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**\*\*\*I**

## **REPORT**

on the proposal for a recommendation of the European Parliament and of the Council on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services industry

(COM(2004)0341 – C6-0029/2004 – 2004/0117(COD))

Committee on Culture and Education

Rapporteur: Marielle De Sarnez

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

## CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	27
OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS .....	32
PROCEDURE.....	51



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services industry (COM(2004)0341 – C6-0029/2004 – 2004/0117(COD))

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2004)0341)<sup>1</sup>,
  - having regard to Article 251(2) and Article 157 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0029/2004),
  - having regard to Rule 51 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 (A6-0244/2005),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

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Text proposed by the Commission

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Amendments by Parliament

### Amendment 1 Title

Proposal for a recommendation of the European Parliament and of the Council on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services industry

Proposal for a recommendation of the European Parliament and of the Council on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual, and information *on-line* services industry

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<sup>1</sup> Not yet published in OJ.

Amendment 2  
Recital -1 (new)

***(-1) The Charter of Fundamental Rights of the European Union, incorporated into Part II of the Treaty establishing a Constitution for Europe, recognises under Article 1 the inviolability of human dignity, stating that it must be respected and protected. Article 24 of the Charter establishes that children have the right to such protection and care as is necessary for their well-being and 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.***

*Justification*

*The legal basis used does not mention either dignity or the right to freedom of expression. Other existing provisions that refer to these two fundamental rights should be mentioned.*

Amendment 3  
Recital -1 a (new)

***(-1a) Article I-2 of the Treaty establishing a Constitution for Europe, signed on 29 October 2004, lays down that one of the values on which the European Union is founded is respect for human dignity; Article II-61 of the same Treaty lays down that human dignity is inviolable and must be respected and protected.***

*Justification*

*The principle of preserving human dignity is the origin of all national and international instruments for the protection of fundamental rights. This principle is given as the objective sought through respect for those rights.*

Amendment 4  
Recital -1 b (new)

***(-1b) Human dignity is inalienable; it does not admit any exclusion or limitation and it constitutes the foundation and origin of all legal instruments drawn up at national and international level to protect human rights. The European Union should gear its political action to protecting the principle of respect for human dignity from any attack.***

*Justification*

*Now more than ever, the principle of human dignity is in serious danger of being breached through the audiovisual and information media, which take advantage of the enormous scale of technological and economic development to reach hundreds of millions of European citizens, especially minors.*

Amendment 5

Recital -1 c (new)

***(-1c) Article I-3 of the Treaty establishing a Constitution for Europe lays down that one of the European Union's objectives is to protect the rights of the child; Article II-84 of the same Treaty lays down that children have the right to the protection and care necessary for their well-being.***

*Justification*

*The Treaty states for the first time that one of the European Union's objectives is to protect the rights of the child, which are enshrined as a fundamental right in Article II-84.*

Amendment 6

Recital -1 d (new)

***(-1d) Legislative measures need to be laid down at European Union level on the protection of the physical, mental and moral development of minors in relation to the content of all audiovisual and information services, adopting measures against the circulation of illegal content and protecting access by minors to adult***

***programmes or services.***

*Justification*

*The audiovisual and information media have brought information of all kinds within the reach of minors, and the content of and access to this information must be in keeping with their physical, mental and moral development.*

Amendment 7  
Recital -1 e (new)

***(-1e) The unstoppable development of new information and communication technologies makes it urgent for the European Community to guarantee full and adequate protection for consumers' interests in this field by adopting a directive which will guarantee throughout its territory the free delivery and free provision of information services on the one hand, and on the other hand will guarantee that their content is licit, respects the principle of human dignity and does not impair the integral development of minors.***

*Justification*

*The European Community has the power to intervene in the sector of the media and information services by adopting a binding act in the legal form of a directive. Firstly, these services fall under the concept of the free provision of services, as established in the case law of the Court of Justice.*

*The same directive should also lay down appropriate measures providing adequate protection for the physical, mental and moral development of minors when using any of the information media now available on the market.*

Amendment 8  
Recital 1

(1) Council Recommendation 98/560/EC  
of 24 September 1998 on the development

(1) Council Recommendation 98/560/EC  
of 24 September 1998 on the development



of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity is the first legal instrument at Community level **concerning** the content of audiovisual and information services **covering all forms** of delivery, from broadcasting to the Internet.

of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity is the first legal instrument at Community level **which concerns questions linked to the protection of minors and human dignity in relation to** the content of **all** audiovisual and information services **offered to the public in whatever form** of delivery, from broadcasting to the Internet. **Article 22 of Council Directive 89/552/EEC<sup>1</sup> on television without frontiers has already specifically addressed the question of the protection of minors and human dignity in television broadcasting activities.**

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<sup>1</sup> OJ L 298, 17.10.1989, p. 23. As amended by Directive 97/36/EC of the European Parliament and of the Council (OJ L 202, 30.7.1997, p. 60).

Amendment 9  
Recital 1 a (new)

**(1a) The European Community has already intervened in the field of audiovisual and information services in order to create the necessary conditions to ensure the free movement of television broadcasts and other information services, respecting the principles of free competition and freedom of expression and information, but it should intervene with greater determination in this area with the aim of laying down a set of legal provisions, also adopting measures to combat and protect consumers from incitement to discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.**

*Justification*

*It is necessary to prevent the possibility of the information and communication media being used to incite discrimination, hatred or violence.*

Amendment 10  
Recital 2 a (new)

***(2a) The Commission should pay special attention to the implementation of this recommendation when revising or concluding new partnership agreements or new cooperation programmes with third countries, bearing in mind the global character of producers, distributors or suppliers of audiovisual content and Internet access.***

*Justification*

*Because of the global reach of the Internet and the technical impossibility of monitoring all pages or sites produced, the Commission should ensure compliance with this recommendation when revising or establishing new exchange or partnership programmes with third countries.*

Amendment 11  
Recital 5

(5) The changing media landscape, resulting from new technologies and media innovation, makes it necessary to teach children, ***and also*** parents, to use the media effectively.

(5) The changing media landscape, resulting from new technologies and media innovation, makes it necessary to teach children, parents, ***educators and teachers*** to use the media effectively, ***since prevention and improved parental control will always be the best form of protection against the dangers posed by the Internet.***

*Justification*

*Young people can only be taught safe and proper use of the Internet if educators, teachers and parents are aware of the dangers and of how to protect against them.*

Amendment 12  
Recital 5 a (new)

***(5a) Generally, self-regulation of the audiovisual sector is proving an effective additional measure, but it is not sufficient to protect minors from messages with harmful content. The development of a European audiovisual area based on freedom of expression and respect for citizens' rights, as laid down in the Treaty establishing a Constitution for Europe, should be based on an ongoing dialogue between national and European law makers, regulatory authorities, industries, associations, consumers and civil society actors.***

*Justification*

*No method of protecting minors is totally effective on its own. It is therefore essential to coordinate all protective measures, including parental control, criminal penalties, and the involvement and accountability of economic operators. Educators cannot rely solely on technology, businesses cannot escape their responsibilities under the pretext that parental control is needed to be exercised and governments have a duty to introduce rules that will protect the weakest members of society.*

Amendment 13  
Recital 5 b (new)

***(5b) Given that the arrival of terrestrial digital television will make parental monitoring possible, which is essential if children are to be prevented from gaining access to televised content against their parents' wishes, the European Union should guide the process of transition to terrestrial digital television under the aim of shortening the deadline for 'analogue blackout' as much as possible.***

*Justification*

*One of the many benefits terrestrial digital television will bring is the possibility for parents to monitor the programmes their children watch. We should avoid the uneven development of this technology across the EU, as this could widen the existing digital gap among the 25 Member States.*

Amendment 14

#### Recital 6

(6) In the public consultation concerning Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, it was suggested that media **literacy** be included among the subjects covered by Recommendation 98/560/EC.

