of Directive 2011/92/EU, exact and clear data on the crime of online grooming, including precise identification of the national provisions criminalising such behaviour; calls on the Member States and the Commission to collect data on this crime relating to the number of criminal proceedings taken out, the number of convictions and important national case-law, and to exchange best practice as regards its prosecution and punishment; also calls on the Commission to greatly improve the development and publication of statistical information, so as to enable better policy development and review;
30. Recognises, in this regard, the high level of cooperation existing between police and judicial authorities in the Member States, as well as between them and Europol and Eurojust as regards criminal acts perpetrated against children with the help of digital media, an example being the 2011 'Icarus' crackdown targeting online child sex abuse file-sharing networks;
31. Stresses, however, that further improvement could be achieved in connection with further harmonisation of the criminal law and criminal procedures of the Member States, including the procedural and data protection rights of suspects and respect for fundamental rights based on the EU Charter, given the existing barriers to full cooperation and mutual trust;
32. Welcomes the Commission's intention to consider possible legislative measures if industry self-regulation fails to deliver;
33. Stresses, however, that proposals for material EU criminal legislation must fully respect the principles of subsidiarity and proportionality, as well as the general principles

governing criminal law, and must clearly demonstrate that they aim to bring added value in a common EU approach to combating serious cross-border crime, as referred to in Parliament's resolution of 22 May 2012 on an EU approach to criminal law<sup>1</sup>;

34. Invites the Commission and the Member States to make all efforts to strengthen cooperation with third countries as regards the prompt deletion of web pages containing or disseminating illegal content or behaviour hosted in their territory, as well as the fight against cybercrime; encourages, in this regard, the international sharing of expertise and best practice and pooling of ideas between governments, law enforcement agencies, police units specialised in cybercrime, hotlines, child protection organisations and the internet industry;
35. Calls, in this connection, for the full adoption of all the measures indicated in the 2009 Council Roadmap for strengthening the procedural rights of suspected or accused persons in criminal proceedings, as well as for a common approach to admissibility and assessment, in order to remove barriers to the free circulation of evidence gathered in another Member State;
36. Supports the introduction and strengthening of hotline systems for reporting crimes and illegal content and conduct, taking into account, inter alia, the experience with the European hotline for missing children, as well as with national rapid alert systems and the European Child Alert Automated System; stresses, however, that any immediate criminal action based on reporting has to strike a balance between, on the one hand, the rights of the potential victims and the positive obligation under Articles 2 and 8 ECHR of the Member State to react, as already emphasised in the jurisprudence of the ECHR, and, on the other hand, the rights of the suspect; calls, in this connection, on the Member States and the Commission to undertake an exchange of best practice as regards the investigation and prosecution of criminal acts against children in the digital world; recalls that Article 8 of the Commission proposal for a general Data Protection Regulation (COM(2012)0011) contains specific safeguards for the processing of personal data of children, such as mandatory parental consent for the processing of data of children under the age of 13;
37. Notes that 'notice and take down' procedures in some Member States are still too slow; welcomes the Commission's initiative in publishing an impact assessment in this regard, and recommends enhancing the efficiency of these procedures and continuing their development in the Member States in the interests of best practice;
38. Calls on the Commission and Member States to evaluate the effectiveness of cooperation with the police to protect minors against online crime, hotlines and existing agreements with internet services suppliers; calls for the development of synergies with other related services, including police and juvenile justice systems to protect minors against online crimes, particularly by coordinating and integrating hotlines and contact points;
39. Encourages Member States to take forward national hotlines and other contact points, such as 'safety buttons', that conform to the INHOPE standard, to improve their integration, and to carefully analyse the results achieved;

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<sup>1</sup> Texts Adopted, P7\_TA-PROV(2012)0208.

