

EUROPEAN PARLIAMENT

1999



2004

Session document

20 February 2002

FINAL
A5-0037/2002

REPORT

on the evaluation report from the Commission to the Council and the European Parliament on the application of the Council Recommendation of 24 September 1998 concerning the protection of minors and human dignity (COM(2001) 106 – C5-0191/2001 – 2001/2087(COS))

Committee on Culture, Youth, Education, the Media and Sport

Rapporteur: Christopher J.P. Beazley

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PROCEDURAL PAGE

By letter of 27 February 2001, the Commission forwarded to Parliament its evaluation report on the application of the Council Recommendation of 24 September 1998 concerning the protection of minors and human dignity (COM(2001) 106 – 2001/2087(COS)).

At the sitting of 14 May 2001 the President of Parliament announced that she had referred the report to the Committee on Culture, Youth, Education, the Media and Sport as the committee responsible and the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the Committee on Legal Affairs and the Internal Market for their opinions (C5-0191/2001).

The Committee on Culture, Youth, Education, the Media and Sport had appointed Christopher Heaton-Harris rapporteur at its meeting of 6 March 2001. Since Christopher Heaton Harris is no longer a member of the Committee on Culture, Youth, Education, the Media and Sport, the Committee appointed Christopher J.P. Beazley rapporteur at its meeting of 22 January 2002.

The committee considered the Commission report and the draft report at its meetings of 7-8 January and 19-20 February 2002.

At the latter meeting it adopted the motion for a resolution unanimously.

The following were present for the vote: Michel Rocard, chairman; Vasco Graça Moura, vice-chairman; Theresa Zabell, vice-chairman; Christopher J.P. Beazley, rapporteur; Alexandros Alavanos, Konstantinos Alyssandrakis (for Lucio Manisco), Ole Andreasen (for Mariëka Sanders-ten Holte), Pedro Aparicio Sánchez, Marielle de Sarnez, Raina A. Mercedes Echerer, Janelly Fourtoul (for Mario Mauro), Geneviève Fraisse, Cristina Gutiérrez Cortines (for Francis Decourrière), Ruth Hieronymi, Ulpu Iivari, Maria Martens, Pietro-Paola Mennea, Domenico Mennitti, Juan Ojeda Sanz, Gérard Onesta (for Luckas Vander Taelen), Barbara O'Toole, Doris Pack, Roy Perry, Christa Prets, Giorgio Ruffolo, Felekna Uca, Gianni Vattimo, Phillip Whitehead (for Renzo Imbeni), Stavros Xarchakos, Eurig Wyn, Sabina Zissener and Olga Zrihen Zaari (for Myrsini Zorba, pursuant to Rule 153(2)).

The opinions of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the Committee on Legal Affairs and the Internal Market are attached.

The report was tabled on 20 February 2002.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

MOTION FOR A RESOLUTION

European Parliament resolution on the Commission report on the application of the Council Recommendation of 24 September 1998 concerning the protection of minors and human dignity (COM(2001) 106 – C5-0191/2001 – 2001/2087(COS))

The European Parliament,

- having regard to the Commission report (COM(2001) 106 – C5-0191/2001¹),
- having regard to the Treaty establishing the European Community, and in particular to Article 157 and Article 249 thereof,
- having regard to Council Directive 89/552/EEC as amended by Directive 97/36/EC of the European Parliament and of the Council ('Television without Frontiers'), and in particular Article 22 thereof,
- having regard to its resolution of 13 May 1998 on protection of minors in audiovisual and information services,
- having regard to the 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 dignity²,
- having regard to the Action Plan of 25 January 1999 on promoting safer use of the Internet by combating illegal and harmful content on global networks, 276/1999/EC (the Safer Internet Action Plan),
- having regard to the Council Conclusions of 17 December 1999 on the protection of minors in the light of the development of digital audiovisual services³,
- having regard to its resolution of 5 October 2000 on parental control of television broadcasting⁴,
- having regard to the Council Conclusions of 21 June 2001 on protection of minors and human dignity⁵,
- having regard to Rule 47(1) of its Rules of Procedure,
- having regard to the report of the Committee on Culture, Youth, Education, the Media

¹ Not yet published in the OJ

² OJ L 270, 7.10.1998, p. 48

³ OJ C 8, 12.1.2000, p. 8

⁴ OJ C 178, 22.6.2001, p. 186

⁵ OJ C 213, 31.7.2001, p.10

and Sport and the opinions of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the Committee on Legal Affairs and the Internal Market (A5-0037/2002),

