

# Save the Children’s comments on the draft General Comment on children’s rights in relation to the digital environment

Save the Children (SC) thanks the Committee on the Rights of the Child for the opportunity to input on the draft General Comment (GC) on children’s rights in relation to the digital environment. SC welcomes the GC as a necessary and useful tool for interpreting and applying the UN Convention of the Rights of the Child in the digital age.

In its assessment of the draft GC, SC pays specific attention to its strategic global priorities: child survival, learning and protection. Moreover, SC looks particularly at a number of issues related to the digital environment, the importance of which is likely to remain high or increase over time, such as questions related to privacy, accessibility, and acquiring sufficient digital skills.

Special attention has been paid to some larger issues which, according to SC’s assessment, are not sufficiently taken into account in the draft GC. These include the power of transnational companies, the role of norms and attitudes as well as vulnerability in the digital environment.

During the process, SC has consulted experts in the field of child rights and digitalisation across SC members and country offices all over the world.

A note about markup: Paragraphs marked with a red sidebar contain edit suggestions to the draft text. **The actual changes are marked with bold red font.**

## General observations

The draft GC addresses a wide range of opportunities and challenges related to the rights of the child in the digital age, and strikes a fine balance between the rights related to participation on one hand, and those related to protection on the other. The definition of the digital environment is extensive, although could include aspects of the interface between digital technology, societal structures, and the human experience.

The role of cultural norms and attitudes within the digital environment is an important factor, which is not sufficiently addressed in the draft. Norms and attitudes can be a source of discrimination in a community, or can facilitate harmful behaviour, such as recklessness, indifference to norms or self-harm. Norms and attitudes can also protect children against different forms of online harm, for example through restraining overuse as well as risky or hateful behaviour. States should be encouraged to foster and support inclusive digital norms and attitudes, which promote equality, participation, safety, well-being, learning, and human rights.

The draft falls a bit short in defining vulnerability. For example, the fact that disability in relation to the digital environment comes in many forms and levels of severity is not very well addressed in the text. Also, a clearer distinction should be made between vulnerable groups affected by armed conflict or disasters and other marginalised groups.

Finally, consideration should be given to the fact that some of the measures required from the states may fall beyond the power of an individual state. Many of the business actors, which the states are required to govern (see e.g. paras. 26, 37, 38, 57, 72, and 87) are transnational and would require strong international cooperation to be better regulated.

## Specific comments and edit suggestions

**I. INTRODUCTION**

### P2

The definition of the digital environment is comprehensive but has a very strong technological focus. We would suggest a wider perspective of the digital environment as an interface between technology and human action.

“Digital environment is an environment where digital technology constitutes, permeates and transforms social structures and shapes the human experience, creating new direct or indirect possibilities and constraints to human activity, on individual, societal or global levels. It is continually evolving and expanding. It includes e.g. the internet and mobile technologies...”

Seeing the “human side” of the digital environment is very important, as children are not mere users, but rather inhabitants of the increasingly digitalised environment, and this affects how they are seen as right-holders, especially when it comes to their participatory rights.

The suggested formulation also allows for a more flexible application of the definition in new situations, e.g. when new technology, not listed under para. 2, emerges.

### P4

“The opportunities and the risks of harm **and violations of rights** for children are likely to increase, even where children do not actively access the internet, as societies progressively rely upon digital technologies for their functioning”.

### III. GENERAL PRINCIPLES

1. **The right to non-discrimination**

### P10

P12 includes a more comprehensive list of specific groups of children. Selective examples of specific groups should be removed from this paragraph.

“The right to non-discrimination requires that States ensure all children*~~,~~* ***~~i~~*~~ncluding children of lower income families, children living in rural and remote areas~~** have equal, **safe** and effective access to the digital environment in ways that are meaningful for them”.

### P11

Consider adding:

“Children report many forms of discrimination in relation to the digital environment, including through actions that result in exclusion from digital technologies and services, or hateful communication, **cyberbullying** or discriminatory treatment. **Some children, particularly migrant children, don’t trust technology and may voluntarily not use it**”.

**P12**

“This includes minority and indigenous children, **children with disabilities,** children living in rural and remote areas, asylum-seeking, refugee and migrant children, LGBTI children, child victims of sexual exploitation, children in poverty **or of lower income families, unaccompanied and separated children or** ~~and~~ children in alternative care,including **child care** institutions, and children from other vulnerable situations.”

### The best interests of the child

### P14

The participation of children in defining online harms as well as their best interest should be ensured.

“When making decisions relating to the **development and** regulation of the digital environment...”

### Right to life, survival and development

### P16

“States shall take all appropriate measures to protect children from the risk and threat to their right to life, survival and development in the digital environment, **and respond when they are exposed to harm**”.

Harmful communities (self-harm, hate communities etc.) should be examined as a separate phenomenon. They are more than just a combination of harmful content and contacts, as children can become members of them and build their identities on the basis of the membership. This is something the social media has brought about especially.

“These include content, contact and conduct risks**, as well as risks arising from harmful online communities**...”

