**ISPCC Submission to the UN Committee on the Rights of the Child on its draft General Comment on Children’s Rights in relation to the Digital Environment**

**15 November 2020**

**1. OPENING REMARKS**

The Irish Society for the Prevention of Cruelty to Children (ISPCC) made a submission to the UN Committee on the Rights of the Child (UNCRC) on its concept note of the General Comment in 2019 and is pleased to have the opportunity again to submit to the Committee on its draft General Comment on Children’s Rights in relation to the Digital Environment.

The ISPCC is especially pleased to see many of its suggestions reflected in this draft General Comment. The comments in this submission are made in respect of having a digital environment where children are protected from harms, safe in the pursuit of their endeavours and participation, and one where States and relevant businesses – where applicable – should operate in a child-centred manner.

**2. INTRODUCTION**

The ISPCC is for children.

Our purpose is to listen to them, empower them, strengthen their resilience and enable them to live their best possible lives.

The ISPCC provides a range of services directly to children and families and advocates for change to enhance the lives of children in Ireland.

The ISPCC’s work is made possible through public and corporate support, as well as funding provided by government agencies for the delivery of specified services.

**3. CHILDREN’S RIGHTS IN THE DIGITAL ENVIRONMENT**

Online safety has and continues to be a key policy priority for the ISPCC. An internal case review in 2016 highlighted that online safety issues were increasingly featuring across our service provision. With the support of the Vodafone Ireland Foundation the ISPCC commissioned research on online safety among children and parents in 2017, and repeated this in 2018. Results from this research continued to show that online safety and the role of government and industry were key concerns for the respondents.

**4. DRAFT GENERAL COMMENT OBSERVATIONS AND COMMENTS**

**A. The right to non-discrimination (art. 2)**

Paragraph 10: The ISPCC welcomes the Committee’s view that ‘*States should take all necessary measures to lower the cost of connectivity, provide free access to children in safe dedicated public spaces…’* and suggests that that the provision of such free access to children is promoted/advertised visually and that such access is filtered accordingly in anticipation that children will be utilising it.[[1]](#footnote-1)

Paragraph 11: It is the view of the ISPCC that businesses whose products and/or services are aimed towards children and/or are highly likely to be used by children should employ mechanisms that whereby children are always informed, or have information made available to them, in child-friendly language when accessing any new service or acquiring a new product online. Relevant businesses need to make available ways in which their service or product operates, in particular in terms of the discriminatory methods mentioned in this paragraph *(‘…deployment of automated decision-making based on protected, biased, partial or unfairly obtained information*.’).

**B. The best interests of the child (art. 3, para. 1)**

Paragraph 13: The ISPCC suggests to strengthen this sentence by including the words in bold: ‘*Although the digital environment was not originally designed for children, they* ***legitimately*** *occupy the digital space along with adults* ***through necessity and by design***.’ This has become especially evident and important when children’s educational and social lives were completely moved to the digital environment during the recent global pandemic that is COVID-19.

Paragraph 14: The ISPCC believes the Committee’s inclusion of the term *‘…assumed interests and rights of others…*’ is noteworthy and will support challenges to current narratives where, at times, the interests and rights of ‘others’ tend to supersede those of the children businesses are trying to get to use their products and/or engage with their services. A child’s right to be protected must be paramount. Relevant businesses must be more transparent in how they determine their interests and rights, and it is welcome to see that States will be more transparent in how they determine the best interests principle accordingly, including demonstrating what criteria have been applied.

**C. Right to life, survival and development (art. 6)**

Paragraph 16: The ISPCC welcomes the Committee’s inclusion of this sentence in its General Comment and feels it could be further strengthened by including the words in bold: ‘*States should identify and address emerging risks children face in diverse contexts by consulting them as children have an important insight into the particular and emerging risks they face****, and insights as these risks evolve***.’

Paragraph 17: ‘*When determining the appropriate use of digital devices, and advising parents, caregivers, educators and other relevant actors, States should take into account research on the effects of digital technologies on children’s development, especially during the critical neurological growth spurts of early childhood and adolescence*.’ The ISPCC suggests that the Committee consider asking States not just to take into account research on the effects of these technologies but to be a key driver in generating such research, and/or providing resources to support same. Findings/outcomes from such research needs to be communicated to the public too, to further increase awareness and education in this respect.

