General Comment on children’s rights in relation to the digital environment – Comments from the European Network of Ombudspersons for Children (ENOC)

Following your call for comments, the European Network of Ombudspersons for Children (ENOC) would like to draw your attention to its 2019 [Position Statement on Children’s rights in the Digital Environment](http://enoc.eu/wp-content/uploads/2019/10/ENOC-2019-Statement-on-Childrens-Rights-in-the-Digital-Environment.pdf) and to [ENYA (European Network of Young Advisors) recommendations](http://enoc.eu/wp-content/uploads/2019/10/ENYA-recommendations-on-childrens-rights-in-the-digital-environment-FV.pdf) on the same issue. Please find below recommendations from ENOC 2019 Position Statement related to different paragraphs of your draft General Comment.

* **GC No.25 - I-Introduction**

ENOC urges the Council of Europe, European Commission, States and duty bearers to:

1. Fulfil children’s rights in the digital age by recognizing and fully implementing the UN Convention on the Rights of the Child and the Council of Europe Guidelines to respect, protect and fulfil the rights of the child in the digital environment through the development and implementation of rights-based strategies and measures, designed to evolve with technological developments. This must be undertaken in accordance with article 4 of the Convention on the Rights of the Child which requires that all appropriate legislative, administrative and other measures are undertaken.

* **GC No.25 - III-A-The right to non-discrimination**

4. Ensure all children have access to the digital environment without discrimination.

a. Ensure that all children are able to enjoy the same opportunities that affordable access to the digital environment can provide, including access to infrastructure, connectivity, services and also appropriate content developed specifically for children;

b. Produce policies, guidelines and information that address the needs of all children, particularly those from marginalized or vulnerable groups[[1]](#footnote-1) with regard to accessing and realising their rights in the digital environment and make these available in appropriate formats;

c. Promote equality of access and overcome digital exclusion and discrimination, including through addressing stereotypes and increased gendering in the digital world.

* **GC No.25 - III-D-The right to be heard**

3. Ensure that children’s right to have a say in actions and decisions that affect them in the digital environment is realised.

a. Proactively engage children in the development, review and evaluation of digital strategies, technologies and content and give due weight to their views in accordance with their evolving capacity;

b. Emphasise children’s rights to freedom of association, freedom of expression and to seek, receive and impart information and ideas as well as their rights to privacy and participation with respect to protecting their data;

c. Recognise and ensure that the digital environment offers an additional engagement platform for children to participate in social, community and civic roles;

d. Monitor and assess the impact of strategies, policies and measures on children’s participation rights.

- Children’s views on the digital environment:

Despite the challenges that exist, generally children and young people do not view the future developments and challenges in the digital age negatively. The European Network of Youth Advisers (ENYA) 2019 Forum have stated: ‘Grown-ups often mostly see and mention negative things about the internet. But mostly the internet is very positive. Children and young people should be supported in how to interact in a positive way with digital media.’ 7 Children around the world have identified connection, communication and sharing as the key benefits of the digital world and their voices are a timely reminder of the potential of the digital environment as a vehicle through which children’s rights can be meaningfully progressed.

The 2019 ENYA Forum found that children and young people often have a balanced and considered view of the possibilities and challenges of engaging in the digital environment. However, without information and education they are more likely to have negative experiences. They emphasised the importance of being informed of their rights in relation to the digital environment, both to allow them to claim these rights and also to enable them to respect the rights of others. Schools need to engage proactively in the digital environment and support children and young people to use digital media in a constructive manner.

Practical recommendations also identified by ENYA include:

• Children experiencing problems online should be able to get support from a trained person locally.

• Children should have access to dedicated apps on: Children’s Rights; Privacy; and Fact Checking to help spot fake news.

• Children should have to give their consent before private content about them is published online by others and before their private information is used for commercial purposes.

• Children should be provided with Relationship and Sexuality Education which takes into account issues relating to the digital environment.

* **GC No.25 - V-I-The business sector**

2. Require governments, business and industry to respect and fully support children’s rights in the digital environment. This includes:

a. Ensuring all platforms, providers, services, devices and products are subject to regulation and oversight which protects children’s rights whilst taking into account children’s evolving capacities. This must have particular regard to the principles of privacy, safety and data minimisation by design and be compliant with data protection obligations;

b. Increase oversight of emerging technology such as geolocation, connected devices, profiling, artificial intelligence, facial recognition software, machine-learning and algorithms;

c. Produce child-friendly and accessible guidelines, codes and terms and conditions for the use of all products and services, including social media, gaming and other platforms. This must have particular regard to ensuring children’s or parent and carers’ informed consent and age verification;

d. Provide greater transparency and consumer protection for children including with respect to advertising, content marketing, in-app purchases and online gaming features;

e. Support legislative and regulatory initiatives that hold industry and technology companies to account and provide for regulatory oversight to ensure that children can exercise their rights in the digital environment to the upmost;

f. Support and strengthen research on children’s rights in the digital world to ensure that duty bearers have a knowledge based approach. This must address the implication of children’s interactions with technology on their cognitive, physical, social and emotional development and provide awareness raising for parents, carers and educators.