### P17

The term *addiction* should not be used in this paragraph. It is highly controversial and potentially stigmatising, especially when talking about children. The most widely used diagnostic systems ICD and DSM do not recognise the term, but use the term *disorder* instead.

“Moreover, although there is insufficient evidence that early use of digital devices may increase the risk of later **behavioural disorders**, a precautionary approach should be taken also in this respect”.

### The right to be heard

### P18

“States should offer training, **adequate guidance,** and support to children…”

### P19

“When developing **and reviewing** laws, policies, programmes, services and training on children’s rights in relation to the digital environment...”

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### V. GENERAL MEASURES OF IMPLEMENTATION BY STATES

**B. Comprehensive policy and strategy**

### P26

“In addition to regulation, industry codes and design standards, such action plans should establish and promote, inter alia, training and guidance for parents and caregivers, relevant professionals and the public, programmes to develop children’s digital skills, access to opportunities **and understanding of their rights**.”

“Such measures should protect children **from all forms of online harm,** and provide…”

### C. Coordination

### P28

“It should also **meaningfully involve children and** cooperate with businesses…”

### D. Allocation of resources

### P29

Consider adding:

“**The effectiveness of such measures should be evaluated on a regular basis**.”

### G. Dissemination of information, awareness raising and training

### P34

The UN Guidelines for the Alternative Care of Children uses the term “residential care” rather than alternative care institutions. Alternative care is an umbrella term to all forms of care, including residential care. The term “institution” is also too narrow as there may be residential care facilities that are not ”institutional in nature” – ie a small group homes where children go for a temporary amount of time, are integrated in the community and receive specific services based around their needs.

“Professionals working for and with children in all settings, including in health and mental health facilities, in social work, **residential care facilities** ~~alternative care institutions~~, law enforcement, the justice system as a whole, and the business sector including the technology industry, **as well as students of these disciplines,** should receive training…”

### I. The business sector

### P37

Consider adding:

“States should also require businesses to provide their terms of use and abuse reporting procedure in child friendly language.”

### P41

Bypassing parental consent for advertising directly to children is a big problem on social media platforms and has not been resolved in a satisfying way.

Consider adding:

“**Parents’ and caregivers’ control over advertising aimed directly at children should be strengthened. Discriminatory advertising as well as advertising, which may contribute to children’s negative self-esteem, should not be allowed**.”

### P42

“Neuromarketing of child-directed products, applications, and services, **as well as persuasive technologies aiming at increasing children’s use of digital technology** should also be prohibited.”

### K. Remedies

### P45

“Such mechanisms should include free, widely-known, safe, confidential, and child-friendly complaint and reporting mechanisms to the relevant authorities**, as well as accessible information about children’s rights and legal protections**.”

### P47

“Reparation should be timely to limit ongoing and future damage. **Sufficient psychological support should be provided for child victims throughout the reparation**.”

### P49

“States should ensure that businesses provide effective **child friendly** complaints mechanisms.”

### VI. CIVIL RIGHTS AND FREEDOMS

### B. Freedom of expression

### P60

Community rules of online platforms, especially those made for children may restrict children from discussing about topics deemed as negative, such as self-harm or suicide.

### D. Freedom of association and peaceful assembly

### P67

“States should ensure that their laws, regulations, and policies protect children’s right to participate in social, civic, political, religious, environmental, and cultural organizations **and movements** that operate partially or exclusively in the digital environment.”

“States should **encourage children’s participation in** associations or assemblies in the digital environment, and ensure it does not result in negative consequences to those children, such as exclusion from a school, deprivation of a scholarship, police profiling **or other forms of surveillance**.”

### E. Right to privacy

### P69

Some clarification as what kind of information is to be considered private is needed here. Private data can include, among other things, personal data, assessments making use of personal data, private communication, metadata related to such communication, location or device-related data, compiled profiles, data points related to personal preferences or online behavior, etc. It is also important to point out that children should have an ownership of their data.

### P71

“This means any such interference must be provided for by law, **be in the best interest of the child,** be aimed at achieving a legitimate purpose, be proportional…”

### P72

“Such legislation should include strong safeguards, independent oversight and access to remedy,

**and follow the principle of data minimisation**.”

### P75

The right to privacy may sometimes be in conflict with child’s right to protection, e.g. in cases of grooming or distributing child sexual abuse material. The use of end-to-end encryption, which is a crucial element in protecting a person’s privacy, may make protection and remedy measures more difficult to implement.

### P77

Parents are often tempted to check the location of their children by using digital tracking tools. This violates the child’s right to privacy, but many parents are not aware of this.

“They should also be advised that any monitoring of the child’s **use of digital devices and content** **as** **well as the use of digital tracking tools** should be proportionate and in accordance with the child’s **best interest and** evolving capacities…”

### F. Birth registration and right to identity

### P80

Information about a person’s ethnic background or faith can be used by the state to filter out certain groups of individuals in a manner, which is against the principle of non-discrimination. A system where a person’s personal identification number includes information about a person’s gender may discriminate against transgender children:

“For such systems to benefit children’s realization of their rights, States should also ensure that they do not hinder children’s access to basic services nor violate children’s privacy and identity, **and be non-discriminatory by design**.”