- A. whereas children's welfare is primarily the responsibility of their legal guardians, though this does not absolve the suppliers and distributors of audiovisual content, nor the drafters of legislation, from their responsibilities,
- B. whereas the Council Recommendation was supplemented in 1999 by a Safer Internet Action Plan which presented a coherent set of initiatives to deal with illegal content on the Internet,
- C. whereas self-regulation by the audiovisual industries has generally proved to be an effective additional, but not sufficient, means of protecting minors from harmful content, when appropriately applied,
- D. whereas the Commission Report concludes that 'after two years, the results of the application of the Recommendation are encouraging, although interested parties and in particular consumers should have been more involved in the establishment of codes of conduct',
- E. whereas not all Member States have established hotlines to handle complaints about illegal or harmful content and whereas campaigns to publicise the existence of these have been carried out in only five Member States,
- F. whereas legal provisions governing the classification of video games and/or self-regulation by the industry exist in only nine Member States despite the rapid proliferation of such products in conjunction with internet and broadcast promotion;
- G. whereas the majority of websites with illegal content originate on computers outside the EU, and whereas individual Member States, in the questionnaire on which this evaluation report is based, have expressed their regret at the lack of harmonisation between the relevant national laws with regard to cooperation,
- H. whereas in Sweden large Internet Service Providers have set up 'abuse departments' to which complaint may be made about harmful or illegal content,
- I. whereas in the remaining Member States, video games are currently labelled according to the age rating system in place in the Member State from which they are imported,
- J. whereas the Commission can promote the protection of minors from harmful content in the audiovisual media by facilitating exchanges of experience and best practice, and whereas more systematic public monitoring could be introduced in each Member State on the basis of minimum standards, drawn up by the Member States,
- K. whereas the video game industry has engaged in a pan-European project of self-regulation,

- L. whereas transparency and the possibility of public scrutiny are important means of promoting the implementation of the Recommendation,
- M. whereas, as the Commission notes, 'two years may be a relatively short period for fully applying the Recommendation',
1. Notes the conclusions of the Commission's Evaluation Report of 27 February 2001 on the application of the Council Recommendation of 24 September 1998 concerning the protection of minors and human dignity;
 2. Welcomes the actions developed under the Safer Internet Action Plan of 25 January 1999 and calls on the Commission to continue and expand these actions after 31 December 2002;
 3. Reminds the Member States of their obligations under Articles 34, 35 and 36 of the UN Convention on the Rights of the Children of 20 November 1989 to protect children from all forms of exploitation prejudicial to the child's welfare;
 4. Calls on the Member States to continue to promote application of the Recommendation, and to set up hotlines for complaints about illegal or harmful content and to launch publicity campaigns to draw the attention of consumers, and in particular parents, to the risks;
 5. Reiterates its conviction that the protection of minors from exposure to content which, while it may be lawful may nevertheless be harmful to minors, is primarily the responsibility of their legal guardians and underlines the importance of campaigns to educate children and their legal guardians in the appropriate use of the audiovisual media;
 6. Recommends the Member States consult consumers' groups, voluntary associations and non-governmental organisations and (1 word deleted) involve these more closely in the implementation of the Recommendation;
 7. Welcomes the development of the Internet Content Rating Association and its development of a rating system that can reflect regional and individuals' values;
 8. Asks the Commission to continue to work closely with content providers and consumer organisations to monitor guidelines in particular for online services, the efficiency of codes of conduct and self-regulatory approaches so as to ensure the highest standards of protection for minors;
 9. Welcomes the emergence of service providers' self-regulation facilities in the Member States, reiterates the need for such arrangements and calls on the Commission to promote and support networking and exchange of experience between self-regulation facilities in the Member States;
 10. Notes that technical measures cannot be a substitute for the liability of service providers for the content for which they are responsible, and that consequently a legal duty for

service providers to comply with certain provisions, with a view to protecting minors from harmful content, is unavoidable;

11. Calls on Member States to continue promoting the rating of video games through self-regulatory mechanisms set up by industry as the preferred option, but otherwise by the introduction of agreed minimum standards for content and promotion, and to make users aware of this by means of wide-ranging information campaigns;
12. Calls on the Commission to promote the creation of user-friendly content filter systems at affordable prices, so as to provide effective support for parental control both over the use of the Internet and over audiovisual media;
13. Calls on the Member States to develop an approach which establishes common criteria for a comparable description of audiovisual content with the help of service providers, consumers, national and regional bodies responsible for youth protection, and academic circles, though the assessment of content should – not least in the light of cultural differences – remain the preserve of national or regional authorities while assessment systems for the various media should be better coordinated;
14. Calls on the Member States to incorporate the teaching of media literacy into the educational system as a whole, starting from pre-school, in order to enable consumers to use the media in a manner geared to the values of society and to develop a sense of judgment in these matters; (media education should particularly be included in the school curriculum, so that minors can themselves learn awareness in dealing with media products);
15. Calls on Member States to encourage Internet Service Providers operating on their territory to establish 'abuse departments' to which members of the public may complain about harmful or illegal content and to draw attention to the existence of these in the user agreements they issue.
16. Believes that cooperation and partnership between the Internet industry, governments and national and regional authorities is the most effective way to tackle harmful and illegal content on the Internet and is concerned that recent decisions or strategies to block access to certain websites may result in the fragmentation of Internet access or the denial of access to legitimate content and therefore is not an effective European solution for combating illegal and harmful Internet content ;
17. Calls on the Commission to continue to promote application of the Recommendation by facilitating the exchange at Community level of experience of, and good practice in, the protection of minors in all audiovisual media;
18. Welcomes the Commission's intention to support a study of rating of films distributed in cinemas, by television, by DVD or by videocassette in the EU and EEA Member States;
19. Stresses the need for stronger European and international cooperation to combat illegal content, and calls on the Commission to that end to develop initiatives and draft proposals on how to improve cooperation in the field of justice and other cooperation