40. Underlines the importance of disseminating reliable instruments such as warning pages or acoustic and optical signals to limit direct access of minors to content that is harmful to them;
41. Calls on the Commission and the Member States to improve information regarding hotlines and other contact points, such as 'safety buttons' for minors and their families, thereby making it easier to report illegal content, and calls on the Member States to raise awareness of the existence of hotlines as points of contact for reporting child sexual abuse images;
42. Supports the commitment of digital content and service suppliers to implement codes of conduct compliant with the regulations that are in force, to identify, prevent and remove illegal content based on the decisions of the legal authorities; encourages the Commission and Member States to carry out evaluations in this area;
43. Calls on the Commission and the Member States to undertake a new campaign which will be addressed to parents and will assist them in understanding the digital material that is being managed by their children and, above all, the ways to protect their children from illegal, unsuitable or dangerous material;
44. Regrets the failure to comply with the pact signed on 9 February 2009 between the Commission and 17 social networking sites, including Facebook and Myspace, which promoted the protection and security of minors online;
45. Highlights that online crimes are often of a cross-border nature, and that an important element in combating them should therefore be international cooperation between existing law enforcement agencies;
46. Urges Member States and the Commission to support and launch awareness-raising campaigns targeting children, parents and educators in order to provide the information necessary for the protection against cyber crime, as well as to encourage them to report suspicious websites and online behaviour;
47. Calls on Member States to properly implement the existing procedural rules for deleting websites hosting exploitative, threatening, abusive, discriminatory or otherwise malicious content;

#### *Combating harmful content*

48. Calls on the Commission to examine the effectiveness of the various systems for voluntary classification of content unsuitable for minors in the Member States and encourages the Commission, the Member States and the internet industry to reinforce cooperation in the development of strategies and standards to train minors in the responsible use of the internet, and to make them aware of and protect them from online and offline exposure to content that is unsuitable for their age, including violence, advertising which encourages overspending and the purchase of virtual goods or credits with their mobile phones;
49. Welcomes technical innovation whereby businesses offer special online solutions to

allow children to use the internet safely;

50. Invites associations of audiovisual and digital service suppliers, in cooperation with other relevant associations, to integrate the protection of minors into their respective by-laws and to indicate the appropriate age group;
51. Encourages Member States to continue the dialogue to harmonise the classification of digital content for minors, in cooperation with the relevant operators and associations, and with third countries;
52. Encourages the Commission and the Member States to classify electronic games with distinct characters, based on the age to which they are addressed and, above all, on their content;
53. Calls on the Commission to continue the 'European Framework for Safer Mobile Use' by exploiting the options that facilitate parental control;
54. Stresses the good work done by civil society organisations and encourages these organisations to cooperate and work together across borders as well as working in partnership with law enforcements bodies, government, internet service providers and the public;

#### *Protection of privacy*

55. Reiterates the importance of data protection for children, especially as regards the rapid growth of social networking media and chat rooms, given the increasing flow and accessibility of personal data through digital media;
56. Welcomes the new proposed Data Protection Regulation (COM(2012)0011) and its special provisions on children's consent and the right to be forgotten, which bans the preservation online of information on the personal data of minors, which may pose a risk to their personal and professional life, recalling that the permanence of internet information and data related to children can be misused to the detriment of their dignity and social inclusion;
57. Emphasises that these provisions need to be clarified and developed in a way that ensures that they are clear and fully operational once the new legislation is adopted and do not undermine internet freedom;
58. Welcomes also the intention to establish an electronic system for age certification;
59. Believes that owners and administrators of web pages should indicate in a clear and visible way their data protection policy and should provide for a system of mandatory parental consent for the processing of data of children under the age of 13; calls also for more efforts to be made to enhance privacy by default as much as possible, so as to avoid the secondary victimisation of children;
60. Underlines the importance of making users aware of how their personal data and the data of associated parties are handled by service providers or social networks and of the

options available to them for redress in cases where their data are used outside the scope of the legitimate purposes for which they were collected by providers and their partners, this information to appear in a language and form adapted to the user profiles, with special attention paid to minors; considers that providers have particular responsibilities in this regard, and calls on them to inform users in a clear, comprehensible manner of their publication policies;