**D. The right to be heard (art. 12)**

Paragraph 19: The nod to applying appropriate safeguards in the last sentence in this section might benefit by the inclusion of the words in bold: ‘*States should ensure that designers and providers of digital technologies and services actively* ***and meaningfully*** *engage children, applying appropriate safeguards, and give their views due consideration when developing their services*.’

The ISPCC feels this section needs to reflect the necessity of relevant businesses to create mechanisms that facilitates them to hear the voice of children and reflect this in the design and delivery of their products and services. Children are the main stakeholders in services and products aimed towards them, and are key stakeholders in other universally accessible products and services, and it is imperative that businesses develop mechanisms to consult with them meaningfully. Actors who may not have previously viewed this as a necessity should be supported to carry out such consultations, taking into account children’s voices at all stages of the process.

**IV. Evolving capacities (art. 5)**

Paragraph 21: The ISPCC suggests the Committee could go further in its intention with this view to include the words in bold: *‘States should require digital providers to offer or make available services to children appropriate for their evolving capacities****, that include – but are not limited – to addressing additional needs in their efforts to be inclusive****.’*

**V. General measures of implementation by States (art. 4)**

Paragraph 23: The ISPCC is heartened to see the Committee’s viewpoint on consultation in this sentence: ‘*In the development of policies and practices that affect children’s rights regarding the digital environment, States should consult with children, their parents and caregivers*.’

The intentions of this paragraph could be further strengthened by encouraging States to adopt a parent-centred approach and design when consulting with parents, as often parents ‘don’t know what they don’t know’ when it comes to supporting their children in the digital environment. Research has shown us that parents can take different approaches in supporting their child’s digital journey.[[2]](#footnote-2) And, that due consideration must be given to parents’ capacity to participate meaningfully in such consultations.

**B. Comprehensive policy and strategy**

Paragraphs 25 and 26: The ISPCC warmly welcomes the Committee’s inclusion of the importance of States drawing up action plans and/or strategies in respect of children’s rights in the digital environment. However, the challenges for States to develop action plans and/or strategies must be recognised, when it may be difficult for them to understand the breadth of the problem they are trying to address in such plans/strategies.

It is felt that this paragraph could be strengthened by suggesting that States seek industry to employ a standard, statutory reporting instrument stating the prevalence of a particular issue; industry responses; and mitigations employed to reduce/eliminate such risks and harms within the services/products aimed towards and/or likely to be used by children, and evaluations of such interventions. Such analysis would be useful in informing such action plans/strategies.

**C. Coordination**

Paragraph 28: The ISPCC welcomes this view from the Committee, as has been our past experience where there is no ownership of the problem and necessary leadership is absent, the problem will not be addressed.

**D. Allocation of resources**

Paragraph 29: The Committee championing investment in initiatives to realize children’s rights in the digital environment is a welcome inclusion. Many States are already playing catch-up in this respect. The COVID-19 global pandemic catapulted the digital environment front-and-centre of everyone’s lives – but, showcased the gaping holes, too. And, in particular in respect of online child sexual exploitation, as Europol’s report highlighted.[[3]](#footnote-3) It is imperative States invest greatly in initiatives to protect children online and initiatives that support their wellbeing and strengthen their resilience.

**E. Data Collection and Research**

Paragraph 31: In respect of the Committee’s intentions in this paragraph it would be useful to suggest that States demonstrate how and where such data collection and research informed its approach to regulation and development of new laws and policies.

**G. Dissemination of information, awareness-raising and training**

Paragraph 34: The ISPCC suggests that the Committee includes a view that provision of training to professionals – and by professionals – needs to be to a specific standard.

**H. Cooperation with civil society**

Paragraph 35: This paragraph could be strengthened by suggesting that States need to demonstrate how and where such opinions were provided for.

**J. Commercial advertising and marketing**

Paragraph 40: The ISPCC asks the Committee to consider the suggestion that the type of activity mentioned in this paragraph should come with a pop-up descriptor of how, what and why the business is processing the child’s data/personal data.

**K. Remedies**

Paragraphs 45 and 49: The ISPCC urges the Committee to strengthen this paragraph by including that States should have policies and/or laws in place requiring businesses who provide products and/or services aimed towards children to commit to provide for these same conditions as a term of their business to operate in the State. Often victims want quick remedies to prevent the onward sharing of content/images pertaining to them, and it should be within the gift of the service provider in the first instance to address this in the most time efficient and effective manner. In the event this does not offer a satisfactory remedy, there must be an appeals mechanism to an independent regulator.