* **GC No.25 - V-K-Remedies**

9. Ensure access to child friendly reporting, complaints and redress procedures for children and young people, their parents and carers.

a. Provide easily accessible and timely procedures, and child friendly information regarding these, to enable children to report concerns about harmful content, bullying, violence and abuse and to make complaints across all industry and government actors, including social media and technology companies, internet service providers and regulators;

b. Ensure in particular that statutory safeguarding procedures are in place and able to receive and act on reports from children, parents and carers regarding concerns about grooming, abuse and exploitation across all media and platforms;

c. Ensure government, business and industry and all adults in positions of trust meet their obligations to share and report content or behaviour that is harmful to children or which subjects a child to any form of violence, abuse or exploitation to the appropriate authorities;

d. Empower regulators to take effective action in regard to harmful, violent or abusive content and to ensure reporting, complaints and redress procedures are effective.

* **GC No.25 - VI-A-Access to information**

5. Protect children’s enjoyment of the internet, technology and social media free from false information, harmful content or harmful technologies.

a. Take measures to ensure that high-quality and unbiased information is readily discoverable by children and that action is taken with regard to the circulation of false information;

b. Strengthen protections, including through legislative and technological measures, regarding harmful content or technologies that are detrimental to children’s mental and physical well-being (including pro-eating disorders, pro-self-harm and suicide content);

c. Require business and industry to share and report information regarding online harm and to remove harmful content immediately;

d. Take measures to ensure that children who seek or have been exposed to harmful content are directed to messages, content and support that promote their mental and physical well-being.

* **GC No.25 - VII–Violence against children:**

6. Take all necessary steps to protect children from bullying, violence, exploitation and abuse in all forms in the digital world.

a. Ensure the effectiveness of legislative, regulatory and other measures to combat the spread of online hate speech, racism, radicalisation and extremism and include robust sanctions for those who violate children’s rights online;

b. Ensure effective national and international co-ordination and collaboration between government, industry and law enforcement to address all forms of online grooming, abuse and exploitation, including commercial exploitation;

c. Adopt innovative and future-proof policies to deal with emerging areas of sexual exploitation and abuse such as, virtual and augmented reality child sex abuse images;

d. Provide child friendly and accessible information for children regarding ‘sexting’ and user generated images, and ensure authorities respond in a child centred manner;

e. Provide support for children who have been affected by online bullying, harassment, violence, exploitation or abuse, including access to mental health services to aid recovery.

* **GC No.25 - VIII-Family environment and alternative care**

8. Provide support to parents and carers in their role as guardians of children’s rights online to ensure that children can benefit from the opportunities afforded by the digital environment, while reducing potential risks.

a. Provide access to information, education and guidance to support parental responsibility, skills and confidence in the digital environment, taking into account children’s right to privacy and parental sharing of children’s data in this context;

b. Strengthen research and raise awareness regarding parental use of technology and the impact of this on their relationship with their children;

* **GC No.25 - XI-A-The Right to education**

7. Recognize that children’s right to education extends to the digital environment and support children’s digital skills development.

a. Ensure children have the necessary digital skills and digital learning, including technical, creative and critical assessment skills in recognition of their multiple roles as digital users, creators, developers and leaders;

b. Implement educational policies that foster the development of all children’s digital skills and confidence (regardless of age) and an awareness of children’s rights, with particular reference to providing effective support for teachers and educators;

c. Ensure the integration of digital citizenship and technologies into educational curricula.

Children should be provided with Relationship and Sexuality Education which takes into account issues relating to the digital environment.

* **GC No.25 - V-A-Legislation & V-I-The Business sector**

In 2020 ENOC has extensively worked on Child Rights Impact Assessment (CRIA) and will publish, after its General Assembly on 18th November 2020, a Position Statement with recommendations on this issue and a Common Framework of Reference on how to carry out CRIA. This will of course be passed on to the Committee on the Rights of the Child in due time.

Although child rights impact assessment is mentioned twice in the draft General Comment, no further guidance is provided. The GC Comment should emphasize more on the importance to carry out CRIAs to help embed children’s rights in law, policy, budgetary allocation and other administrative decisions related to the digital environment, and should promote and support its use among all public bodies, as well as businesses especially in their activities related to the digital environment.

1. While not an exhaustive list this must pay due regard to the needs of children with disabilities, children in care, those living in poverty and homeless children, children from minority ethnic communities, children on the move, internally displaced children and LGBTQIA children. [↑](#footnote-ref-1)