61. Strongly hopes for the promotion in every digital sector of technological options which, if selected, can limit the websurfing of minors within traceable limits and with conditional access, thereby providing an effective tool for parental control; notes, however, that such measures cannot replace thorough training for minors in the use of the media;
62. Underlines the importance of informing children and adolescents at a very early stage of their rights to privacy on the internet and teaching them to recognise the sometimes subtle methods used to obtain information from them;

#### *Right of reply in digital media*

63. Invites the Member States to develop and harmonise systems relating to the right of reply in digital media, whilst also improving their effectiveness;

#### **Right to digital citizenship**

64. Stresses that digital technology is an important learning tool for citizenship, facilitating the participation of many citizens living in peripheral areas and especially of young audiences, allowing them to fully benefit from freedom of expression and online communication;
65. Invites the Member States to consider digital platforms as training tools for democratic participation for every child, with special regard for the most vulnerable;
66. Underlines the opportunity that new media represent to promote, in services and digital content, understanding and dialogue between generations, genders, and various cultural and ethnic groups;
67. Recalls that information and citizenship are closely linked on the internet and that what threatens the civic engagement of young people today is the lack of interest they show in information;

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68. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

## EXPLANATORY STATEMENT

Young Europeans spend up to 40 hours a week in front of the television. They are online 88 minutes a day (2 hours for 15/16 year olds), starting on average at 9 years of age, but in some very precocious cases, even before they start schooling and reading.

The first issue to address is still that of the digital divide which in the current economic situation threatens all the least protected groups, including minors, with a negative impact on their economic, social and cultural future. Access to the digital world and to command of its language needs support which only an educational alliance between family, school and society can offer.

This report draws on the replies of the Member States to the survey envisaged in point 6 of Recommendation 2006/956/EC and addresses, in a comprehensive overview, an issue which, in just a few years, has profoundly changed the life of minors in the European Union.

Internet is young people's companion, often more than the family, school and friends. Among 9 to 16 year-olds, young people use computers for school work and to play (100 %) and also to see video clips (86 %), to play with others, to download videos and music and to exchange P2P files (56 %) and, finally, file sharing, visiting chatrooms, blogs and virtual worlds (23 %).

44 % of young users highlight the positive opportunities offered by the Internet, which they say they are very satisfied by. 38 % of young people aged 9 to 12 and 77 % aged 15 to 16 are registered on a social network. In their profile, 16 % use a fictitious profile and 27 % of 9 to 12 year-olds declare an older age than their real one. Websurfing tends to be increasingly individual, as 49 % of young people go online from their bedroom, 33 % by mobile telephone or digital pad, 87 % from home and 63 % from school. 50 % of young people aged 11 to 16 state that they find it easier to express themselves online rather than face to face.

Inexperienced and naive web surfers, among whom we may include minors, when their navigation lacks awareness, protection and control, face various risks, such as for example the violation of privacy, the commercial or other use of their profiles, health dangers, dependence phenomena, and a distorted relationship with reality and their own identity.

Harmful online content, with strong connotations of violence, discrimination, sexism, racism, with features that are such as to be unsuitable for minors, can diminish, in unprepared users, the perception of the offense to human dignity and facilitate among minors the use of the Internet with intentions that are more or less knowingly harmful of personal dignity (sexting) and that of others (cyber bullying). 55 % of young people state that they perceive the risk arising from the Internet, 12 % of 9 to 12 year-olds state that they have been upset, mainly by bullying (40 %) and by sexual content and approaches (25 %). In particular, online bullying seems to be an extension of that in real life, and contributes to extension of the phenomenon and to the generation of reciprocal behaviour.

Parents and educators often display unease and difficulty in accompanying young people in the positive exploration of the digital world and remain on the margins of their 'virtual lives', which sometimes can be the cause or consequence of dissatisfaction in real life. Parental control, by means of standard signals or access requiring a credit card and PIN, has proven to

be a useful tool for broadcasting and broadband systems linked to audiovisual media services, but unsuitable and only partially effective on the Internet and on electronic communication networks, given the endless diversification of services, suppliers and their global dissemination.