(6) In the public consultation concerning Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (**'Television without Frontiers' Directive**), it was suggested that **the need to adopt educational measures in relation to the** media be included among the subjects covered by Recommendation 98/560/EC.

#### Justification

*It is appropriate to indicate that this directive is better known under this name.*

*It is also vital to adopt educational measures that will guarantee the correct, rational and effective use of the media.*

#### Amendment 15 Recital 7

(7) The Commission encourages cooperation and the sharing of experience and good practices between **(self)regulatory** bodies, which deal with the rating or classification of audiovisual content, with a view to *enable* all **viewers**, but especially parents and teachers, to assess **the content of programmes**.

(7) The Commission encourages cooperation and the sharing of experience and good practices between **self- and co-regulatory** bodies, which deal with the rating or classification of audiovisual content, **by whatever means it is delivered**, with a view to *enabling* all **users**, but especially parents, teachers **and trainers**, to **report illegal content and** assess **the content of audiovisual and on-line information services, as well as any legal content that could be detrimental to the physical or mental development of minors**.

#### Justification

*The Commission should encourage all producers or access providers from all Member States to exchange best practice through European associations or federations such as Euroispa. It should encourage the introduction of a requirement at European level for a description of the*

*content on offer, and facilitate reporting of illegal sites and the assessment of potentially harmful sites.*

Amendment 16  
Recital 8

(8) As suggested during the public consultation concerning Directive 97/36/EC, it is appropriate for the right of reply to apply to all **electronic** media.

(8) As suggested during the public consultation concerning Directive 97/36/EC, it is appropriate for the right of reply to apply to all **on-line** media, **taking into account the relevant specific features of the medium and service concerned.**

*Justification*

*Unlike, say, an entitlement to seek an injunction, the right of reply, as a matter of principle, may not only be exercised in relation to untrue or otherwise unlawful initial utterances, but also entails an obligation to publish an opposing view even when the statements made were true and lawful. It thus amounts to a considerable encroachment on editorial freedom in the medium concerned.*

Amendment 17  
Recital 9

(9) The Council resolution of 5 October 1995 on the image of women and men portrayed in advertising and the media **which** invites the Member States and the Commission to take adequate measures to promote a diversified and realistic picture of the skills and potential of women and men in society.

(9) The Council resolution of 5 October 1995 on the image of women and men portrayed in advertising and the media invites the Member States and the Commission to take adequate measures to promote a diversified and realistic picture of the skills and potential of women and men in society.

*Justification*

*Improved wording.*

Amendment 18  
Recital 10

(10) When tabling its proposal for a Council Directive implementing the principle of equal treatment between women and men in

(10) When tabling its proposal for a Council Directive implementing the principle of equal treatment between women and men in

the access to and supply of goods and services, the Commission noted that the portrayal of the sexes in the media and in advertising raises important questions about the protection of the dignity of men and women, but concluded that ***it would not be appropriate to address these questions in that proposal.***

the access to and supply of goods and services, the Commission noted that the portrayal of the sexes in the media and in advertising raises important questions about the protection of the dignity of men and women, but concluded that, ***on account of other fundamental rights, especially media freedom and pluralism, it should carry out a survey of the situation regarding these questions and, if necessary, take appropriate measures.***

#### *Justification*

*The Commission ought to carry out a study of the application of the principle of equal treatment of men and women in the media and advertising. Subsequently, if the study indicates a lack of compliance with the principle of equal treatment, the Commission should take the action required to ensure compliance.*

#### Amendment 19 Recital 11

***(11) It is appropriate to seek conciliation between the principle of protection of human dignity and free speech through the adoption by the Members States of a cross-media approach explicitly aimed at encouraging the industry to avoid and to combat any type of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media.***

***(11) Even when the possibility of standard-setting is ruled out, that fact does not debar the media from prohibiting discrimination under codes of practice for self-regulation or enforcing such a ban independently thereof. To that extent, the audiovisual and on-line information services industry should be encouraged at Member State level to avoid and to combat any type of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in these media and all advertising, including new advertising techniques, without infringing free speech or freedom of the press.***

#### *Justification*

*Action should be taken to ensure that the principle of non-discrimination is applied to all media, including advertising and new advertising methods such as text messages and unsolicited e-mail.*

#### Amendment 20 Recital 12

(12) This Recommendation ***should complement*** Recommendation 98/560/EC ***in order to take account of technological developments.***

(12) This Recommendation ***incorporates new technological developments and complements*** Recommendation 98/560/EC. ***In the light of technological advances, it includes within its scope audiovisual and on-line information services available to the public through fixed or mobile electronic networks, such as newspapers, magazines and, particularly, video games.***

Amendment 21  
Recital 12 a (new)

***(12a) There is nothing in this Recommendation to prevent Member States from applying their constitutional provisions and other laws and their legal practice regarding free speech.***

*Justification*

*How Member States reconcile free speech and the substantive limits applying to it, which include the right of reply as well as rules on the protection of minors, depends on their particular culture, their legal methods, and the specific restrictions imposed, and varies accordingly. These pre-existing criteria should be taken into account in the recommendation.*

Amendment 22  
Recommendation I, introductory section

I. RECOMMEND that the Member States ***foster a climate of confidence which will promote*** the development of the audiovisual and information services industry by:

I. RECOMMEND that the Member States, ***in the interests of promoting*** the development of the audiovisual and ***on-line*** information services industry, ***take the necessary measures in their domestic law or practice to ensure better protection of minors and human dignity in all audiovisual and on-line information services,*** by:

Amendment 23  
Recommendation I, point 1

***(1) considering the introduction of measures into their domestic law or***

***(1) ensuring the right of reply (or equivalent remedies), with due regard for***

*practice in order to ensure the right of reply across all media, without prejudice to the possibility of adapting the manner in which it is exercised to take into account the particularities of each type of medium;*

*their constitutional and other national provisions and taking into account the particularities of each type of audiovisual and on-line information service;*

*(1a) in close cooperation with the industries and all parties concerned, ensuring better protection of minors, by:*

*- continuing education of teachers and instructors, in cooperation with child protection associations, on how to use the Internet in the context of school education and on pedagogical methods for safe (secure) use which children must be taught,*

*- introduction of specific Internet training aimed at children from an early age, including sessions open to parents, so as to explain to children and parents how to use the Internet and how to avoid the pitfalls and dangers,*

*- an educational approach forming a permanent part of schools' curricula, and media education programmes, so as to maintain awareness of the dangers of the Internet, with particular regard to chat rooms and forums,*

*- organisation of national information campaigns aimed at citizens, involving all communications media, to alert public opinion to the dangers of the Internet and the risk of criminal penalties (lodging complaints, parental control, etc.). Specific campaigns could be aimed at target groups such as schools, parents' associations, users, etc.,*

*- distribution of information packs on the dangers of the Internet ('How to surf the Internet safely', 'how to filter unwanted calls') and on the use of hotlines to which reports or complaints concerning harmful or illegal sites can be made,*

*- appropriate measures to establish or improve the performance of telephone hotlines, so as to make it easier to lodge complaints about harmful sites and make it*



*possible to report their existence.*

*- action to allow one of the most serious forms of attack on children's dignity, Internet child pornography, to be combated effectively.*

*- publicity campaigns designed to censure violence against minors and to help victims by offering psychological, moral and practical support;*

#### *Justification*

*It is essential to educate teachers and parents, and to alert young people to these issues through the school curriculum and media education programmes . Moreover, the organisation of information campaigns, the distribution of information packs in all public places frequented by young people and clear information on telephone hotlines, giving them greater powers so that harmful sites can be reported, would help raise public awareness of the dangers posed by the Internet.*

#### *Amendment 24 Recommendation I, point 2*

*(2) promoting, in order to encourage the take-up of technological developments and in addition to and consistent with existing legal and other measures regarding broadcasting services, and in close cooperation with the parties concerned:*

*deleted*

*- action to enable minors to make responsible use of on-line audiovisual and information services, notably by improving the level of awareness among parents, educators and teachers of the potential of the new services and of the means whereby they may be made safe for minors, in particular through media literacy or media education programmes.*

*- action to facilitate, where appropriate and necessary, identification of, and access to, quality content and services for minors, including through the provision of means of access in educational establishments and public places.*

*Justification*

*To introduce greater clarity.*

Amendment 25  
Recommendation I, point 3

(3) encouraging industry to avoid discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media, and to combat such discrimination.

