Norway's comment to the Draft General Comment on Children's Rights in Relation to the Digital Environment

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| FNs barnekomite  Committee on the Rights of the Child |  |  |
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We would like to thank the Committee on the Rights of the Child for the opportunity to comment on this draft *general comment on the children's rights in relation to the digital environment*. This is Norway's comment to the CRC's General Comment on children’s rights in relation to the digital environment:

**III – A (The right to non-discrimination)**

In paragraph 10, second sentence, it is stated that «[s]tates should take all necessary measures to lower the cost of connectivity”. We would like to invite the Committee to consider whether this sentence could be slightly modified, for instance by stating that “[s]tates should aim at lowering the cost of connectivity”. We presume it varies among the states to what extent the cost of connectivity is regulated by the authorities and to what extent the level of costs is decided by the market, and that choices relating to the degree of interference in the market in this field should primarily be left to the states.

**V – B. (Comprehensive policy and strategy)**

Paragraph 27 reads as follows:

«States should ensure the operation of effective child online protection and safeguarding policies in settings where children access the digital environment, including pre-schools, schools, cybercafés, youth centers, alternative care settings and institutions where children live».

Although it is stated in paragraph 57 that content controls should not be used to restrict children’s access to the digital environment, and that such controls should balance protection against children’s rights, we invite the Committee to consider indicating in paragraph 27 the protection of children in the digital environment must be in line with other rights of the child, such as the right to freedom and expression, the right to privacy and the right to non-discrimination.

**VI – B. (Freedom of expression)**

The last sentence of paragraph 61 reads as follows:

“Children should not be prosecuted for expressing their opinions in the digital environment.”

As reflected in paragraph 60, children are not entitled to express their opinions in ways that violate legal rules, such as those related to incitement to hatred and violence. If children who have reached the age of criminal responsibility violate such rules incorporated in criminal legislation, they may be prosecuted. To reflect this, we suggest that the last sentence in paragraph 61 is amended as follows: “Children should not be prosecuted for expressing their opinions in the digital environment, unless they violate restrictions provided by criminal legislation which are compatible with Article 13.”

**VI – E (Right to Privacy) under 72**

We suggest to consider balancing the text in para. 72 slightly. Strong encryption plays a crucial role in protecting personal data, privacy, intellectual property, trade secrets and cyber security. It also serves a vital purpose in repressive states to protect journalists, human rights defenders and other vulnerable people, as stated in the 2017 resolution of the UN Human Rights Council on the right to privacy in the digital age (A/HRC/RES/34/7). Particular implementations of encryption technology does, however, pose significant challenges to public safety, including to highly vulnerable members of our societies; such as sexually exploited children. The WePROTECT Global Alliance, NCMEC and a coalition of more than 100 child protection organisations and experts from around the world have all called for action to ensure that measures to increase privacy – including end-to-end encryption – should not come at the expense of children’s safety. UK and other countries have issued a statement concerning end-to-end encryption and public safety, to enable reasonable, technically feasible solutions in cooperation with the technology companies, e.g. for law enforcement access to content in a readable and usable format cf. <https://www.gov.uk/government/publications/international-statement-end-to-end-encryption-and-public-safety/international-statement-end-to-end-encryption-and-public-safety-accessible-version>.

The implications of use of end-to-encryption has also been raised by the EU in relation to the EU strategy for a more effective fight against child sexual abuse, cf. <https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_1381>. The inserted sentence below, outlined in yellow, is proposed as an amendment to refer to the said challenge:

72. 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. Such legislation should include strong safeguards, independent oversight and access to remedy. States should encourage the adoption of privacy-by-design, such as end to end encryption, in services that impact on children. This should be done in ways that allows detection and reporting of child sexual abuse. States should regularly review such legislation and ensure that procedures and practices prevent deliberate infringements or accidental breaches of children’s privacy. States should ensure that consent to process a child’s data is informed and freely given by the child or, depending on the child’s age and maturity, by the parent or caregiver, and obtained prior to the processing.

**VII, under 82:**

The COVID-19 pandemic has led to an increased risk of harm online. Spending more time on virtual platforms can leave children vulnerable to online sexual exploitation and grooming. A rise in screen time, together with a lack of face-to-face contact with friends and partners, may lead to heightened risk-taking such as sending sexualized images. Increased and unstructured time online may expose children to potentially harmful and violent content as well as greater risk of cyberbullying.

**IX:**

It is of importance to ensure digital participation is not the only form of participation. Even with assistive aids, some children will not be able to take part in the digital community at the same rate as others. During home schooling under the corona pandemic, it became clear some groups did not get any outcome from digital platforms. It is therefore important that digital participation is a supplement, and not a replacement for physical participation.

In regards to universal design, it should be stated clearer as a requisite for inclusion and participation.

Example:

The Norwegian Directorate for Children, Youth and Families (Bufdir) has produced guidance material on use of social media in Easy Read, especially targeting people with cognitive disabilities.

<https://bufdir.no/Nedsatt_funksjonsevne/Retningslinjer_seksuelle_overgrep_utviklingshemmede/Nettvett/>

Yours sincerely

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