between the authorities at European and international level;

20. Calls on the Commission to draw up a further report, at an appropriate moment and preferably before 31 December 2002, on the implementation of the Recommendation, calls, further, and in the interest of transparency, for any future report to provide descriptions of the implementation of the Recommendation in each Member State;
21. Encourages the DVB consortium to work on the development of reliable filter and rating systems for digital broadcasting;
22. Calls on Member States to monitor the rules for the installation and use of internet chat rooms where these threaten the human dignity of minors, and the means whereby these are advertised by service providers;
23. Instructs its President to forward this resolution to the Commission, the Council and the governments of the Member States.

EXPLANATORY STATEMENT

BACKGROUND

1. It is widely agreed that legal minors should be protected from harmful material broadcast through the audiovisual media. In addition to banning the broadcast of certain material, European countries have protected minors in two ways. In some Member States, broadcasting was for a long time a public service monopoly: the state decided what was broadcast and when it was broadcast. Where commercial, private sector, broadcasters existed alongside a public service broadcaster, self-regulation was the norm. Broadcasting regulation (and self-regulation) supported parental supervision by establishing guidelines covering material which might harm children and young people: such material was broadcast late in the evening (after the 'watershed'); the content of programmes was classified and the classification indicated by an acoustic or visual signal. At European level, these principles were enshrined in Article 22 of the 'Television without Frontiers' Directive, as amended in 1997.

2. But broadcasting is no longer simply about a handful of terrestrially-based mass-audience TV channels in each European country. In the past twenty years or so, the number of TV channels has increased dramatically; and cable and satellite broadcasting have widened access to these. Moreover, new technologies - above all, the Internet - and convergence between technologies has made regulation a much more difficult. How can these media now be regulated?

3. A recent case involving the leading web portal *Yahoo!* illustrates the kind of problem which arises when states try to apply their laws to the Internet. French law prohibits the display or sale of items which incite racial hatred. In April 2000, two French anti-racism groups sued *Yahoo!* to remove access to items such as swastika flags and Nazi uniforms from its American website, to which French users could, of course, get access. *Yahoo!* argued that its French website abided by French law, but that it could not stop people in France from gaining access to this material via other, country-specific, websites. In November 2000, a French court ruled that *Yahoo!* had to block French users from viewing or buying Nazi memorabilia on its American auction site: if the company failed to comply with 90 days, it would be obliged to pay a substantial daily fine. But in November 2001 a Californian court ruled that *Yahoo!*'s website in the USA was subject to US law and thus protected by the First Amendment (which guarantees free speech): it also rejected the ruling of the French court on grounds of extraterritoriality.

4. There are, it is true, means of censoring the Internet. The same 'firewall' and filtering technology that is used to protect corporate networks from intruders has been used, for example, to isolate Internet-users in China from the rest of the network. Singapore and Saudi Arabia filter and censor Internet content; South Korea has banned access to gambling websites; and in Iran, it is illegal for children to use the Internet and access-providers are required to prevent access to immoral or anti-Iranian material. Skilled users can circumvent these technologies but the material to which most Internet users in practice have access could be censored. But even if Europeans could agree to the principle of censorship and even if they could agree on what should be censored on websites in the EU, this would not deal with the

problem of websites outside the EU. And, in any case, the problem addressed by the Recommendation would remain: what can be done to stop protect minors from exposure to material which, while suitable for adults and therefore quite legal, might harm children and young people?

THE RECOMMENDATION

5. On 24 September 1998, the Council adopted a Recommendation on 'The development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity'. In essence, the Recommendation called for regulatory provisions in the Member States protecting minors to be supplemented by national self-regulatory agreements covering broadcasting and the Internet. It addressed specific calls for action to the Member States, the industries and parties concerned, and the European Commission. The Recommendation was supplemented in January 1999 by a Parliament and Council Decision (Decision No. 276/1999/EC) agreeing a multiannual Community Action Plan to promote safer use of the Internet by combating illegal and harmful content on the Internet (the Safer Internet Action Plan).