***-(3) promoting a responsible approach by professionals, intermediaries and users of new communications media such as the Internet by:***

***- encouraging vigilance and the reporting of pages deemed illicit without prejudice to Directive 2000/31/EC;***

***- drawing up a code of conduct in cooperation with professionals and regulatory authorities at national and European level;***

***- encouraging the audiovisual and on-line information services industry, without infringing free speech or freedom of the press, to avoid discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all audiovisual and on-line information services, and to combat such discrimination.***

*Justification*

*More than ever, governments must ensure that operators in the sectors concerned by new communications technologies meet their responsibilities with regard to the protection of minors.*

Amendment 26  
Recommendation I, point 3 a (new)

***(3a) promoting measures to combat all types of criminal activities on the Internet and make the web a much more secure medium. Consideration could be given inter alia to the following measures:***

- *adopting a quality label for providers, so that users can easily verify whether or not a given provider subscribes to a code of conduct;*
- *considering the inclusion in their legal systems of a system of joint or chain liability for Internet crimes;*
- *establishing a single telephone line for the reporting of illegal and/or suspicious activities on the network;*

#### Amendment 27

Part I, Recommendation I, point 3 b (new)

*(3b) developing, in European cooperation and in close cooperation with consumers' organisations, regulations in order to reduce food advertising specifically targeted at children and teenagers, especially with regard to junk food and confectionery.*

#### *Justification*

*A high level of adverts are being broadcast during children's programmes in most Member States. Food and toys are the most frequently advertised products, with confectionery, fast food, sweetened breakfast cereals and soft drinks being the most frequently advertised food categories. While the EU has recently launched an action plan to promote a healthy diet and physical activity, regulation is needed to protect children (a highly vulnerable target group) from misleading advertisements.*

#### Amendment 28

Recommendation II, introductory sentence

II. RECOMMEND that the ***industries*** and parties concerned:

II. RECOMMEND that ***the audiovisual services industry and the on-line information services industry in general and all*** the parties concerned:

#### *Justification*

*In the interests of clarity.*

Amendment 29  
Recommendation II, point 1

(1) develop positive measures for the benefit of minors, including initiatives to facilitate their wider access to audiovisual and information services, while ***avoiding potentially harmful content, including a ‘bottom-up’ harmonisation through*** cooperation between self-regulatory and coregulatory bodies in the Member States, ***and through the exchange of best practices concerning such issues as a system of common, descriptive symbols which would help viewers to assess the content of programmes;***

(1) develop positive measures for the benefit of minors, including initiatives to facilitate their wider access to audiovisual and ***on-line*** information services, while ***fostering their media literacy and including closer*** cooperation between self-regulatory and co-regulatory bodies in the Member States through the exchange of best practices ***involving:***

- ***systematic provision of an effective and easy-to-use filter system for users subscribing to an access service and developing effective filter solutions, taking into account technological progress allowing Internet access via mobile telephones,***
- ***offering access services intended specifically for children and equipped with an automatic filter system operated by access providers, and mobile telephony,***
- ***introducing incentives to provide a regularly updated description of the sites proposed as a matter of course, making it easier to classify sites using abbreviations common to all Member States and alert users to the possible harmful content of sites visited***
- ***posting warning banners on all search engines drawing attention to possible dangers and to the availability of telephone hotlines,***

*Justification*

*Efficient filter technologies exist for the Internet and mobile phones. They are expensive but can be used by the operators present in the market. All that is needed is the political and economic will to distribute them. Finally, industries must apply themselves to describing proposed content so as to facilitate classification of sites and make it possible to develop abbreviations common to all Member States. They must also be required to include warning banners on search engines operated in Europe.*

Amendment 30  
Recommendation II, point 1 a (new)

***(1a) consider the possibility of creating filters which will prevent child pornography or other material which constitutes an assault on human dignity from being carried on the Internet;***

*Justification*

*Creating filters which would prevent minors from gaining access to child pornography and to any other kind of material which constitutes an assault on human dignity would be a valuable step.*

Amendment 31  
Recommendation II, point 1 b (new)

***(1a) develop measures to foster the use of a labelling system for material distributed on the Internet, using protocols such as PICS (Platform for Internet Content Selection) and systems to filter information passing among users.***

*Justification*

*It is important and necessary to prevent unrestricted access by minors to pornographic content, but it is much more important to prevent minors from appearing directly as part of such content.*

Amendment 32  
Recommendation II, point 2

***(2) develop effective measures to avoid discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media, and to combat such discrimination and promote a diversified and realistic picture of the skills and potential of women and men in society.***

***(2) develop effective measures to avoid discrimination as defined in Article II-81 of the Treaty establishing a Constitution for Europe and to combat any discrimination of this kind created by false and stereotyped images of human beings, commercial exploitation of the human body, and trivialisation of violence and war.***

### *Justification*

*The industries must continue to improve their efforts to prevent the dissemination of false and stereotyped images of human beings, as well as images trivialising violence or warfare. This is vital if they are to act responsibly and inspire trust among their users.*

#### Amendment 33 Recommendation II a (new)

##### ***(II a) INVITE the Commission to:***

- ***organise, in connection with the 2005-2008 multiannual Community programme on promoting safer use of the Internet and new online technologies, a European information campaign aimed at citizens, using all communications media, to alert public opinion to the dangers of the Internet and the risk of criminal penalties (lodging of complaints, parental control). Specific campaigns could be aimed at target groups such as schools, parents' associations and users.***
- ***introduce a European toll-free number providing information on existing filter methods intended to offset the absence in some Member States of telephone hotlines, making it easier to lodge complaints with the competent authorities and report harmful sites.***
- ***consider the introduction of a generic top level domain name reserved for permanently monitored sites which would undertake to respect minors and their rights, on pain of criminal penalties (.KID for example).***
- ***maintain a constructive and ongoing dialogue with content providers' organisations, consumers' organisations and all parties concerned.***
- ***encourage and support self-regulation bodies in forming networks and exchanging experience, so as to assess the effectiveness of codes of conduct and approaches based on self-***

***regulation in order to ensure the highest possible standards of protection for minors.***

*Justification*

*Under the 'SAFER INTERNET PLUS' multiannual programme, information campaigns should be organised at European level and a European toll-free number should be set up to offset the lack of hotlines in some Member States. As regards legislation, further efforts are required to harmonise the age of sexual majority, while the question of the liability of intermediaries needs to be looked at. Compliance with codes of conduct should be closely and regularly monitored to determine whether they work.*

Amendment 34  
Recommendation II b (new)

***(II b) RECOMMEND that the industries, all parties concerned and the national and European authorities engage in a more active debate on the technical and legal feasibility of developing a uniform content signalling system to encourage better filtering and classification at source, whatever communications media are used (Internet , mobile telephones) in order to improve protection for minors.***

*Justification*

*There is an urgent need to encourage the development of technological solutions (filter systems, classification, etc.) to offer users the possibility of refusing certain types of harmful content. The debate in progress for several months concerning the forthcoming review of the television without frontiers directive involving the industries, national governments and European authorities, must now produce tangible technological solutions.*

Amendment 35  
Recommendation II c (new)

***(II c) RECOMMEND that the Member States submit a report to the Commission on measures taken in application of this recommendation two years after its***

***adoption.***

*Justification*

*Each Member State should detail the measures it has taken to implement this recommendation two years after its adoption.*

