Draft General Comment No. 25 (202x) Children’s rights in relation to the digital environment

Comments by the National Center for the Rights of the Child (Republic of Korea)

The National Center for the Rights of the Child (NCRC) of the Republic of Korea deeply appreciates the meaningful work of the Committee on the Rights of the Child and the opportunity to comment on the Draft General Comment No. 25 (202x) Children’s rights in relation to the digital environment. The NCRC hereby submits its comments to the Committee as follows:

**Independent monitoring**

Regarding Paragraph 32, the NCRC agrees that States should ensure that the mandates of national human rights institutions, or other appropriate independent institutions, also cover children’s rights in the digital environment, and are able to receive, investigate and address complaints from children and their representatives. As to this, it is our view that relevant laws should be established or amended, in case where necessary, to ensure that national human rights institutions or other independent oversight bodies protect child rights in the digital environment within legal frameworks.

Legal frameworks which stipulate authority and mandates, including ways to further strengthen the granted authority, of national human rights institutions or oversight bodies would help them to remain independent, free from any outside influence, monitor children’s rights in the digital environment in a professional and objective manner, take actions accordingly, and effectively receive, investigate and address complaints from children and their representatives.

**Dissemination of information, awareness-raising and training[[1]](#footnote-1)**

Regarding Paragraph 33 and 34, the NCRC largely supports the view of the Committee that States should disseminate information and conduct awareness raising campaigns on the rights of the child in the digital environment. It is our opinion that the Committee also considers developing global guidelines for digital literacy, taking into account the cross-border nature of the digital environment.

Approaches toward and content of digital literacy may differ by States due to quality of digital infrastructure, cultural heritage, and standards on the value of the digital environment. This, we believe, emphasizes the necessity of globally agreed guidelines which reflect different values and cultural diversity to ensure the safety of children in the digital environment.

In addition, the guidelines should call on States to provide education on digital literacy in a comprehensive manner, including professionals working for and with children, and develop policy goals on digital literacy.

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

Regarding Paragraph 72, the NCRC understands that States shall take legislative and other measures to ensure that children’s privacy is respected and protected by all organizations and in all environments that process their data. Nonetheless, the NCRC believes that the embedment of privacy-by-design, such as end-to-end encryption, requires thorough review and consideration as this could be potentially exploited to threat the right of children.

Investigation of law enforcement bodies is often interrupted by end-to-end encryption. This should not be overlooked considering the wide spread of materials featuring sexually abused children through Telegram Messenger, Facebook Messenger and other tools.

Back in 2019, the Department of Justice published an open letter, signed by the UK Home Secretary, the acting United States Secretary of Homeland Security and the Australian Home Affairs Minister, demanding that Facebook does not proceed with its plan to implement end-to-end encryption across all of its messaging services until the safety of users is guaranteed.

Cybercrimes targeting children are evolving into diverse forms and quickly spread through online platforms. Considering this, States and relevant businesses should have grave responsibilities to take calibrated measures to make sure that child rights and personal data are protected, and at the same time, the advancement of technologies is not discouraged.

**International and regional cooperation**

Regarding Paragraph 127 and 128, the NCRC agrees that the transnational nature of the digital environment necessitates strong international and regional cooperation to ensure that States, businesses and other actors effectively respect, protect and fulfil children’s rights in relation to the digital environment.

The NCRC invites the Committee to consider discussing ways to strengthen or create global networks, such as hotlines, among national institutions or other bodies responsible for protecting children in the digital environment, as unfortunately, there are already numerous cases reporting child rights violations (e.g., child victims of sexual exploitation and the rights of kid influencers on YouTube) in the digital settings. Additionally, the development of global guidelines for child protection in the digital environment would set some boundaries to tech giants (e.g., Google, Facebook, Instagram and YouTube) which have great influence on children.

Materials, including sexual violence against children, uploaded online could be consumed in places where one State cannot exercise its jurisdiction. Such nature of the digital environment requires enormous time and energy to deter the wide spread of and encourage complete deletion of illegal content, which could inflict even greater damage on victims in the process. Forming or enhancing the already established networks, including hotlines, would enable effective and timely coordination and response to child protection in the digital environment.

Stronger international cooperation is also required to promote the right to be forgotten for child victims of sexually abused materials found online. As for Korea, the right to be forgotten is guaranteed under Article 44(2) of the Act on Promotion of Information and Communications Network Utilization and Information Protection, ETC.[[2]](#footnote-2) However, foreign companies such as Facebook and Google are not subject to the national law. Taking this into consideration, it is imperative that all States recognize the right to be forgotten in the digital environment as global agenda and discuss legal issues together for better implementation.

A great number of children in the world has already experienced services provided by Facebook, YouTube and Instagram, to name a few. Korean children are no exception.[[3]](#footnote-3) Global guidelines which tech giants could comply with should be established to ensure the safety of children using those services. Guiding Principles on Business and Human Rights announced by the UN in 2011 could be the example and revised in a way that applies to the digital environment.

1. Example: 2018 UNESCO Comprehensive Sexuality Education and 2020 TPD at Scale Coalition [↑](#footnote-ref-1)
2. Article 44-2(Request for Deletion of Information) Where information provided through an information and communications network purposely to be made public intrudes on other persons' privacy, defames other persons, or violates other persons' right otherwise, the victim of such violation may request the provider of information and communications services who managed the information to delete the information or publish a rebuttable statement (hereinafter referred to as "deletion or rebuttal"), presenting explanatory materials supporting the alleged violation. [↑](#footnote-ref-2)
3. As of November 2018, the monthly time watched on YouTube by Korean teenagers is 86 billion minutes, ranking first among other generations according to Wiseapp, a service that provides user behavior analysis data. In addition, according to Korea Information Society Development Institute in 2019, Facebook has the highest penetration rate (52.5%) among Korean teenagers followed by Tweeter (11.8%), and Instagram (11.3%). [↑](#footnote-ref-3)