THE COMMISSION REPORT

6. Section III(4) of the Recommendation called on the Commission to consult the national authorities and, two years after its adoption, to present a report on its implementation in the Member States. The Commission received eighteen replies, covering all Member States, to the questionnaire on the Recommendation it distributed in August 2000. Its report, based on these replies, is summarised in tabular form in Annexe I.

7. **The Internet:**

- In most Member States, associations of Internet Service Providers have been established; and most of these have drawn up codes of conduct for the protection of minors and human dignity. Internet Service Providers from two-thirds of Member States are members of the European Internet Service Providers' Association (EuroISPA).
- Hotlines to handle complaints about harmful or illegal content have been established in nearly all Member States.
- In 1999, a group of leading Internet companies and associations set up the Internet Content Rating Association (ICRA) to develop an internationally acceptable, voluntary, self-rating systems. The Commission has also fostered international cooperation and the spread of best practice through co-financing projects (such as INHOPE, the European Network of Hotlines) under the Safer Internet Action Plan.
- Few Member States have introduced additional legal requirements dealing with Internet Service Providers' obligations concerning illegal material they may host; but most have conducted campaigns for the safer use of the Internet. The German government has called for the harmonisation of the relevant national laws: several Member States have called for global cooperation and the

establishment of world-wide minimum standards.

8. **Broadcasting:**

- Self-regulation appears to be less well-developed in broadcasting than in the Internet. Regulation, self-regulation and internal codes of conduct vary widely from one Member State to another and from public to private broadcasters.
- In line with the Television without Frontiers Directive, it is a legal requirement in all Member States to give an acoustic warning before programmes containing material harmful to minors or to display a visual symbol throughout their duration.
- Filtering systems have been introduced for digital broadcasting.
- The Commission commissioned the University of Oxford to conduct a study on parental control of TV broadcasting. On the basis of this, it drew up a Communication and has consulted the Digital Video Broadcasting Consortium about technical devices to enhance parental control over the TV programmes that their children watch.

9. **Further initiatives:**

- Legal provisions governing, and self-regulation of, videogames exist in only a minority of Member States, despite the fact that only three Member States think that protection of minors in this area is adequate.
- The Commission picks out two attempts to develop self-regulation across the different audiovisual media:
 - The Netherlands Institute for Classification of Audiovisual Media (NICAM) brings together government departments, public service and commercial broadcasters, film and video producers, video stores, retailers and computer games operators. It aims to draw up a uniform system of classification for all audiovisual media. It also acts as a centre of expertise to which the public may turn.
 - The United Kingdom White Paper 'A New Future for Communications' foresees the establishment of an Office of Communications (OFCOM) which will, amongst other things, 'be responsible for maintaining current standards in the electronic media. It will develop Codes underpinned by statute, for the most pervasive broadcast services, and work with industry to ensure effective co- and self-regulatory approaches to protection for other services, such as the Internet, where they are more appropriate'.

RAPPORTEUR'S COMMENTS

10. At the rapporteur's request, the Commission has prepared a summary in tabular form of the replies it received from Member States in response to the questionnaire it distributed in August 2000. This is attached.

		Austria	Belgium	Germany	Denmark	Greece	Spain	France	Ireland	Italy	Netherlands	Luxembourg	Portugal	Sweden	Finland	United Kingdom
	INTERNET															
1	Association(s) of Providers founded	✓	✓	✓	✓	-	✓	✓	✓	✓	✓	✓	-	✓	✓	✓
2	Code of conduct established	✓	✓	✓	?	-	✓	✓	?	✓	✓	✓	-	✓	-	✓
3	Implication of public authorities/consumers in code of conduct		✓	-	-	-	-	-	✓	✓	-	✓	-	-	-	-
4	Legal requirements to Providers on illegal/harmful content	?	-	✓	-	-	-	-	-	✓	-	-	-	✓	-	✓
5	Requirements to inform police/justice about illegal content	-	-	-	-	-	-	-	-	✓	-	?	-	-	-	-
6	Hotline established	✓	✓	✓	✓	?	✓	?	✓	?	✓	-	-	✓	✓	✓
7	Majority of problematic content hosted outside of EU	✓	✓	✓	✓	✓	✓	-	✓	✓	✓	-	-	✓	✓	✓
8	Measures to raise public awareness of hotlines	-	-	?	✓	-	?	-	✓	?	✓	-	-	?	✓	✓
9	Confirmation of effectiveness of hotlines	-	-	?	✓	-	?	-	?	-	✓	-	-	?	?	✓
10	National activities with respect to filtering and rating	-	-	✓	-	✓	?	-	-	-	-	-	-	-	-	✓
11	Obligation on informing users on available filtering/rating sys.	-	-	-	-	-	-	✓	-	-	-	-	-	-	-	-
12	Media education	✓	✓	✓	✓	✓	✓	-	✓	?	✓	✓	-	✓	✓	✓
13	Evidence of slowdown of development of Internet due to fears	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
14	Current level of international cooperation not sufficient	✓	-	✓	-	✓	?	?	?	-	✓	-	-	✓	?	-

