**ISPCC submission to the Committee on the Rights of the Child’s Concept Note for a General Comment on Children’s Rights in relation to the Digital Environment**

**15 May 2019**

**INTRODUCTION**

The Irish Society for the Prevention of Cruelty to Children (ISPCC) is Ireland’s national child protection charity.[[1]](#footnote-1) It provides a range of child-centred services including childhood support services, family support services and mentoring, all of which are focused on building resilience and coping skills. These services support children and young people and their families to develop their own skills and enable them to deal with challenges and situations in their lives, and to promote their well-being.

The ISPCC provides Childline, Ireland's only 24-hour listening service for children and young people. It is free, confidential and non-judgemental, providing support to children across Ireland.

The ISPCC’s Childline service answered over 310,000 contacts from children and young people across its phone, online and text platforms in 2018. In addition, we worked with 432 children on a one-to-one basis through our child and family support service, supported 29 children through our mentoring service, and worked with 78 individuals in our group work service in 2018.

**Our Vision:** An Ireland where all children are safe, heard, and valued.

**Our Mission:** To make the protection of children everyone’s priority.

**Our Work:** We listen, we support, we protect.

**ISPCC OPENING COMMENT**

Children’s lives are being lived out online more and more, so much so that distinguishing between the ‘online’ and ‘offline’ worlds for children is virtually redundant. Children’s online safety is a key policy priority of the ISPCC. Realising children’s rights in the digital environment should be recognised as a cross-government Department/Ministry concern due to the broad ranging nature of the various aspects in play.

The ISPCC has a five-year partnership with the Vodafone Ireland Foundation with children’s online safety a core pillar. It is the belief of the ISPCC that such partnerships with industry lead to better-informed policy positions for both industry and those advocating for children’s rights and their protection.

Responding to the possible structure for the General Comment and its proposal to centre on key groups of rights to be realised in a digital world, the ISPCC puts forward the points below.

* **How can children’s views and experiences be expressed and taken into account when formulating policies and practices which affect their access to, and use of, digital technologies?**

Children are the main stakeholders in services and products aimed at 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.

Ireland has a participation unit within its Department of Children and Youth Affairs; there are participation structures at local level (Comhairle na nÓg) usually coordinated by local government authorities; and many children’s organisations have their own child/youth advisory panels; the ISPCC convenes its Children’s Advisory Committees (CACs) on a regular basis to consult with them on such matters.

Connectivity can be an issue for children who live in rurally isolated towns and villages and States parties must ensure all children have access to the digital environment, at a reasonable cost. It must be recognised that children with particular vulnerabilities, disabilities and/or those who may experience certain cultural impositions can be limited and indeed restricted in their ability to access digital technologies outside of issues with connectivity. Child rights impact assessments must be created and carried out.

Children have a right to participate and to have their voices heard and considered in matters that affect them, and all stakeholders in the digital environment must recognise this. Realising children’s rights in the digital environment is everyone’s business.

* **How can discrimination (originating offline or online) be effectively addressed, to ensure all children have their rights realised in a digital world?**

Children who experience particular vulnerabilities offline (child abuse; mental health; conflicts with parents; drug abuse; victimised in the past) can experience similar vulnerabilities online and their needs are best addressed with targeted and individualised responses and programmes.[[2]](#footnote-2)

* **Freedom of assembly**

Article 15 recognises the child’s right to freedom of association and to freedom of peaceful assembly. Interpretations of this outside of the digital environment may include children associating in groups for youth clubs, groups with common interests, peaceful protesting and so on. Children are now associating more and more in groups online. These may be closed groups where a child becomes a member to access supports and information from like-minded children or children who have/are facing similar life experiences as them, for example children whose parents are going through a separation/divorce; children who are exploring their sexuality; children experiencing mental health issues. Children may be part of open access groups and can benefit in a similar way. These online assembly groups can be a lifeline for some children and can offer support that is non-judgemental and non-directive.

* **How should the General Comment treat the role of parents and other caregivers?**

Parents and caregivers are key stakeholders in realising their children’s rights in the digital environment. However, many parents and caregivers can feel they do not have the requisite skillset to carry out this duty. States parties and businesses must play an active and ongoing role in supporting parents and caregivers to this end; in particular increasing their digital literacy levels. Public awareness campaigns; information leaflets; industry points of access and easily accessible and child-friendly terms of service should be standard practice.

The rights and duties of parents and caregivers in the digital environment should be no different to their rights and duties towards their children/children in their care in the non-digital environment. It is important to acknowledge that parents and caregivers can feel there is a difference and feel that their children know more than they do. While children may be technologically more savvy, at times, they still require their parents and caregivers to be the ones to set boundaries, to enforce rules and to set standards for behaving in the digital environment, just like they do in the non-digital environment. Parents and caregivers may need extra support and policies on parental education and support in the digital environment must recognise this.