Amendment 36  
Recommendation II d (new)

***(II d) RECOMMEND that, by 31 December 2008, on the basis of the reports submitted by the Member States, the Commission submit to the European Parliament a report on the implementation and effectiveness of the measures laid down in this recommendation, identifying any additional measures which may be necessary, including binding legislation at European level.***

*Justification*

*The Commission should submit to the European Parliament a report on the implementation of this recommendation based on the reports from the Member States, so that Parliament will be in a position to assess the effectiveness of the measures taken.*

Amendment 37  
Annex, title

***INDICATIVE GUIDELINES FOR THE IMPLEMENTATION, AT NATIONAL LEVEL, OF MEASURES IN THE DOMESTIC LAW OR PRACTICE SO AS TO ENSURE THE RIGHT OF REPLY ACROSS ALL MEDIA***

***MINIMUM PRINCIPLES FOR THE IMPLEMENTATION, AT NATIONAL LEVEL, OF MEASURES IN THE DOMESTIC LAW OR PRACTICE SO AS TO ENSURE THE RIGHT OF REPLY AS REGARDS ALL AUDIOVISUAL AND ON-LINE INFORMATION SERVICES.***

*Justification*

*In the light of the Council of Europe recommendation of 15 December 2004, minimum principles need to be laid down to ensure that everyone has a right of reply when any type of media presents inaccurate facts about him or her and which affect his or her personal rights.*



Amendment 38  
Annex

***Objective: introducing measures in the domestic law or practice of the Member States in order to ensure the right of reply across all media, without prejudice to the possibility to adjust its exercise to the particularities of each type of medium.***

***- Without prejudice to other provisions adopted by the Member States under civil, administrative or criminal law, any natural or legal person, regardless of nationality, whose legitimate interests, in particular, but not limited to, reputation and good name, have been affected by an assertion of facts in a publication or transmission should have a right of reply or equivalent remedies. Member States should ensure that the actual exercise of the right of reply or equivalent remedies is not hindered by the imposition of unreasonable terms or conditions. The reply should be within a reasonable time subsequent to the request being substantiated and at a time and in a manner appropriate to the publication or transmission to which the request refers.***

***- A right of reply or equivalent remedies should exist in relation to all media under the jurisdiction of a Member State.***

***- Member States should adopt the measures needed to establish the right of reply or the equivalent remedies and should determine the procedure to be followed for the exercise thereof. In particular, they should ensure that a sufficient time span is allowed and that the procedures are such that the right or equivalent remedies can be exercised appropriately by natural or legal persons resident or established in other Member States.***

***Objective: Adapting the right of reply to the current state of technological development, particularly in audiovisual and on-line information services in Europe, taking into account the relevant constitutional and other provisions and the legal practice regarding free speech.***

***- The right of reply should protect any legal or natural person from any information presenting inaccurate facts concerning that person and affecting his or her rights, and consequently the dissemination of opinions and ideas must remain outside the scope of this recommendation ;***

***- the right of reply is a particularly appropriate remedy in the on-line environment due to the possibility of instant correction of contested information and the technical ease with which replies from concerned persons can be attached to it ;***

***- it is necessary to ensure that the author of or person responsible for the information broadcast continues to be subject to the right of reply, in accordance with national laws;***

***- the right of reply can be assured not only through legislation, but also through co-regulatory or self-regulatory measures ;***

***- the right of reply is without prejudice to other remedies available to persons whose right to dignity, honour, reputation or privacy have been violated in the media.***

***The Member States should examine and, if necessary, introduce in their domestic law or practice, a right of reply or any other equivalent remedy, which allows a rapid correction of incorrect information in audiovisual and on-line information services along the lines of the following***

*- An application for exercise of the right of reply or the equivalent remedies should be rejected if the claimant does not have a legitimate interest in the publication of such a reply, or if the reply would involve a punishable act or transgress standards of public decency.*

*- Provision should be made for procedures whereby disputes as to the exercise of the right of reply or the equivalent remedies could be subject to judicial review.*

*minimum principles, without prejudice to the possibility of adjusting the exercise of this right (or any other equivalent remedy) to the particularities of each type of medium.*

**Scope of the right of reply**

*Any natural or legal person, irrespective of nationality or residence, should be given a right of reply or an equivalent remedy offering a possibility to react to any information in audiovisual and on-line information services presenting inaccurate facts about him or her and affecting his or her personal rights.*

*The reply should be given the same prominence as was given to the contested information in order for it to reach the same public and with the same impact.*

*Member States should ensure that the effective exercise of the right of reply or equivalent remedy and the right of freedom of expression is not unjustifiably hampered. The reply must be forwarded within a reasonable time after justification of the request and at a time and in a manner appropriate to the publication or broadcast to which the request refers.*

*Provision should be made for procedures whereby disputes as to the exercise of the right of reply or the equivalent remedies could be subject to judicial review.*

## EXPLANATORY STATEMENT

The aim of this recommendation is to ensure an effective level of protection of minors and human dignity and to enable the right of reply to be exercised in all audiovisual and information services. It is only by creating a genuine climate of trust for its users that the audiovisual and information services industry will be able to develop.

The latest statistics show that time spent on the Internet by young people is now greater than that spent watching television. At the same time, it has been established that there are around 260 million pages with pornographic content circulating on the Internet. According to a recent study conducted in Ireland, Sweden, Iceland, Norway and Denmark, countries where Internet use is highly developed, one young person in three taking part in discussion forums or chat rooms is subject to sexual advances.

It is time to ensure that actors and users, both big and small, take responsibility for what is happening on the Internet and to protect children and the most vulnerable from harmful and illegal content. This is all the more necessary now that new technologies are omnipresent and frequently freely available in schools, cybercafés and homes and in the near future via third generation mobile phones.

From the point of view of the progress called for in the Commission's second report on implementation of the 1998 recommendation drawn up in 2003, it would appear that self-regulation is insufficient and that the liability of access providers needs to be established. It is to be regretted, furthermore, that the European Federation they have formed is not representative of all Member States. Since the 1998 recommendation, several measures have been taken at national and European level, but the pace of technological development in the area of communications media is such that it would appear useful to propose new and more innovative measures which are better targeted and meet the concerns of the users of these new technologies.

### I. Current European legislation

#### 1. Protection of minors

The question of the protection of minors and human dignity in this particular sector was first dealt with in the 1989 Television without Frontiers Directive on the free movement of audiovisual services (Article 22).

Subsequently, in 1996, the Commission published a *Green Paper on the protection of minors and human dignity in audiovisual and information services* (COM (96) 483 final). It takes into account all modes of audiovisual broadcast and communication, from radio and television broadcasting to the Internet.

Finally, in 1998, after consulting Parliament, the Council adopted a *Recommendation on the protection of minors and human dignity in audiovisual and information services*. At Parliament's request, the Commission submitted two evaluation reports on the implementation of this recommendation in 2001 and 2003 respectively.

Following its first evaluation report, which was the subject of an excellent report by my colleague Mr JP BEAZLEY, the Commission published a second report in 2003 and has now submitted a second recommendation of the Council and of the European Parliament.

## **2. Protection of human dignity and the right to reply**

The *Television without frontiers* Directive devoted an article to the protection of human dignity and the right to reply in the audiovisual sector, supplementing national provisions on human dignity and national laws in the field, all of which include the right of reply in respect of the written press.

## **II. Issues**

### **1. Promotion of the information society**

One of the objectives set in Lisbon was that information and communications technologies (ICT) should make it possible to build an information society for all. This essential task was confirmed by the Council in spring 2004 and in the recent report by Wim Kok.

Internet connection has increased rapidly. Today more than 90% of schools are on-line. Following the eEurope action plan introduced by the Commission in 2000, 9 out of every 10 schools in the EU are now connected to the Internet and pupils in 8 schools out of 10 have access to the Internet, with a figure of between 5 to 20 pupils per connected computer, depending on the country concerned, with the Scandinavian countries leading the way.