		Austria	Belgium	Germany	Denmark	Greece	Spain	France	Ireland	Italy	Netherlands	Luxembourg	Portugal	Sweden	Finland	United Kingdom
	BROADCASTING															
15	Self-regulation	✓	✓	✓	-	?	✓	✓	✓	?	✓	-	-	-	✓	✓
16	Code of conduct	✓	✓	✓	-	-	✓	✓	✓	✓	✓	-	-	-	✓	✓
	On-screen/acoustic warning	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
18	Technical filters/electronic locking	-	-	✓	✓	✓	✓	✓		-	-	-	-	✓	-	✓
	VIDEOGAMES															
19	Legal provisions on sale	?	-	✓	-	-	-	✓	✓	-	-	-	-	✓	✓	✓
20	Self-regulation on age-rating	-	-	✓	✓	-	-	✓	-	-	✓	-	-	✓	✓	✓
21	Current measure effective	✓	-	-	-	-	-	-	-	-	✓	-	-	-	-	✓
22	Recent developments	-	-	-	-	-	-	-	-	-	✓	-	-	-	-	✓
23	Lack of coherence considered	-	-	✓	-	-	-	✓	✓	-	✓	-	-	-	✓	-

yes	✓
no	-
to some extent/envisaged	?

10 October 2001

**OPINION OF THE COMMITTEE ON CITIZENS' FREEDOMS AND RIGHTS,
JUSTICE AND HOME AFFAIRS**

for the Committee on Culture, Youth, Education, the Media and Sport

on the evaluation report from the Commission to the Council and the European Parliament on the application of the Council Recommendation of 24 September 1998 concerning the protection of minors and human dignity
(COM(2001) 106 – C5-0191/2001 – 2001/2087 (COS))

Draftsman: Martine Roure

PROCEDURE

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Martine Roure draftsman at its meeting of 25 April 2001.

It considered the draft opinion at its meetings of 10-11 July 2001, 11-13 September and 9-10 October 2001.

At the last meeting it adopted the following conclusions by 20 votes to 1, with 3 abstentions.

The following were present for the vote: Graham R. Watson, chairman, Robert J.E. Evans, vice-chairman, Martine Roure, draftsman; Michael Cashman, Charlotte Cederschiöld, Carlos Coelho, Gérard M.J. Deprez, Giuseppe Di Lello Finuoli, Jorge Salvador Hernández Mollar, Anna Karamanou, Margot Keßler, Ole Krarup, Rodi Kratsa-Tsagaropoulou (for Mary Elizabeth Banotti), Alain Krivine (for Fodé Sylla), Hartmut Nassauer, Elena Ornella Paciotti, Hubert Pirker, Ilka Schröder (for Pernille Frahm pursuant to Rule 153(2)), Patsy Sörensen, Joke Swiebel, Anna Terrón i Cusí, Astrid Thors (for Baroness Sarah Ludford pursuant to Rule 153(2)), Gianni Vattimo and Christian Ulrik von Boetticher.

SHORT JUSTIFICATION

Introduction

Through daily contact with a wide variety of media, children are exposed to violent images, humiliation portrayed through pornography or perversions of all kinds, which may harm their development.

These attacks on human dignity are all the more serious in that they affect a particularly vulnerable group, i.e. children. The risks are increasing as new information technologies are developed.

The children most at risk are those who are left to their own devices and spend hours in front of the screen. Addicted to the media, without adequate education or the keys to decipher images and analyse messages, these children no longer differentiate between the virtual and reality and have patterns of behaviour that we find surprising; the sometimes tragic violence of these children rightly scares us.

It is, of course, important to make a distinction between what is a question of the latest trends or today's standards of behaviour and what constitutes unacceptable violence or an attack on human dignity. At the same time it is vital to distinguish between content that is harmful to minors and content which is illegal. Laws vary from one country to another and cultural differences are very real.

This situation raises a number of difficult issues: what is the threshold of acceptable violence bearing in mind changes in morality? How can freedom of expression be reconciled with observance of the fundamental right of the integrity and dignity of the individual, and even more so of the child? Who is responsible for the protection of minors - the public authorities, broadcasters or parents? Does something that is harmful go beyond the limits of what is legal or, in other words, how is it possible to protect children from content of a certain kind which is admissible for adults? What methods of repression or prevention should be adopted?

Overview of the current situation

The Commission's first report evaluating the implementation by the Member States of the national frameworks for the protection of minors, drafted approximately two years after adoption of the Council recommendation of 24 September 1998, concludes that situation varies considerably, with progress in some areas and shortcomings in others.