* **Family environment, parenting and alternative care**

In respect of Article 20, access to digital technologies for children in alternative care is imperative. For many children in care access to social media platforms provide familial connectivity for the child in care; they can keep up to date with family and friends whom they may not be able to access physically due to their alternative care placements. Such digital access should also be risk assessed in cases where child protection concerns may exist and the reason for the child in care in the first instance.

* **How should the practices of businesses operating in the digital environment support the realisation of children's rights?**

Businesses whose products and services target children are key stakeholders in realising children’s rights in the digital environment and there is a clear need for businesses to be more transparent in their efforts to realise these rights. It is also imperative that businesses recognise how their products and services can be misused by bad actors to violate children’s rights, for example using the online space for financial gain by ‘live streaming’ the violent sexual abuse of children.

In the CRC’s own report on the Day of General Discussion on ‘Digital Media and Children’s Rights’ a recommendation stemming from the discussion stated that ‘…States parties adopt legislation to “prohibit all forms of advertising to children under 12 years of age, regardless of the medium, support or means used, with the possible extension of such prohibition to 16 years of age and to ban the practice of child brand ambassadors”.[[3]](#footnote-3) Developing and employing technical solutions such as robust age-verification mechanisms are key to identifying such audiences and preventing such targeting from occurring. Government ought to seek such safety and protection measures and similar measures ought to be demanded by key stakeholders and responsible shareholders. Businesses creating products and services directed at children need to invest adequate resources into concepts such as ‘safety by design’ in order to truly realise children’s best interests in these areas. While some businesses highlight safety expectations in their ‘terms of service’ and safety support information as examples of how they are working on these concepts, this puts the responsibility back on the user which is unfair, especially when the user is a child.

* **Right to culture, leisure and play**

Leisure and play in the digital environment in respect of Article 31 can involve children playing video games online, alone or multi-player, with people whom they know and sometimes with people whom they do not know, with little adult supervision or online moderation. The ‘Internet of Toys’ has introduced interactive toys to children while children can also use technologies that may not be Internet-enabled to play digital games, too. Consideration needs to be given to this new concept of ‘play’ and to how children’s rights can be best protected in the digital environment of online ‘gaming’ and play, especially in terms of a child’s best interests and a child’s right to privacy, as some of these toys can process a lot personal data.

* **Protection of privacy, identity and data processing**

There needs to be (further) transparency regarding the processing/profiling of children’s data. In December 2018, The ISPCC in partnership with the Vodafone Ireland Foundation and supported by Technology Ireland, the technology sector of Ibec, held a conference on online safety. The members of the youth panel who took part in the event stated they wanted more information from companies about how their personal data is used and more information on how to protect their privacy online; often terms of services are complicated and not presented in child-friendly, accessible formats.

Children looking to exercise their ‘right to be forgotten’ in the digital environment should have access to an effective and efficient complaints mechanism to realise this right.[[4]](#footnote-4)

* **Protection from violence, sexual exploitation and other harm**

Businesses need to recognise their responsibility in realising children’s rights in the digital environment under Article 34. While platforms’ terms of use may state that the uploading of exploitative images is prohibited, these images can appear across these platforms. Under the eCommerce Directive, platforms are not obliged to remove these images until they are made aware of their existence. Platforms should be more proactive in employing technology to prevent the upload of these images.

* **Access to Information and Freedom of Expression and Thought**

Article 17 speaks to a child’s right to access information. The availability of information in the digital environment is incredibly vast and can be from wide and varied sources. Unfortunately, due to the nature of the Internet this information is not subject to the rigorous scrutiny that information available in more traditional, non-digital environments is. Children need support to develop the critical thinking skills associated with evaluating the quality of the content they find online.

Freedom of speech must be protected in respect of the intentions of certain instruments.[[5]](#footnote-5) The right to freedom of expression is not an absolute right; there are restrictions. We have defamation laws, libel laws and laws against harassment and illegal hate speech; all forms of ‘expression’. While it is important to respect the fundamental right to freedom of expression, it is also important to recognise its limitations, and the reasons for these limitations. These limitations can be in place to protect a person’s good name and their livelihood; to prevent incitement to violence and hatred; terrorist activity, and so forth. The right to freedom of expression as stated in certain instruments speaks of this right as it pertains to thoughts; opinions; ideas; the acceptance of a pluralistic society. It does not speak to this right in terms of directing commentary/content towards individuals that is deemed harmful and/or causes harm, with or without the intent to do so. It is imperative businesses recognise their role in moderating this type of content.