### VII. VIOLENCE AGAINST CHILDREN

We would like to highlight the importance of using terminology that respects the rights of a child – as has been well done in the draft General Comment (e.g. paras. 83-85, 87). Terms such as ‘child pornography’ and ‘child prostitution’ do not respect the child nor describe the violent act the child has been subjected to and should not be used.

### P83

P83, consideration should be given to the transnational nature of these crimes and of the response.

“The digital environment opens up new ways for sexual offenders to solicit children for sexual purposes, participate in online child sexual abuse via live video streaming, distribute child sexual abuse material, and commit the sexual extortion of children. **These crimes are often transnational by nature. International co-operation between law enforcement bodies is of crucial importance in combatting crimes against children committed in the digital environment**.”

### P86

“The digital environment opens up new ways for non-state groups, including **violent extremist groups,** armed groups and those designated as terrorist groups to recruit and exploit children to engage with or participate in violence.”

### VIII. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

### P92

Generally, a healthy, open and trustful relationship between a child and the parent is the best way to protect children online. Parent's non-judgemental attitude towards digital media lowers the child's threshold to talk about possible problems. It is also worth mentioning that children who are vulnerable in their lives in general also face more risks in the online environment.

### P94

“States should ensure that children separated from their families, such as children in alternative care, migrant or refugee children, or children in street situations, have access to digital technologies **and adequate support to use them safely and effectively** including…”

### IX. CHILDREN WITH DISABILITIES

### P96

“The digital environment opens new avenues for children with disabilities to engage in social relationships with their peers, access information, and participate in public decision-making processes. **Being able to use digital technologies efficiently is a requirement for participation in a modern society**.”

### P97

“Barriers that children with disabilities face in the digital environment relate to insufficient **support** and access to assistive technologies at home, school, or in relation to culture, play and communication with peers. **The problem is exacerbated when children’s access to necessary support is limited, for example in distance learning**.”

“Further, many websites, applications, games and other digital services fail to meet universal design requirements to ensure accessibility, **or even actively discriminate against children with disabilities.**”

### P99

“Children with disabilities should be **meaningfully** involved in the design, delivery **and monitoring** of policies…”

### P100

“Children with disabilities **are** more exposed to online risks, including bullying and **sexual abuse and exploitation** in the digital environment.”

### XI. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

**A. The right to education**

### P107

Especially for children with disabilities or learning difficulties, education technology can be a paramount tool for enabling learning.

The lack of digital skills, in addition to the lack of actual digital devices, is a major factor driving digital divide. This equity gap can exist between individuals, regions and even countries, and may lead to the disconnection from the global network of employment, production and power.

The ongoing COVID-19 crisis has widened the equity gap between children, both nationally, regionally and globally, especially in the field of education.

### P110

Education technology can strengthen teaching as part of a blended learning approach when designed to complement teachers' skills and school resources and capacity. Ensuring children’s access to support during distance education, either by family members, community tutors or a teacher is paramount for children’s learning.

Consider adding:

“**States should ensure that schools have sufficient resources to provide parents with guidance on distance learning, online home schooling and learning environments, and ensure children have access to support and help with schoolwork when out of school. Schools should plan for a blended learning approach making it easier to continue learning if schools have to temporarily close.**”

### P111

“States should invest equitably in technological infrastructure for education in **and outside** schools...”

The barriers of access to technology for the most marginalized should be clearly emphasised.   
Consider adding:

“**Distance learning initiatives must take into account barriers that the most marginalised and deprived children face in accessing technology. Girls, displaced children, and the poorest children are often unable to access the internet or the necessary technology to access distance learning platforms. It must be ensured that low- and no-tech options are also available and used, including paper-based learning materials, and broadcast media such as radio and TV.**”

### P113

“This curriculum should include **critical thinking skills, critique of sources,** the skills to handle a wide range of digital tools ...”

“Also, it should promote awareness of the risks of children’s exposure to potentially harmful content, contact, **communities** and conduct, including cyberbullying…”

### P114

“It is of increasing importance that children gain **necessary skills and** an understanding of the digital environment.”

**B. The right to culture, leisure and play**

### P116

“…and States should ensure that children can participate **safely** in online cultural life and express themselves.”

### P118

“…outdoor recreational activities can provide health benefits, as well as functional and social skills. **The development of such skills may be threatened by overuse of digital technologies.**”

### XII. SPECIAL PROTECTION MEASURES

**C. Protection of children in armed conflict, migration and other vulnerable situations**

### P125

Digitalisation brings about new kinds of societal vulnerabilities: critical infrastructure’s dependency on electricity and connectivity, vulnerability in the face of cyber-attacks and so on. Just as physical conflicts and disasters, these can have major impact on the realisation of children’s rights.

**XIII. INTERNATIONAL AND REGIONAL COOPERATION**

### P127

The immense power the leading social media platforms exercise through technological development, investments and lobbying poses a challenge to traditional nation states and their capacity to regulate these companies. The regulation of such companies is most effective when done through regional or international organisations.