The school system is adjusting to the digital world, adopting hardware, programmes and working methods that have become operative in 23 countries in the Union, at a pace and in a way which generally are insufficient to keep up with the changes which the technology has caused in the life of young people. The school is called on to train minors in the practical and critical use of digital technologies and the Internet, in relational situations, both with adults and in their peer group, defending cultural diversity which is connected to openness to the world. This training allows young people to master digital skills which are recognised as among the eight 'essential skills' needed for those living in a knowledge-based society.

Society shares this responsibility with schools and must be aware of the social and economic advantages of critical, active and safe use of digital media by minors, compared to use which creates dependency, conformity and anxiety, passivity and aggression.

At differing speeds Member States continue to promote overcoming the digital divide and participation in the digital world of minors, through policies to access the Internet, govern its content, respect privacy and digital identity and introduce basic programming as an optional teaching module in primary and middle schools.

Young people themselves, schools, and academics and society as a whole are showing increasing awareness of the quality standards that must be required for content for minors, regardless of its means of dissemination, whether analogue or digital, online or offline, and the instrument used (television, computer, telephone, digital pad). Hardware and content producers and their associations generally join in this shared goal, albeit in defence of their business. In particular, in application of the Audiovisual Media Services Directive, some years ago public radio, TV and multiplatform services, directly and through the European Union, started to exchange good practice and monitoring tools for programmes for minors and, despite this, even where the editorial responsibility is clear such as in TV programmes, the range of quality programmes on offer for this age range is often limited.

The EU and the Member States have produced laws and encouraged self-regulation, which was necessary considering that this phenomenon cuts across many social areas that cannot be addressed solely from a legal viewpoint. Thus, with EU financing, valid instruments have been created, above all the Safer Internet Programme, which is well established in all the countries of the Union, and which until 2013 will guarantee coordination, which has been positively assessed in the interim report.

In the draft report three elements are highlighted in terms of protecting minors in the digital era:

- access to and education on media and new media,
- protection, distinguishing combating illegal content from combating unsuitable content and conduct, protecting privacy and the right of reply,
- digital citizenship.



Initially, a framework of rights and governance is proposed to end the fragmentation of legislative provisions and indications to protect minors in the digital world which today are present in the field of human rights, privacy, combating sexual abuse, audiovisual media services and ecommerce. Article 24 of the Charter of Fundamental Rights of the European Union argues that policies for children are holistic: therefore, a broad **framework directive** is needed to summarise and regulate the whole subject area as well as multilevel governance to seek a harmonised approach in Member States and encourage stronger coordination between them and the EU.

Aware of the cultural and legal differences among Member States, on the basis of which it is hard to establish a boundary between content and conduct to be penalised and those ‘grey’ areas, we propose distinguishing **illegal content**, such as soliciting (recognised as a crime in the Council of Europe Convention of the Protection of Children against Sexual Exploitation and Abuse but not yet adopted and ratified by all Member States), child pornography, the violation of privacy, online gambling, commercial fraud, from **conduct** which can have serious consequences, such as cyber bullying and sexting and **unsuitable conduct** for the age, such as inappropriate advertising, violence, sex etc., which can generate fear and anxiety.

In addition, some issues with the current framework must be addressed:

It is necessary to **ensure continuity for the Safer Internet Programme**, and, in any case, guarantee that the responsibility for protecting minors against **cybercrimes is held by the police**, in an increasingly efficient and cooperative form at European level. It is necessary to encourage action to combat online crime against minors, which has been successfully adopted by some Member States, which **implements information exchange with Internet service providers and Email service providers**.

**Self-regulation** has proven to be a useful path, but has demonstrated limits that must be corrected in the case of conflicts of interest.

It is necessary for Member States to agree to protect minors in the digital world also by promoting complete mastery of its forms, which is essential for full and active citizenship, to offer European citizens the chance of benefitting from the cultural and economic dimension of all types of media connected to digital technology and to contribute to the realisation of the Lisbon goals, favouring the emergence of a knowledge-based economy and stimulating competition.