* **How can States better realise their obligations to children's rights in relation to the digital environment?**

States parties firstly need to recognise that they ‘…have the main responsibility in realizing children’s rights…’[[6]](#footnote-6)

In order to create effective laws and policies that meet the lived realities of children in the digital environment, States parties must invest in ongoing research in this ever-evolving space. While children being interested in being online is a universally accepted position, their application and uses of Internet-enabled technologies can be different from country to country, and hence the associated risks can be, too.

States parties must work together to create international standards and frameworks, cultural and societal differences aside, to create acceptable operating principles for businesses. All States parties should use the Council of Europe’s *Guidelines to respect, protect and fulfil the rights of the child in the digital environment* as a basis to recognising and realising children’s rights in the digital environment.[[7]](#footnote-7)

There is a clear need for more robust regulatory and monitoring of businesses by States parties in order to realise children’s protection online. Due to the digital environment having no borders States parties need to work together to create universally enforceable legal instruments in order to best protect children online. Businesses must be made to work more effectively with States parties in order to realise the implementation of these laws. Cross States parties and cross business cooperation on an international level is imperative.

* **Right to Education and Digital Literacy**

Articles 28 and 29 of the Convention speak to the child’s right to an education. In 2017, the ISPCC in partnership with the Vodafone Ireland Foundation held a consultation with over 100 children (13-17 years) on their experiences of online safety education in school. These insights showed us that these children’s experiences of online safety education varied greatly. Some reported receiving online safety education incrementally from primary school, while others reported having experienced a once-off class at secondary school level and some reported having received none. These children also reported that often the task of delivering this content is assigned to a teacher who has little interest and who is ill equipped to teach the subject matter, leaving the child just as ignorant. These children viewed online safety as a ‘life skill’ which should be included as part of the school curriculum.[[8]](#footnote-8)

States parties must treat online safety and digital literacy as a core subject (like language and mathematics) and feature these more prominently on school curricula, from an early age. States parties have a responsibility to view this subject area in this light and to make provisions in their education systems for delivery of same.

States parties must provide adequate relationship and sexuality education to meet children’s lived experiences; with a view to reduce the need for children to search for this type of information online and end up viewing inappropriate and perhaps harmful content (e.g. pornography). Children’s rights and online safety education should be officially included on school curricula, taught by personnel with a particular skillset and knowledge base and supported by external groups. Children want to learn more about their rights in the digital environment and want to become aware of what online activities could potentially be illegal, e.g. possessing ‘nudes’ on a mobile phone. States parties should be leading on this type of child protection issue.

* **Health and wellbeing**

The ISPCC runs the Childline service in Ireland.[[9]](#footnote-9) Childline offers an active listening service via telephone, text and web support to children. Children access the web chat service online via smartphones, tablets and other Internet-enabled devices. Children who are looking to access specific supports and services can be challenged if they live in rurally isolated locations. The online availability of services like Childline can support a child when in need and can signpost to other services, where needed.

* **Is the realisation of children’s rights in the digital environment necessary to realise children’s rights in other environments?**

States parties and those not party to the Convention still have a lot of work to do in realising children’s rights across many environments: school; home; community and decision-making at government level.

Children continue to experience horrendous violations of their rights in many environments. Governments make the laws and policing authorities are charged with enforcing them. Unless these responsibilities and duties are taken seriously and significant investment in and recognition of children as individual rights holders takes place, children’s rights violations will continue to occur.

The drafting of this General Comment for the digital environment is welcome and we look forward to its progression.

1. <https://www.ispcc.ie/> [↑](#footnote-ref-1)
2. <https://www.youtube.com/watch?v=4PlJtQFgtww&list=PLUCE2-bFBI1s2TpJ3qRUbuyMfri7RbqPb&index=5&t=0s> from 05:10 [↑](#footnote-ref-2)
3. [Committee on the rights of the child report of the 2014 day of general discussion “Digital media and children’s rights”](https://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2014/DGD_report.pdf)  Pg.16 [↑](#footnote-ref-3)
4. <https://rm.coe.int/guidelines-to-respect-protect-and-fulfil-the-rights-of-the-child-in-th/16808d881a> Pg. 22 [↑](#footnote-ref-4)
5. <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>; <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN>; <https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf>; <https://www.echr.coe.int/Documents/Convention_ENG.pdf> [↑](#footnote-ref-5)
6. [Committee on the rights of the child report of the 2014 day of general discussion “Digital media and children’s rights”](https://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2014/DGD_report.pdf)  Pg.12 [↑](#footnote-ref-6)
7. <https://rm.coe.int/guidelines-to-respect-protect-and-fulfil-the-rights-of-the-child-in-th/16808d881a> [↑](#footnote-ref-7)
8. <https://www.ispcc.ie/index.php/online-safety-policy> [↑](#footnote-ref-8)
9. <https://www.childline.ie/index.php> [↑](#footnote-ref-9)