### **2. Respect for freedom of expression**

The possibilities now offered to users by the Internet raise legitimate concerns regarding the protection of minors, respect for human dignity and the exercise of a right of reply.

Special attention therefore needs to be paid to this global network. Legislators have a duty to ensure that this tool in the service of freedom of expression does not become a tool that is harmful or even dangerous, in particular to minors. That is why the question is being tackled at all levels. For example, UNESCO held a conference on freedom of expression on 3 and 4 February 2005 in preparation for a world summit on the information society to be held in Tunis from 16 to 18 November 2005.

### **3. Definition of harmful content**

Three situations in particular can pose a threat to a minor: where he is an actor, and his image is used in films or pornographic pictures; where he is a spectator, using the Internet and confronted with harmful images, and where he is a potential victim of predators via discussion forums or chat rooms. Problems caused by legal sites not reserved for adults, as in the case of discussion forums, as well as violent sites, on-line video games, etc.

A distinction needs to be drawn between 'illegal' and 'harmful' content. Illegal content must be dealt with at source by police and judicial authorities, whose activities are governed by

national laws and judicial cooperation agreements. Harmful content is either authorised content with restricted distribution (e.g. reserved for adults) or content which may offend certain users, but whose publication is not restricted because of the principle of freedom of expression. Under no circumstances does the legality of such content detract from the fact that it is harmful to minors and to their physical, mental or moral development.

#### **4. Technological progress**

Finally, technological progress is beginning to make it possible for the Internet to be accessed via mobile phones. Parental control over the use of mobile phones by young people is much more difficult, if not impossible. This means that the industry itself must take a little more responsibility and it is strongly encouraged to offer effective technological solutions to all users.

### **III. Aim of the new proposal for a recommendation**

#### **1. Minors**

The recommendation invites the Member States, the industry and the parties concerned, together with the Commission, to take measures to improve the protection of minors and human dignity in the broadcasting and Internet services sectors.

#### **2. Human dignity**

The aim of the recommendation is to ensure a level of protection of minors and human dignity that is effective and equal for all Member States and also to combat all kinds of discrimination through the existence of national frameworks. It will also enable users to have full confidence in new technologies, making it possible to develop the competitiveness of the European audiovisual and information services industry.

#### **3. Right of reply**

Previously dealt with only in the context of the television without frontiers directive, the right of reply needs to be adapted to developments in communications media. Ensuring that it is recognised in all medias is also a means of guaranteeing freedom of expression and this requires a particular legal framework.

### **IV. Rapporteur's proposals**

#### **1. Protection of minors**

To ensure the protection of minors in the utilisation of new information technologies, there are three areas in which responsibilities must be faced, namely by politicians, by the industry itself and, lastly and most importantly, by parents.

- Politicians have a responsibility because it is up to governments and ministers for education to include in their education syllabuses specific Internet education programmes aimed at

children from an early age, teachers and also parents. For example, two or three training sessions in schools could be open to parents. Public information campaigns are also needed to alert public opinion to the dangers posed by the Internet and the risk of criminal penalties. Specific information programmes could be aimed at targeted groups such as schools and parents' associations.

Hotlines enabling complaints to be lodged should become widespread in all Member States and their powers could be extended to include the authority to report harmful sites which, even if it relies on subjective judgements, would make it possible to identify such sites so that legal proceedings against the authors could be brought in the future.

In addition, the Commission should encourage the establishment of a European toll-free number through which information could be obtained on existing filter methods and also making it possible to offset the absence of telephone hotlines in some Member States.

Lastly, the creation of a top level domain name (.KID) (like .com or .org sites) with content reserved for children, would provide a secure Internet area regularly monitored by an independent authority.

- The industry has a responsibility because the existence of charters, codes of conduct, and quality initiatives is not enough. It is high time that hosts provided easy-to-use parental software and offered subscriptions to access services intended specifically for children with automatic filtering at source by the provider (filtering of violent, racist or pornographic images). It is high time that creators or producers were compelled to provide a description of their site, with regular updates every six months. This would make it easier to classify sites proposed by access providers and would make it possible to restore a degree of confidence in use of the Internet, especially by children.

- The education sector has a responsibility, which must be assumed by parents, teachers and educators. Children of younger and younger ages are having to cope on their own with the information and images carried by the Internet. Including an educational approach as part of schools' curricula would help develop improved use of the Internet, e-mail and chat rooms. Needless to say, this would require training for teachers and educators. Information packs on the danger of the Internet could also be regularly distributed to children and parents at the beginning of each school year.

## **2. Protection of dignity and the right to reply**

The proposal for a recommendation seeks to make a right of reply available in all media. A right of reply already operates satisfactorily for the written press and audiovisual services in all Member States. The aim is therefore to establish minimum principles at European level for exercising the right of reply for all new electronic communications media (Internet, mobile phones). In this way, the right of reply will be adapted to technological progress in the field of electronic communications media.

At a time when technology is constantly changing and in a totally open communications area, in order to protect users' fundamental freedoms, particularly those of minors, measures and rules need to be regularly updated, balanced and assessed. This is a prerequisite for Union

citizens to be able to use new technologies in confidence and for the regulated and ongoing development of these technologies.

15.4.2005

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

for the Committee on Culture and Education

on the proposal for a recommendation of the European Parliament and of the Council on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services industry (COM(2004)0341 – C6-0029/2004 – 2004/0117(COD))

Draftsman: Roberta Angelilli

### **SHORT JUSTIFICATION**

#### **I - INTRODUCTION**

On 3 October 1989 the Council adopted Directive 89/552/EEC<sup>1</sup> on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.

This directive is commonly known as the ‘Television without Frontiers’ Directive. The legal basis chosen was Article 57(2) of the former EC Treaty (now Article 47 in the consolidated version of the Treaties), which concerns facilitating access to self-employed activities, on the basis that television broadcasting constitutes a service.

This directive is of crucial importance not only from the point of view of its economic repercussions on the sectors concerned but chiefly, in my view, because of its pioneering role at Community level: (a) in Chapter V, on the protection of minors against harmful content in programmes and against advertising which might be prejudicial to their integral development; (b) in Chapter VI, which recognises the right of reply for people whose rights have been harmed by an incorrect assertion in a television programme.

Directive 89/552/EEC was amended by Directive 97/36/EC of 30 June 1997<sup>2</sup> with the aim of taking account of both technological and market developments, and it was rounded off by Directive 2000/31/EC of 8 June 2000<sup>3</sup> on electronic commerce in the internal market.

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<sup>1</sup> OJ L 298, 17.10.1989, p. 23.

<sup>2</sup> OJ L 202, 30.7.1997, p. 60

<sup>3</sup> OJ L 178, 17.7.2000, p. 1.



Nevertheless, the first text to deal with matters linked to the protection of minors and human dignity in audiovisual and information services offered to the public at Community level, whatever form of delivery is involved, was Council Recommendation 98/560/EC of 24 September 1998<sup>1</sup> on the development of the competitiveness of the European audiovisual and information services industry, pursuant to Article 157 of the EC Treaty.

The application of Recommendation 98/560/EC in the Member States was evaluated by the Commission first in 2000 and subsequently in 2003 in two evaluation reports<sup>2</sup>.

In view of the results and suggestions outlined in these evaluation reports and in public consultation on Directive 97/36/EC of 30 June 1997 amending Directive 89/552/EEC ('Television Without Frontiers' Directive), the Commission has submitted the present proposal for a recommendation with the aim of complementing Recommendation 98/560/EC and updating it to take account of the huge technological progress made since then and the great proliferation of illicit and harmful content distributed every day through all the media, particularly radio, television and the Internet.