## **MINORITY OPINION**

pursuant to Rule 52(3) of the Rules of Procedure

ALDE Minority opinion

Marietje Schaake, Hannu Takkula, Morten Løkkegaard, Nadja Hirsch

We are of the opinion that children should be protected and crime should be tackled through law enforcement. However, the report's focus on government campaigns and the extension of enforcement to ISPs and other self-regulating mechanisms is setting wrong priorities and risks privatising responsibilities that lie in the hands of states, while diminishing the role of parents in their children's education.

Measures included in the report furthermore demonstrate an unwarranted bias towards the perceived dangers of the Internet, limiting the opportunities for education and innovation. Rather, we prefer to strengthen the youth's resilience and independence. Efforts should be directed at educating children and youth, with the help of their parents and teachers, to take ownership of their actions on the web and to develop e-skills.

We recognise that advancements in ICT can raise social capital, facilitating fundamental rights such as freedom of expression and access to information. We consider the participation of children and youth in today's digital society an essential aspect of their development.

While fully recognising the need for effective law enforcement, particularly the need to end serious crimes such as child pornography, we regret the restrictive nature of the proposed measures prevents us from giving our support.

25.7.2012

## **OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

for the Committee on Culture and Education

on protecting children in the digital world  
(2012/2068(INI))

Rapporteur: Anna Hedh

### **SUGGESTIONS**

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Culture and Education, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Points out that a new stage of protecting the rights of the child in the EU framework started with the entry into force of the Treaty of Lisbon together with the now legally binding Charter of Fundamental Rights of the European Union, whose Article 24 defines the protection of children as a fundamental right and provides that in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration; reiterates the need for the EU to fully respect the standards of those international instruments to which the EU as such is not a party, as called for by the European Court of Justice in Case C-540/03, *European Parliament v. Council*;
2. Urges the Member States to smoothly and timely transpose and implement Directive 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography; calls on the Member States to ensure the maximum harmonisation of their efforts in the area of the protection of minors in the digital world;
3. Reiterates its call on Member States to sign and ratify, if this is not the case yet, the international instruments on the protection of children, for example the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the Third Optional Protocol to the Convention on the Rights of the Child and the European Convention on the Exercise of Children's Rights, and to transpose those instruments employing the necessary legal certainty and clarity as demanded by the EU legal order; stresses the need for children's rights to be mainstreamed across all EU policy areas, by analysing the impact of measures on the rights, safety, and physical and mental

integrity of children, and that this must include Commission proposals regarding the digital world, drafted in a clear form; stresses that digital literacy, digital skills and safe internet use must be maintained as a priority of European social policy;

4. Points out that the internet provides children and young people with immensely valuable tools which can be used to express or assert their views, access information and learning and claim their rights, as well as being an excellent tool of communication, providing opportunities of openness to the world and personal growth; stresses, nonetheless, that the online environment and social media sources pose substantial potential risks to the privacy and dignity of children, who generally use the internet with great ease but are also among its more vulnerable users; recalls that the internet also exposes children to risks, through phenomena such as child pornography, exchange of material on violence, cybercrime, intimidation, bullying, grooming, children being able to access or acquire legally restricted or age-inappropriate goods and services, exposure to age-inappropriate, aggressive or misleading advertising, scams, identity theft, fraud and similar risks of a financial nature that can originate traumatic experiences;
5. Stresses that only a comprehensive combination of legal, technical and educational measures, including prevention, can adequately address the dangers that children face online, and enhance the protection of children in the online environment; in this regard, urges the Member States and the Commission to take appropriate measures, including actions via the internet, such as information and awareness-raising campaigns, research and education programmes, where appropriate in cooperation with relevant civil society organisations, families, schools, audiovisual services, industry and other stakeholders, aimed at raising awareness and reducing the risk of children, becoming victims of the internet;
6. Supports, in this connection, Member States' efforts to promote systematic education and training for children, parents, educators, schoolteachers and social workers aimed at enabling them to understand the digital world, identify those dangers which could harm the physical or mental integrity of children, reducing risks related to digital media, and to provide information concerning reporting points and how to deal with child victims; points out at the same time that children need to understand that their own use of digital technology may impinge on the rights of others or even constitute criminal behaviour;
7. Stresses the challenges that criminal law is faced with as regards its operation in the online environment in relation to the principles of legal certainty and legality, the presumption of innocence, the rights of the victim and the rights of the suspect; points out, in this regard, the challenges that have arisen in the past regarding provision of a clear definition, as in the cases of online grooming and child pornography – preferably termed ‘child sex abuse material’;
8. Emphasises that special attention has to be given to online marketing of harmful substances such as alcohol which reaches young people; points out that owing to the nature and scope of online marketing methods, for example through social networks, the online marketing of alcohol is very difficult to monitor for individual Member States, and that action by the Commission would therefore provide added value in this respect;
9. Calls on the Commission, therefore, to collect, in the framework of its reporting obligation