- A contrasting situation

(a) the Internet

Progress has been achieved in the area of self-regulation in that associations of Internet service providers have been created in most of the Member States. These associations are members of EuroIspa, the association of Internet service providers in the EU. EuroIspa's task is to promote self-regulation and the drafting of professional standards. Virtually all the

Member States have now established codes of conduct. In eight Member States, the public also has direct access to these Internet provider associations.

However, in terms of legislation and regulation, only three Member States have devised additional legal requirements relating to the obligations of service providers in relation to illegal content hosted.

As far as the information policy conducted in this area by the Member States is concerned, there are, of course, telephone hotlines in most of the Member States (as part of the INHOPE system funded by the Commission) but the report claims that few large-scale information campaigns have been conducted so far.

Finally, only three Member States¹ have implemented specific programmes with a view to developing filtering systems; this is very few. However, it is worth mentioning the work done by ICRA, the Internet Content Rating Association. This association of Internet providers manages internationally acceptable voluntary rating systems to enable users to limit access to content harmful to children, for example by "walled gardens".

(b) television and radio broadcasting

Self-regulation seems to be less advanced in this sector. Moreover, self-regulation varies depending on whether the broadcasters are public or commercial. Only five Member States² have electronic locking systems and these apply only to digital television. According to the Digital Video Broadcasting consortium (DVB, which includes 200 organisations), because the Internet is developing rapidly as a medium for TV broadcasting, any system to assist parental control should apply to all media for delivery to the home.

(c) video games

In the case of video games, only a minority of Member States have specific legal provisions. The same applies to self-regulation in the sector.

* * *

Progress has been achieved but a great deal remains to be done. This is not surprising in an area which is extremely complex in both technical and ethical terms and where cultural attitudes vary from one Member State to another.

There is an urgent need to step up the EU's efforts to protect minors, going beyond self-regulation to establish a fair and effective sharing of responsibilities between the various parties involved, to strengthen judicial and police cooperation in this sphere and thus to ensure that children's fundamental right to dignity and integrity is protected.

¹ Germany, Greece, United Kingdom.

² Denmark, Greece, Spain, France, Sweden.

CONCLUSIONS

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs calls on the Committee on Culture, Youth, Education, the Media and Sport, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Despite the progress achieved, the evaluation report presented by the Commission describes a contrasting situation, characterised by numerous shortcomings, from which it emerges that the protection of the dignity of minors, a fundamental right, is far from being fully guaranteed within the EU despite the fact that the minors concerned, through contact with the media, are exposed daily to violence or messages harmful to their development.
2. Self-regulation by broadcasting companies must undoubtedly be encouraged but, as the report shows, while self-regulation obviously makes a useful contribution it cannot be a substitute for the important responsibilities of the public authorities in this sphere.
3. In this context, efforts should continue at European level to strengthen judicial and police cooperation, particularly within the framework of Europol, to combat more effectively broadcasters - often outside EU - of harmful messages that are prejudicial to the dignity of minors.
4. To do this, it is also important for the public authorities of the Member States and the Commission services, in close cooperation with all the operators involved, to agree on the setting of a minimum number of common standards concerning, in particular, the rating and assessment of the content of messages broadcast on the media, which should be subject to a uniform system of classification.
5. The Commission must therefore continue its efforts to make both the Safer Internet Action Plan and the national frameworks for the protection of minors even more effective, in order in particular to speed up the development of filtering systems, improve the protection of minors in the area of video games and step up information campaigns.
6. Faced with the growing volume of multimedia service provision, parental control can of course help to ensure better protection of minors, provided that all parents, irrespective of their circumstances, have access to filtering systems that are easy to use at an affordable price.
7. Particular attention must be paid to the risks posed to the dignity of minors and privacy in general by the proliferation of Internet chat rooms, which presupposes greater monitoring of chat rooms of this kind.
8. Television advertising targeted at minors also calls for greater vigilance on the part of

the public authorities and all the operators concerned in that it may carry, often surreptitiously, messages that are harmful to the dignity of minors.

9. The Commission is asked to take these different concerns into account when drafting its forthcoming proposals, which should concentrate on drawing up a new directive to protect minors and human dignity in respect of all messages broadcast on any form of electronic medium.

8 January 2002

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Culture, Youth, Education, the Media and Sport

on the Evaluation Report from the Commission to the Council and the European Parliament on the application of the Council Recommendation of 24 September 1998 concerning the protection of minors and human dignity
(COM(2001) 106 – C5-0191/2001 – 2001/2087 (COS))

Draftsman: Arlene McCarthy

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Arlene McCarthy draftsman at its meeting of 24 April 2001.

It considered the draft opinion at its meetings of 21 November, 18 December 2001 and 7 January 2002.

At the latter meeting it adopted the following conclusions by 11 votes in favour, with 3 abstentions.