## II - ASSESSMENT OF THE PROPOSAL FOR A RECOMMENDATION

On initial consideration, your draftswoman takes the view that this proposal for a recommendation represents a step forward by comparison with Recommendation 98/560/EC and provides a complement to it in that it recommends that the Member States, audiovisual and information services industries and other parties concerned:

- (a) guarantee that any person has the right of reply to inaccurate information disseminated through any type of medium which might harm their legitimate interests;
- (b) promote information media education programmes designed to enable parents, teachers and trainers to teach minors to make proper use of the information media;
- (c) avoid any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, and combat such discrimination.

Your draftswoman proposes the following amendments in these areas: Amendments 8, 20 and 26 to develop a legal tool against discrimination; Amendments 9, 10, 11, 19 and 21 to develop media education and information programmes; Amendments 12, 17 and 22 to improve the possibilities of a right of reply or equivalent remedy for people who feel they have been harmed by inaccurate information; Amendments 13, 14, 15, 16, 18, 20 and 24 to provide a precise demarcation of the scope of the recommendation, and Amendment 25 to create filters with a view to shielding minors from child pornography and other types of material which constitute an assault on human dignity.

Nevertheless, your draftswoman takes the view that the protection of minors and respect for the principle of human dignity in the media and information services suffer from serious

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<sup>1</sup> OJ L 270, 7.10.1998, p. 48.

<sup>2</sup> COM(2001)106 of 27.2.2001 and COM(2003)776 of 12.12.2003.

shortcomings at Community level, essentially for two reasons:

(a) first, because it is paradoxical that the legal basis chosen in the EC Treaty to protect minors and guarantee respect for human dignity should be Article 157, which is geared to ensuring the competitiveness of European industry;

(b) secondly, because the legal form chosen is a 'recommendation' whose mandatory content legally enforceable before the courts is practically zero.

For this reason your draftsman has inserted Amendments 1 to 6 and considers Article 153 of the EC Treaty, which refers to protecting the interests of consumers, to be more than sufficient as a legal basis for the Community to adopt a directive harmonising legislation in relation to all the media and electronic information services on protection for minors, respect for the principle of human dignity and a guaranteed right of reply or equivalent remedy against any inaccurate information disseminated through these media.

## AMENDMENTS

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 amendments in its report:

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Text proposed by the Commission<sup>1</sup>

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Amendments by Parliament

Amendment 1  
Recital -1 (new)

***(-1) The EU Charter of Fundamental Rights, incorporated into Part II of the Treaty establishing a Constitution for Europe, recognises under Article 1 the inviolability of human dignity, stating that it must be respected and protected. Article 24 of the Charter establishes that children have the right to such protection and care as is necessary for their well-being and 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.***

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<sup>1</sup> COM (2004)341, 30.4.2004 .

### *Justification*

*The legal basis used does not mention either dignity or the right to freedom of expression. Other existing provisions that refer to these two fundamental rights should be mentioned.*

### Amendment 2

#### Recital -1 a (new)

***(-1a) Article I-2 of the Treaty establishing a Constitution for Europe, signed on 29 October 2004, lays down that one of the values on which the European Union is founded is respect for human dignity; Article II-61 of the same Treaty lays down that human dignity is inviolable and must be respected and protected.***

### *Justification*

*The principle of preserving human dignity is the origin of all national and international instruments for the protection of fundamental rights. This principle is given as the objective sought through respect for those rights.*

### Amendment 3

#### Recital -1 b (new)

***(-1b) Human dignity is inalienable, it does not admit any exclusion or limitation and it constitutes the foundation and origin of all legal instruments drawn up at national and international level to protect human rights. The European Union should gear its political action to protecting the principle of respect for human dignity from any attack.***

### *Justification*

*Now more than ever, the principle of human dignity is in serious danger of being breached through the audiovisual and information media, which take advantage of the enormous scale of technological and economic development to reach hundreds of millions of European citizens, especially minors.*

Amendment 4  
Recital -1 c (new)

***(-1c) Article I-3 of the Treaty establishing a Constitution for Europe lays down that one of the European Union's objectives is to protect the rights of the child; Article II-84 of the same Treaty lays down that children have the right to the protection and care necessary for their well-being.***

*Justification*

*The Treaty states for the first time that one of the European Union's objectives is to protect the rights of the child, which are enshrined as a fundamental right in Article II-84.*

Amendment 5  
Recital -1 d (new)

***(-1d) Legislative measures need to be laid down at European Union level on the protection of the physical, mental and moral development of minors in relation to the content of all audiovisual and information services, adopting measures against the circulation of illegal content and protecting access by minors to adult programmes or services.***

*Justification*

*The audiovisual and information media have brought information of all kinds within the reach of minors, and the content of and access to this information must be in keeping with their physical, mental and moral development.*

Amendment 6  
Recital -1 e (new)

***(-1e) The application of some of the provisions laid down in the Treaty establishing a Constitution for Europe needs to be brought forward in order to ensure a common level of protection for fundamental rights in the European Union.***

### *Justification*

*Even though the Treaty has not yet been ratified or entered into force, it nevertheless sets out the European Union's concerns and ambitions for the future and it should consequently inspire measures which need to be taken urgently, without awaiting its entry into force at a distant date. This is particularly true of measures relating to the protection of minors.*

### Amendment 7 Recital -1 f (new)

***(-1f) The unstoppable development of new information and communication technologies makes it urgent for the European Community to guarantee full and adequate protection for consumers' interests in this field by adopting a directive which will guarantee throughout its territory the free delivery and provision of information services on the one hand, and on the other hand will guarantee that their content is licit, respects the principle of human dignity and does not impair the integral development of minors.***

### *Justification*

*The European Community has the power to intervene in the sector of the media and information services by adopting a binding act in the legal form of a directive. Firstly, these services fall under the concept of the free provision of services, as established in the case law of the Court of Justice.*

*The same directive should also lay down appropriate measures providing adequate protection for the physical, mental and moral development of minors when using any of the information media now available on the market.*

### Amendment 8 Recital 1

(1) Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity is the first legal instrument at

(1) Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity is the first legal instrument at

Community level **concerning** the content of audiovisual and information services **covering all forms** of delivery, from broadcasting to the Internet.

Community level **which concerns questions linked to the protection of minors and human dignity in relation to** the content of **all** audiovisual and information services **offered to the public, in whatever form** of delivery, from broadcasting to the Internet.

*Justification*

*Council Recommendation 98/560/EC is indeed the first legal instrument at Community level in terms of both the content of all information and audiovisual services, and of questions linked to the protection of minors and respect for human dignity in relation to this content.*

*Nevertheless, it should not be forgotten that the first legal instrument adopted in the field of audiovisual services was the 1989 'Television without Frontiers' Directive, subsequently revised in 1997.*

Amendment 9  
Recital 1 a (new)

***(1a) The European Community has already intervened in the field of audiovisual and information services in order to create the necessary conditions to ensure the free movement of television broadcasts and other information services, respecting the principles of free competition and freedom of expression and information, but it should intervene with greater determination in this area with the aim of laying down a set of legal provisions, also adopting measures to combat and protect consumers from incitement to discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.***

*Justification*

*It is necessary to prevent the possibility of the information and communication media being used to incite discrimination, hatred or violence.*

Amendment 10  
Recital 5

(5) The changing media landscape, resulting from new technologies and media innovation, makes it necessary to teach children, and also parents, to use the media effectively.