on the transposition of Directive 2011/92/EU, exact and clear data on the crime of online grooming, including precise identification of the national provisions criminalising such behaviour; calls on the Member States and the Commission to collect data on this crime relating to the number of criminal proceedings taken out, the number of convictions and important national case-law, and to exchange best practice as regards its prosecution and punishment; also calls on the Commission to greatly improve the development and publication of statistical information, so as to enable better policy development and review;

10. Recognises, in this regard, the high level of cooperation existing between police and judicial authorities in the Member States, as well as between them and Europol and Eurojust as regards criminal acts perpetrated against children with the help of digital media, an example being the 2011 'Icarus' crackdown targeting online child sex abuse file-sharing networks; stresses, however, that further improvement could be achieved in connection with further harmonisation of the criminal law and criminal procedures of the Member States, including the procedural and data protection rights of suspects and respect for fundamental rights based on the EU Charter, given the existing barriers to full cooperation and mutual trust; stresses, however, that proposals for material EU criminal legislation must fully respect the principles of subsidiarity and proportionality, as well as the general principles governing criminal law, and must clearly demonstrate that they aim to bring added value in a common EU approach to combating serious crossborder crime, as referred to in Parliament's resolution of 22 May 2012 on an EU approach to criminal law<sup>1</sup>;
11. Invites the Commission and the Member States to make all efforts to strengthen cooperation with third countries as regards the prompt deletion of web pages containing or disseminating illegal content or behaviour hosted in their territory, as well as the fight against cybercrime; encourages, in this regard, the international sharing of expertise and best practice and pooling of ideas between governments, law enforcement agencies, police units specialised in cybercrime, hotlines, child protection organisations and the internet industry;
12. Calls, in this connection, for the full adoption of all the measures indicated in the 2009 Council Roadmap for strengthening the procedural rights of suspected or accused persons in criminal proceedings, as well as for a common approach to admissibility and assessment, in order to remove barriers to the free circulation of evidence gathered in another Member State;
13. Supports the introduction and strengthening of hotline systems for reporting crimes and illegal content and conduct, taking into account, inter alia, the experience with the European hotline for missing children, as well as with national rapid alert systems and the European Child Alert Automated System; stresses, however, that any immediate criminal action based on reporting has to strike a balance between, on the one hand, the rights of the potential victims and the positive obligation under Articles 2 and 8 ECHR of the Member State to react, as already emphasised in the jurisprudence of the ECHR, and, on the other hand, the rights of the suspect; calls, in this connection, on the Member States and the Commission to undertake an exchange of best practice as regards the investigation

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<sup>1</sup> Texts Adopted, P7\_TA-PROV(2012)0208.

and prosecution of criminal acts against children in the digital world; recalls that Article 8 of the Commission proposal for a general Data Protection Regulation (COM(2012)0011) contains specific safeguards for the processing of personal data of children, such as mandatory parental consent for the processing of data of children under the age of 13;