Paragraph 50: The ISPCC asks the Committee to consider including the need for States to provide guidelines on the expected framework of a complaint, including timelines for such a remedy would strengthen this paragraph and address a victim’s expectations in respect of a response/remedy, and to understand the remedial process.

**VI. Civil Rights and Freedoms**

**A. Access to information (arts. 13 and 17)**

Paragraphs 54, 55, 56 and 57: The ISPCC suggests the Committee considers including that States, where appropriate champion/promote legitimate information sources and seek to challenge untrustworthy sources, in particular those aimed towards children that are known to promote widely-accepted, factually incorrect falsehoods.

And, that awareness should be created around content that is created by and/or promoted by an influencer for monetary and/or other gain, and that relevant businesses should be supporting the identification of same.

Paragraph 58: The ISPCC asks the Committee that the intention of this paragraph also states that journalists be sensitive that survivors are online and could readily view reports and take issue with headlines and/or content where unlawful and/or harmful incidences to specific, and perhaps easily identifiable individuals, have occurred and are subsequently reported on to illustrate potential digital risks.

**C. Freedom of thought, conscience and religion (art. 14)**

Paragraphs 63 and 64: The ISPCC welcomes the Committee’s views in these paragraphs. When children search for support content online they are often ‘served up’ content not conducive to this; content that can be harmful and that can exacerbate how they are feeling.[[4]](#footnote-4)

**E. Right to privacy (art. 16)**

Paragraphs 71 and 75: The ISPCC welcomes the Committee’s intention in this sentence: ‘*This means any such interference must be provided for by law, be aimed at achieving a legitimate purpose, be proportional and not in conflict with the provisions, aims and objectives of the Convention*.’ And, further in paragraph 75: ‘*Privacy and data protection legislation and measures should not arbitrarily limit children’s other rights, for example their right to freedom of expression or protection rights*.’ States supporting the use of tools such as Microsoft’s PhotoDNA, and similar, for a specific purpose with the aim to protect children should be embraced.

**VII. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39; OPSC; OPAC)**

Paragraphs 82-85 and 87-88: The ISPCC welcomes the Committee’s clarification in these paragraphs on the necessary regulatory approaches States must take to meet their obligations in addressing harmful content and to protect children from violence.

**X. Basic health and welfare (art. 24)**

Paragraph 102: The ISPCC welcomes the Committee’s intentions in this paragraph, and in particular that ‘*States should ensure that children have safe, secure and confidential access to trustworthy health information and services, including psychological counselling services*.’ This is especially pertinent where such sexual health and relationship education programmes are ineffective and/or non-existent. The ISPCC views the provision of such information as a key protective factor in respect of potential child sexual abuse, and/or potential sexual assault/harassment in the future.

**XI. Education, leisure and cultural activities**

**A. The right to education (arts. 28, 29)**

Paragraphs 113 and 114: The points made in this section as a whole in respect of the use of digital technologies is welcome. In respect of paragraphs 113 and 114 the intentions are particularly welcome. Evidence-based and evidence-informed education to support children to navigate the digital environment in a safe, productive and protective manner is vital. Plurality in delivery can be useful, but States must have a role in ensuring that content is safe and fit for purpose.

**5. CLOSING REMARKS**

The ISPCC commends the Committee on its draft General Comment, which lays out clearly how the rights provided for within the UN Convention on the Rights of the Child are applicable to the digital environment. It sees how this General Comment will support states parties on how best to meet their obligations under the Convention by observing the contents of this General Comment.

We look forward to seeing the final iteration of it.

1. <https://www.internetmatters.org/hub/news-blogs/using-family-friendly-wifi/> [↑](#footnote-ref-1)
2. <https://www.kqed.org/mindshift/56339/when-it-comes-to-screens-kids-need-a-guide-not-a-disciplinarian> [↑](#footnote-ref-2)
3. <https://www.europol.europa.eu/crime-areas-and-trends/crime-areas/child-sexual-exploitation> [↑](#footnote-ref-3)
4. <https://www.harrowtimes.co.uk/news/18749681.social-media-suicide-posts-seen-molly-russell-extreme-coroner-told/> [↑](#footnote-ref-4)