(5) The changing media landscape, resulting from new technologies and media innovation, makes it necessary to teach children, and also parents, ***teachers and trainers***, to use ***all*** the media effectively, ***in particular audiovisual and information services, whatever their form of delivery.***

*Justification*

*The exponential pace of technological progress means that there is an urgent need to teach not only children and parents but especially - given their formative role in society - teachers and trainers to make proper use of the media, and in particular audiovisual and information services.*

*It should also be taken into account that the scope of the recommendation covers audiovisual and information services in general, whatever the form or technical medium used for their delivery.*

Amendment 11  
Recital 5 a (new)

***(5a) Given that the arrival of terrestrial digital television will make parental monitoring possible, which is essential if children are to be prevented from gaining access to televised content against their parents' wishes, the European Union should guide the process of transition to terrestrial digital television under the aim of shortening the deadline for 'analog blackout' as much as possible.***

*Justification*

*One of the many benefits terrestrial digital television will bring is the possibility for parents to monitor the programmes their children watch. We should avoid the uneven development of this technology across the EU, as this could widen the existing digital gap among the 25 Member States.*

Amendment 12  
Recital 6

(6) In the public consultation concerning Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive

(6) In the public consultation concerning Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive

89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, it was suggested that media **literacy** be included among the subjects covered by Recommendation 98/560/EC.

89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (***‘Television without Frontiers’ Directive***), it was suggested that ***the need to adopt educational measures in relation to the media*** be included among the subjects covered by Recommendation 98/560/EC.

#### *Justification*

*It is appropriate to indicate that this directive is better known under this name.*

*It is also vital to adopt educational measures that will guarantee the correct, rational and effective use of the media.*

#### Amendment 13 Recital 7

(7) The Commission encourages cooperation and the sharing of experience and good practices between (self)regulatory bodies, which deal with the rating or classification of audiovisual content, with a view to enable all **viewers**, but especially parents **and** teachers, to assess the content of **programmes**.

(7) The Commission encourages cooperation and the sharing of experience and good practices between (self)regulatory bodies, which deal with the rating or classification of audiovisual content, with a view to enable all **users**, but especially parents, teachers **and trainers**, to assess the content of **audiovisual and information services**.

#### *Justification*

*People who make active use of the possibilities offered by audiovisual and information services in general cannot properly be termed ‘viewers’.*

*Furthermore, it is not only the content of programmes in particular which should be assessed but the content of all the services provided through the audiovisual and information media in general.*

#### Amendment 14 Recital 8

(8) ***As suggested during*** the public consultation concerning Directive 97/36/EC, ***it is appropriate for the right of reply to***

(8) ***It is necessary for any natural or legal person whose legitimate rights, in particular in relation to reputation and***



*apply to all electronic media.*

*good name, have been affected by an incorrect assertion made using any of the media to have an effective right of reply or equivalent remedies, as shown by the results of the public consultation concerning Directive 97/36/EC.*

*Justification*

*Regardless of the name which might be given in each Member State to the right of reply and the practical arrangements for its application depending on which media are concerned, the important thing is to ensure that people whose reputation or good name have been affected by a broadcast or transmission can defend themselves with adequate and effective means within a reasonable time.*

Amendment 15  
Recital 9

(9) The Council resolution of 5 October 1995 on the image of women and men portrayed in advertising and the media **which** invites the Member States and the Commission to take adequate measures to promote a diversified and realistic picture of the skills and potential of women and men in society.

(9) The Council resolution of 5 October 1995 on the image of women and men portrayed in advertising and the media invites the Member States and the Commission to take adequate measures to promote a diversified and realistic picture of the skills and potential of women and men in society.

*Justification*

*Improved wording.*

Amendment 16  
Recital 10

(10) When tabling its proposal for a Council Directive implementing the principle of equal treatment between women and men in the access to and supply of goods and services<sup>1</sup>, the Commission noted that the portrayal of the sexes in the media and in advertising raises important questions about the protection of the dignity of men and women, **but concluded that it would not be appropriate to address these questions in**

(10) When tabling its proposal for a Council Directive implementing the principle of equal treatment between women and men in the access to and supply of goods and services<sup>2</sup>, the Commission noted that the portrayal of the sexes in the media and in advertising raises important questions about the protection of the dignity of men and women.

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<sup>1</sup> COM(2003) 657.

<sup>2</sup> COM(2003) 657.

*that proposal.*

*Justification*

*Discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media should not be addressed in the present text but in a separate recommendation.*

Amendment 17  
Recital 11

(11) It is appropriate to seek conciliation between the principle of protection of human dignity and free speech through the adoption by the Members States of a cross-media approach explicitly aimed at encouraging the industry to avoid and to combat any type of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation ***in all media***.

(11) It is appropriate to seek conciliation between the principle of protection of human dignity and free speech through the adoption by the Members States of a cross-media approach explicitly aimed at encouraging the ***audiovisual and information services*** industry ***in general*** to avoid and to combat any type of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

*Justification*

*The scope of the recommendation covers audiovisual and information services whatever the form of delivery.*

Amendment 18  
Recital 12

(12) This Recommendation ***should complement*** Recommendation 98/560/EC in order to take account of technological developments,

(12) This Recommendation ***complements*** Recommendation 98/560/EC in order to take account of technological developments ***and applies to audiovisual services and information services in general, including, in particular, on-line information services available to the public through electronic networks, inter alia, such as newspapers, magazines, libraries, databases and search engines,***

*Justification*

*It is very important to define the scope of the recommendation in general, but it is also important to make particular mention of some of the specific services to which it should apply.*

Amendment 19  
Recommendation I, introductory sentence

I. RECOMMEND that the Member States foster a climate of confidence which will promote the development of the audiovisual and information services industry by:

I. RECOMMEND that the Member States foster a climate of confidence which will promote the development of the audiovisual and information services industry ***in general*** by:

*Justification*

*The scope of the recommendation includes the audiovisual services industry and the information services industry in general.*

Amendment 20  
Recommendation I, point 1

(1) considering the introduction of measures into their domestic law or practice in order to ensure the right of reply ***across*** all media, without prejudice to the possibility of adapting the manner in which it is exercised to take into account the particularities of each type of medium;

(1) considering the introduction of measures into their domestic law or practice in order to ensure the right of reply ***or the right to seek equivalent remedies in relation to*** all media, without prejudice to the possibility of adapting the manner in which it is exercised to take into account the particularities of each type of medium;

*Justification*

*See amendment to recital 8.*

Amendment 21  
Recommendation I, point 2, introductory sentence

(2) promoting, in order to encourage the take-up of technological developments and ***in addition*** to and consistent with existing legal and other measures regarding broadcasting services, and in close cooperation with the parties concerned:

(2) promoting, in order to encourage the take-up of technological developments ***as a complement to*** and consistent with existing legal and other measures regarding broadcasting services, and in close cooperation with the parties concerned:

*Justification*

*More specific.*

Amendment 22  
Chapter I, point 2, indent -1 (new)

***- action to allow one of the most serious forms of attack on children's dignity, Internet child pornography, to be combated effectively.***

*Justification*

*It is important and necessary to prevent children from gaining unauthorised access to material of a pornographic nature, but much more so to prevent these children from forming part of this content themselves.*

Amendment 23  
Recommendation I, point 2, indent 1

- action to enable minors to make responsible use of on-line audiovisual and information services, notably by improving the level of awareness among parents, ***educators and*** teachers of the potential of the new services and of the means whereby they may be made safe for minors, in particular through ***media literacy or*** media education programmes.

- action to enable minors to make responsible use of on-line audiovisual and information services ***in particular and information services in general***, notably by improving the level of awareness among parents, teachers ***and trainers*** of the potential of the new services and of the means whereby they may be made safe for minors, in particular through media education programmes.

*Justification*

*It is very important to expand the scope of the recommendation to cover all information services and not exclusively those provided on-line.*

*The text has also been corrected and made more specific in order to prevent possible misinterpretation.*

Amendment 24  
Recommendation I, point 2, indent 2 a (new)

***- publicity campaigns designed to censure violence against minors and to help victims by offering psychological, moral and***

***practical support;***

*Justification*

*It is important that people (in particular minors) should be made aware of violence and be informed of the types of assistance available.*

Amendment 25  
Recommendation I, point 3

(3) encouraging industry to avoid discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media, and to combat such discrimination.

(3) encouraging ***the audiovisual and information services*** industry ***in general*** to avoid discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media, and to combat such discrimination.