The following were present for the vote: .Ward Beysen, acting chairman; Paolo Bartolozzi, Janelly Fourtou, Marie-Françoise Garaud, Evelyne Gebhardt, Gerhard Hager, Malcolm Harbour, Heidi Anneli Hautala, The Lord Inglewood, Kurt Lechner, Hans-Peter Martin (for Enrico Boselli, pursuant to Rule 153(2)), Manuel Medina Ortega, Diana Wallis and Stefano Zappalà.

SHORT JUSTIFICATION

The Commission's report, made pursuant to the 1998 Council recommendation¹, is based on a questionnaire sent out to Member States on 2.8.2000, covering self-regulation, codes of conduct, and technical and educational measures. The most striking aspect of the findings made is the heterogeneity of the measures taken (or not taken) by individual Member States.

¹ OJ L 270, 7.10.1998, p. 48.

Although this report comes at a comparatively early stage (the questionnaire dates from only two years after publication of the recommendation), two questions need to be examined: the need for common approaches and, as raised by several Member States, the need for global cooperation and the establishment of world-wide minimum standards, particularly in view of the finding that the vast majority of websites with illegal content are located outside the EU. Such content includes, not only pornography and paedophilia, but also racist, politically extreme and brutal material.

Broadcasting: Article 22(3) of the television without frontiers directive¹ stipulates that programmes which may be harmful to minors must be preceded by an acoustic warning or identified by a continuous visual symbol. Pursuant to Article 22b, the Commission commissioned a study from Oxford University, which resulted in the Communication "Study on Parental Control of Television Broadcasting"². The decree of self-regulation in broadcasting differs from one Member State to another, and there may be a need for more commonality, as least as regards the descriptive criteria for content. The Netherlands NICAM³ system is highly commendable. It brings together the whole gamut of providers: public service and private broadcasters, video retailers and computer games distributors, and provides a uniform classification system for all audio-visual media. Your draftsman has also studied the UK Communications White Paper, which proposes codes of conduct underpinned by statute, together with a range of co- and self-regulatory approaches. Some public broadcasters have gone further in producing a set of guidelines for the Internet to promote the highest standards for protecting children online.

Many Member States have harsh restrictions on children's advertising. Broadcasters argue that the EUR 670 million to 1 billion revenue generated in the EU by television adverts for children's products is essential in order to have quality children's programmes. The Commission has conducted a review of existing rules in the EU and concluded that combating pornography and violence is the only area which needs strengthening.

As digital television takes off, filtering systems will become possible, given the conclusion of the Oxford University study that V-chip technology⁴ for analogue broadcasting is not feasible in Europe. Careful consideration has been given to what DVB (Digital Video Broadcasting Consortium) is proposing in this area, bearing in mind their concern that the introduction of a new technical system to assist parental control would distort the market in the new scenario where video can be screened by ASDL⁵ or simple cable models and consumers can use set-top boxes to access both the Internet and traditional broadcasting media from their TV sets.

Internet: all Member States' ISPs⁶ should be encouraged to join EuroISPA⁷, as it could

¹ Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in the Member States concerning the pursuit of television broadcasting activities, OJ L 279 of 17 October 1989, p. 3.

² COM(1999) 371 final. See Parliament's resolution of 5 October 2000.

³ NICAM : Nederlands Instituut voor de Classificatie van Audiovisuele Media.

⁴ V-chip : an electronic device which reads information encoded in a television programme and blocks programmes from the TV set on the basis of the rating selected by the parents.

⁵ ASDL : Asymmetrical Digital Subscriber Line.

⁶ Internet Service Providers.

⁷ Pan-European association of Internet service providers of the countries of the EU.

provide a suitable environment for the development of pan-European codes of conduct.

The Safer Internet Action Plan to protect minors in the new media is welcomed and some amendments put forward in your draftsman's draft opinion on cybercrime¹ have been retabled with a view to promoting research into filtering systems, particularly in view of the development of peer-to-peer technology, and the possible use of digital rights management systems to prevent children's access to unsuitable content, which could usefully be coordinated by the JRC. There is also the need to set up an "electronic watch tower" at EU level, as recommended by the 1999 UNESCO expert meeting.

Fighting paedophilia and child pornography on the Net requires a coalition of forces involving industry, policymakers, educators, parents and children, to raise awareness of the potential dangers. Child protection on the Internet is not about censorship, but about creating a safe environment for children which preserves fundamental liberties and allows freedom of expression and the right to privacy, but guarantees rights to protection against harmful and illegal content. The challenge is how to protect children and the weaker groups of society, while maintaining the fundamental right of freedom of expression, without falling into the difficulties encountered in other jurisdictions, particularly the USA.

What is required is closer European cooperation and involving all interested parties, particularly ISPs and credit card companies, who can play a great role in making the Internet self-policing. Greater public awareness of the dangers that lurk for children on the Web is needed and there should be a Europe-wide advertising campaign to raise consciousness and educate parents and carers of children in the use of tools such as filters and walled gardens. It is also proposed to create a European counterpart of the Internet Content Rating Association (ICRA), which could work closely with that body internationally, while developing ratings based more closely on shared European cultural values.