14. Highlights the role of the private sector and industry, besides other stakeholders, as regards their responsibility, in relation to issues such as aggressive and misleading TV and online advertising aimed at minors, child-safe labelling for web pages, and promotion of 'netiquette' for children; stresses that any such measures should be fully compatible with the rule of law and with legal certainty, take account of the rights of end-users, and comply with existing legal and judicial procedures, as well as with the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Charter of Fundamental Rights of the European Union, and ECJ and ECtHR case-law; calls on the industry to respect and fully implement the existing codes of conduct and similar initiatives, such as the EU pledge and the Barcelona Declaration of the Consumer Goods Forum;
15. Reiterates the importance of data protection for children, especially as regards the rapid growth of social networking media and chat rooms, given the increasing flow and accessibility of personal data through digital media; welcomes the new proposed Data Protection Regulation (COM(2012)0011) and its special provisions on children's consent and the right to be forgotten, recalling that the permanence of internet information and data related to children can be misused to the detriment of their dignity and social inclusion; emphasises that these provisions need to be clarified and developed in a way that ensures that they are clear and fully operational once the new legislation is adopted and do not undermine internet freedom;
16. Believes, in this regard, that owners and administrators of web pages should indicate in a clear and visible way their data protection policy and should provide for a system of mandatory parental consent for the processing of data of children under the age of 13; calls also for more efforts to be made to enhance privacy by default as much as possible, so as to avoid the secondary victimisation of children;
17. Welcomes the Commission's intention of setting up a European Cybercrime Centre to fight online crime, and believes that the protection of children must constitute a priority among this centre's activities and tasks.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	10.7.2012
<b>Result of final vote</b>	+: 56 -: 0 0: 2
<b>Members present for the final vote</b>	Jan Philipp Albrecht, Roberta Angelilli, Edit Bauer, Mario Borghezio, Rita Borsellino, Emine Bozkurt, Arkadiusz Tomasz Bratkowski, Simon Busuttil, Philip Claeys, Carlos Coelho, Ioan Enciu, Frank Engel, Cornelia Ernst, Monika Flašíková Beňová, Hélène Flautre, Kinga Gál, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Anna Hedh, Salvatore Iacolino, Sophia in 't Veld, Lívia Járóka, Timothy Kirkhope, Juan Fernando López Aguilar, Baroness Sarah Ludford, Monica Luisa Macovei, Svetoslav Hristov Malinov, Véronique Mathieu, Anthea McIntyre, Anthea McIntyre, Louis Michel, Claude Moraes, Georgios Papanikolaou, Carmen Romero López, Rui Tavares, Nils Torvalds, Kyriacos Triantaphyllides, Wim van de Camp, Axel Voss, Josef Weidenholzer, Cecilia Wikström, Tatjana Ždanoka, Auke Zijlstra
<b>Substitute(s) present for the final vote</b>	Elena Oana Antonescu, Anna Maria Corazza Bildt, Leonidas Donskis, Dimitrios Droutsas, Mariya Gabriel, Monika Hohlmeier, Ádám Kósa, Marek Henryk Migalski, Raül Romeva i Rueda, Kārlis Šadurskis, Michèle Striffler
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Zita Gurmai, Nadja Hirsch, Elisabeth Jeggle, Petra Kammerevert

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	9.10.2012
<b>Result of final vote</b>	+: 20 -: 3 0: 5
<b>Members present for the final vote</b>	Zoltán Bagó, Malika Benarab-Attou, Lothar Bisky, Piotr Borys, Jean-Marie Cavada, Silvia Costa, Santiago Fisas Aixela, Lorenzo Fontana, Mary Honeyball, Cătălin Sorin Ivan, Petra Kammerevert, Morten Løkkegaard, Emilio Menéndez del Valle, Marek Henryk Migalski, Doris Pack, Chrysoula Paliadeli, Marie-Thérèse Sanchez-Schmid, Marietje Schaake, Marco Scurria, Hannu Takkula, Helga Trüpel, Sabine Verheyen
<b>Substitute(s) present for the final vote</b>	Nadja Hirsch, Seán Kelly, Iosif Matula, Mitro Repo
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Emer Costello, Jacky Hénin