*Justification*

*To specify the scope of the recommendation as before.*

Amendment 26  
Chapter I, point 3 a (new)

***(3a) promoting measures to combat all kinds of criminal activity on the Internet and to make it a much safer medium. The adoption of the following measures, inter alia, could be considered:***

- making it compulsory, on the one hand, for Internet providers to keep log archives (connection data archives) for what is considered to be a reasonable amount of time and identifying ways to reduce the financial burden this requirement would create for the sector, on the other;***
- adopting a seal of quality for providers, so that all users can easily identify whether or not a particular provider is regulated by a code of conduct;***
- looking at the introduction into their legal systems of a system of mutual or multiple responsibility with regard to Internet crime;***
- setting up a single telephone helpline for***

***information about illegal or suspicious activities on the Internet.***

*Justification*

*Log archives (a list of all connections from an IP address) kept by Internet providers are the most important form of judicial evidence used for following up any illegal activity on the Internet.*

*The adoption of a seal of quality for providers would help make the Internet a much safer place than it is now.*

Amendment 27  
Recommendation II, introductory sentence

II. RECOMMEND that the ***industries*** and parties concerned:

II. RECOMMEND that ***the audiovisual services industry and the information services industry in general and*** the parties concerned:

*Justification*

*To specify the scope of the recommendation as before.*

Amendment 28  
Recommendation II, point 1

(1) develop positive measures for the benefit of minors, including initiatives to facilitate their wider access to audiovisual and information services, while avoiding potentially harmful content, ***including a ‘bottom-up’*** harmonisation through cooperation between self-regulatory and coregulatory bodies in the Member States, and through the exchange of best practices concerning such issues as a system of common, descriptive symbols ***which would help viewers to assess the content of programmes;***

(1) develop positive measures for the benefit of minors, including initiatives to facilitate their wider access to audiovisual and information services, while avoiding potentially harmful content; ***carry out*** harmonisation through cooperation between ***regulatory bodies and*** self-regulatory and coregulatory bodies in the Member States, and through the exchange of best practices concerning such issues as a system of common, descriptive symbols which ***indicate the age range or aspects of the content which have led to a particular age being recommended, which would help users to assess the content of audiovisual and information services on the Internet.***

### *Justification*

*To define more precisely the specific measures which need to be adopted to protect minors and assess the content of services and information.*

### Amendment 29

Recommendation II, point 1 a (new)

***(1a) consider the possibility of creating filters which will prevent child pornography and other material which constitutes an assault on human dignity from being carried on the Internet;***

### *Justification*

*Creating filters which would prevent minors from gaining access to child pornography and to any other kind of material which constitutes an assault on human dignity would be a valuable step.*

### Amendment 30

Chapter II, point 1a (new)

***(1a) develop measures to foster the use of a labelling system for material distributed on the Internet, using protocols such as PICS (Platform for Internet Content Selection) and systems to filter information passing among users.***

### *Justification*

*The PICS (Platform for Internet Content Selection) protocol is a system that labels the material distributed on the Internet. Responsibility for labelling the content belongs to those who make the information available in the first place. The use of labelling systems is more or less a prerequisite for effective filters, which, in turn, are one of the best ways of protecting children.*

### Amendment 31

Recommendation II, point 2

(2) develop effective measures ***to*** avoid discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or

(2) develop ***and study*** effective measures ***and instruments which*** avoid ***and combat incitement to hatred, violence or***

sexual orientation in all media, ***and to combat such discrimination*** and promote a diversified and realistic picture of the skills and potential of women and men in society.

discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media ***in general, and audiovisual and information services in particular***, and ***which*** promote a diversified and realistic picture of the skills and potential of women and men in society.

#### *Justification*

*To insert a specific reference to the media most likely to incite hatred, violence or discrimination among consumers.*



Amendment 32  
Annex

***This annex has been deleted.***

*Justification*

*The annex is to be deleted and included in the main body of the proposal for a recommendation.*

## PROCEDURE

<b>Title</b>	Proposal for a recommendation of the European Parliament and of the Council on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services industry
<b>References</b>	COM(2004)0341 – C6-0029/2004– 2004/0117(COD)
<b>Committee responsible</b>	CULT
<b>Committee asked for its opinion</b> Date announced in plenary	LIBE 15.9.2004
<b>Enhanced cooperation</b>	
<b>Draftsman</b> Date appointed	Roberta Angelilli 5.10.2004
<b>Discussed in committee</b>	21.2.2005      12.4.2005
<b>Date amendments adopted</b>	22.3.2005
<b>Result of final vote</b>	for: 35 against: 2 abstentions: 0
<b>Members present for the final vote</b>	Alexander Nuno Alvaro, Johannes Blokland, Mario Borghezio, Mihael Brejc, Maria Carlshamre, Michael Cashman, Giusto Catania, Charlotte Cederschiöld, Carlos Coelho, Agustín Díaz de Mera García Consuegra, Rosa Díez González, Antoine Duquesne, Patrick Gaubert, Lilli Gruber, Adeline Hazan, Timothy Kirkhope, Ewa Klamt, Ole Krarup, Wolfgang Kreissl-Dörfler, Stavros Lambrinidis, Romano Maria La Russa, Henrik Lax, Edith Mastenbroek, Lapo Pistelli, Martine Roure, Inger Segelström, Ioannis Varvitsiotis, Stefano Zappalà, Tatjana Ždanoka
<b>Substitutes present for the final vote</b>	Ignasi Guardans Cambó, Luis Francisco Herrero-Tejedor, Herbert Reul, Marie-Line Reynaud, Agnes Schierhuber, Bogusław Sonik, Kyriacos Triantaphyllides, Johannes Voggenhuber
<b>Substitutes under Rule 178(2) present for the final vote</b>	Sergio Berlato

## PROCEDURE

<b>Title</b>	Proposal for a recommendation of the European Parliament and of the Council on protection of minors and right of reply			
<b>References</b>	COM(2000)0341 – C6-0133/2004 – 2004/0117(COD)			
<b>Legal basis</b>	Articles 251(2) and 157 EC			
<b>Basis in Rules of Procedure</b>	Rule 51			
<b>Date submitted to Parliament</b>	30/4/2004			
<b>Committee responsible</b> Date announced in plenary	CULT 15.9.2004			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	LIBE 15.9.2004			
<b>Not delivering opinion(s)</b> Date of decision				
<b>Enhanced cooperation</b> Date announced in plenary				
<b>Rapporteur(s)</b> Date appointed	Marielle De Sarnez 22.9.2004			
<b>Previous rapporteur(s)</b>				
<b>Simplified procedure</b> Date of decision				
<b>Legal basis disputed</b> Date of JURI opinion				
<b>Financial endowment amended</b> Date of BUDG opinion				
<b>European Economic and Social Committee consulted</b> Date of decision in plenary	0.0.0000			
<b>Committee of the Regions consulted</b> Date of decision in plenary	0.0.0000			
<b>Discussed in committee</b>	25.11.2004	15.3.2005	21.4.2005	15.6.2005
<b>Date adopted</b>	12.7.2005			
<b>Result of final vote</b>	for: 21 against: 1 abstentions:			
<b>Members present for the final vote</b>	Christopher Beazley, Marie-Hélène Descamps, Věra Flasarová, Milan Gaľa, Claire Gibault, Lissy Gröner, Ruth Hieronymi, Manolis Mavrommatis, Marianne Mikko, Ljudmila Novak, Doris Pack, Rolandas Pavilionis, Christa Prets, Karin Resetarits, Pál Schmitt, Nikolaos Sifunakis, Hannu Takkula, Thomas Wise			
<b>Substitutes present for the final vote</b>	Ignasi Guardans Cambó, Mary Honeyball, Nina Škottová, Åsa Westlund			
<b>Substitutes under Rule 178(2) present for the final vote</b>				
<b>Date tabled – A6</b>	19.7.2005 A6-0244/2005			
<b>Comments</b>	...			