CONCLUSIONS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Culture, Youth, Education, the Media and Sport, as the committee responsible, to incorporate the following points in its motion for a resolution:

Paragraph 1

Reminds the Member States of their obligations under Articles 34, 35 and 36 of the UN Convention on the Rights of the Children of 20 November 1989 to protect children from all forms of exploitation prejudicial to the child's welfare;

Paragraph 2

Asks the Commission to continue to work closely with content providers and consumer organisations to monitor guidelines in particular for online services, the efficiency of codes of

¹ Draft opinion on the Communication , Creating a Safer Information Society by Improving the Security of Information Infrastructures and Combating Computer-related Crime - eEurope 2002.

conduct and self-regulatory approaches so as to ensure the highest standards of protection for minors;

Paragraph 3

Calls on the Commission to foster common approaches to the protection of minors in respect of the various media (print, television and radio, Internet, films, DVDs¹, videocassettes, etc), bearing in mind the need for global cooperation;

Paragraph 4

Points out that minors need to be protected, not only from pornography and paedophilia, but also from racist, politically extreme and brutal content, and advocates greater communality across the European Union at least as regards the descriptive criteria used for content;

Paragraph 5

Believes that, at European and international level, the Commission should promote and coordinate codes of conduct and other self-regulatory approaches by bringing together the whole gamut of providers - public service and private broadcasters, telephone companies, video retailers, computer games distributors, the music and film industry and publishers - and bodies interested in the welfare and education of children; further considers that the Internet should be largely self-policing and encourages the Commission also to involve Internet service providers and the credit card companies in campaigns to improve the protection of minors surfing the world-wide web and participating in Internet chat lines, inter alia through the agency of the Internet Watch Foundation (IWF);

Paragraph 6

Urges the Commission to encourage all Internet service providers operating in the European Union to join EuroISPA, since this could provide a suitable environment for the development of pan-European codes of conduct; (further considers that the Commission and Member States should explore the possibilities of monitoring and, where necessary, taking action to combat illegal and harmful content on premium rate telephone services;

Paragraph 7

Expresses its alarm at the child pornography, evidence of child sexual exploitation and racist and xenophobic material to be found on the Internet and takes the view that it would be highly desirable to expand the existing network of hotlines based on good practice models and set up at EU level an "electronic watch tower", as recommended by the 1999 UNESCO Expert Meeting, to receive and coordinate the processing of complaints from Internet users about illegal content; this could be linked with the proposal to implement a G8 Database with the

¹ Digital versatile (or video) discs.

aim of ensuring a real-time exchange of information using the existing 24h points of contact network;

Paragraph 8

Advocates the introduction of a European ratings system for child-friendly Internet providers (child safety messages, child-friendly search engines, filtering, walled gardens, blocking of child pornography newsgroups, etc) and the development of child-safety software, and calls for JRC-sponsored research in this area;

Paragraph 9

Believes that cooperation and partnership between the Internet industry, governments and national and regional authorities is the most effective way to tackle harmful and illegal content on the Internet and is concerned that recent decisions or strategies to block access to certain websites may result in the fragmentation of Internet access or the denial of access to legitimate content and therefore is not an effective European solution for combating illegal and harmful Internet content ;

Paragraph 10

Asks the Commission to arrange for research, to be coordinated by the JRC, into the policing of peer-to-peer technology and the potential use of digital rights content management systems to prevent children's access to unsuitable content;

Paragraph 11

Urges the Commission to foster greater public awareness of the dangers that lurk for children on the Web and calls for a major Europe-wide advertising and awareness campaign to raise consciousness and educate parents and carers of children in the use of tools such as filters and walled gardens;

Paragraph 12

Urges the Commission to promote awareness of protection of children online amongst law-making bodies and law enforcement agencies;

Paragraph 13

Proposes the creation of a European counterpart of the Internet Content Rating Association (ICRA), which could work closely with that body on the international stage, while developing ratings based more closely on shared European cultural values;

Paragraph 14

Asks the Commission to consider facilitating the establishment of a European Internet Watch Foundation (EIWF) as an independent body bringing together experts, industry and consumers, to advise and assist those working on Internet safety for children, and in particular to address the users of illegal content specifically in the field of child pornography;

Paragraph 15

Presses for further approximation of criminal law in the area of high-tech crime, in particular as regards xenophobia and child pornography, with a view to achieving coherence in policy and legal terms so that prosecution and punishment are not hampered;

Paragraph 16

Notes the extensive work already being carried out by the JRC in the area of Internet security and content management, requests that the EU's future Information Technology research plan make specific budget provisions for work in the areas outlined in this report and considers that this should be taken into account in the Framework 6 Research Programme;