**For the** **Secretariat of the Human Rights Council Advisory Committee**

**Response from Denmark to the questionnaire on new and emerging digital technologies and human rights**

**Core questions**

1. **In what ways do new and emerging digital technologies help to protect and promote human rights? How can the positive benefits of these technologies be realized?**

*New and emerging technologies can make, and have made, major contributions to advancing human rights worldwide. Technology has the ability to empower human rights defenders, citizens and civil society organizations, develop new participatory processes, increase accountability and transparency, and help document human rights violations. To keep reaping the benefits of new technology, it is vital that trust in digital solutions is not undermined, which requires upgrading governance competence, skills and processes. In order to realize the benefits, intelligent systems such as artificial intelligence and autonomous intelligence systems must comply fully with human rights, democratic principles and ethical guidelines. Strong ethical and human rights standards for AI and the use of data should be developed and applied in both public and private sectors, while also enabling innovation and responsible technological development.*

1. **What are some of the key human rights challenges arising from new and emerging digital technologies? How can these risks be mitigated? Do new and emerging digital technologies create unique and unprecedented challenges or are there earlier precedents that help us understand the issue area?**

*In recent years, it has become increasingly evident that emerging technologies and digital platforms not only bring opportunity, but also new risks and challenges, including to the preservation and promotion of human rights worldwide. This is not a theoretical discussion: Misuse of social media platforms to spread hate speech and incite violence ‘online’ has already contributed to ethnic violence, killings and human rights violations ‘offline’ including in places such as Myanmar and Sri Lanka. If left unchecked by regulation, technology and digital platforms can undermine privacy, exacerbate inequalities, and erode public trust in our democratic institutions and elections. In addition, the rise of machine learning and artificial intelligence bring with it complex questions of algorithmic biases, discrimination and lack of transparency and accountability in decision-making (the ‘black box’ phenomenon). In order to mitigate these risks, our approach to technology must be rooted in a set of strong values that have defending democracy, institutions and human rights at its very core.*

1. **Is the existing international human rights framework adequate to safeguard human rights in an era of rapid technological innovation? Why or why not? If not, what types of reforms are needed?**

*The principles behind the UN Charter and those of the Universal Declaration of Human Rights should be the guardrails for safeguarding human rights in the digital age. As the recent report from the UN High-Level Panel (HLP) on Digital Cooperation reiterated, human rights apply equally online as offline. As such, the existing international human rights legal framework – being universal – is in principle adequate. How to apply this framework in a digitalized and online world is, however, a challenge that should be addressed, taking into account that the tech industry takes up a powerful and unique role – including as indispensable actors in the digital information infrastructure and generally as internet intermediaries. Due to the cross-border nature of digital technologies, and in order to ensure the adequacy of the existing human rights framework, international cooperation is more important than ever. The UN, together with other multilateral and regional organizations, have a key role to play in translating the existing global norms and rules to actual real life situations.*

*The UN Guiding Principles on Business and Human Rights provide a comprehensive and authoritative framework to safeguard, prevent and address the vast array of actual or potential risks related to digital technologies. However, challenges exist regarding its application to the tech industry. The complex questions on how to best ensure that the tech industry lives up to its clear responsibility to respect human rights, as set out in the UNGPs, need to be further clarified. Denmark therefore commends the OHCHR in its work to apply the UNGPs to the technology sector, including through the B-Tech Project.*

*Together with a core group of countries, Denmark has also taken specific steps to include human rights and new and emerging digital technologies to the Human Rights Council’s (HRC) agenda. In general, Denmark would like to see the HRC take on a larger role in discussing the human rights implications of emerging technologies.*

*It is equally clear, however, that we need to see a higher degree of societal responsibility coming from the multinational technology companies. As the Danish Foreign Minister has stated, many governments have been too naïve for too long about the full societal impact of new technologies. We agree with the HLP’s call on social media enterprises to “work with governments, international and local civil society organizations and human rights experts around the world to fully understand and respond to concerns about existing or potential human rights violations.” A lot more still has to be done. We need a structured dialogue with tech companies to make sure that democratic governments set the boundaries for the tech industry. The current trend of too-little-too-late is not sustainable.*

*More than ever, as noted by the HLP, we need multilateral dialogue to be complemented by effective and inclusive multi-stakeholder dialogue, which must - crucially - also bring the industry to the table. Neither governments, companies nor civil society can solve these issues alone. This is exactly the background for Denmark’s investment in technological diplomacy, TechPlomacy, and the establishment of a dedicated mission to technology headed by Denmark’s Tech Ambassador. The Tech Ambassador is based in Silicon Valley, but with a global mandate and a team that spans Silicon Valley, Copenhagen and Beijing.*

1. **In your opinion, are there any gaps or overlaps in existing efforts to respond to the issue of new and emerging digital technologies? Are some human rights or technologies being overlooked?**

*In line with Denmark’s comments to the report of the HLP, we would like to see more focus on the following areas:*

1. *Multistakeholder dialogue that also brings the tech industry to the table to address the challenges related to human rights and technology.*
2. *Combating the digital divide and promoting digital solidarity. A rising number of internet users worldwide does not in itself guarantee equal access – in fact, we see signs of growing digital inequalities within and between countries and regions. Denmark agrees that ‘Leaving No One Behind’ in the context of digitalization must be viewed broader than only as a matter of connectivity. We need more investments in digital skills and infrastructure and a boost of capacity building on key governance aspects to make sure all groups, especially younger generations, women and girls, are equipped to harness the benefits of digitalization. We must do what we can to avoid that the fragilities of the past becomes the fragilities of the future.*
3. *More focus on a responsible and ethical approach to AI and use of data both in the public and the private sector. We must ensure respect for human rights in the design, development and deployment of AI, as well as the development of ethical standards for the use of data and guidelines for Artificial Intelligence in businesses that secure trust and enable innovation in the digital economy. Denmark is developing a data ethics initiative aimed at equipping Danish companies with tools to become global frontrunners in this field. We would be ready to share experiences in due time.*
4. *Particular focus should be paid to the protection of privacy and personal data as well as to ensuring freedom of expression online while avoiding violating rights by e.g. spreading lies that incite hatred and foment violence.*
5. *Getting regulation right. In recent months, several of the largest tech companies have publicly welcomed more regulation on issues such as privacy. However, when policy makers lack sufficiently insight on how the platforms operate, it is very difficult to regulate in a smart and efficient way. There should be a mutual interest in avoiding over- or under-regulation and therefore in getting regulation right. The current information asymmetry has resulted in a gridlock that must be overcome by more openness from the industry and a more proactive engagement by governments and institutions.*

*Denmark sees the following risks for potential overlap:*

* *Instances where UN entities duplicate each other’s work regarding digital issues.*
* *Overlap in the large variety of mechanisms covering digital policy issues and many different entry points, making the cooperation more complex.*
* *A potential review of human rights and new technologies, as recommended by the HLP and in line with HRC resolution 41/11 referred to in this questionnaire, should be conducted by experts in the Human Rights Council and the OHCHR in order to ensure the necessary expertise on human rights matters.*

1. **As opposed to focusing on a selected few technologies, do you think a holistic and inclusive approach will help reduce any gaps in the existing system for addressing human rights challenges from new and emerging digital technology?**

*We believe that a holistic and inclusive approach towards digital development’s impact on human rights will be beneficial in order to enhance multi-stakeholder dialogue and will improve the understanding of how the international human rights framework, including the UNGPs, apply to digital technologies and platforms. Instead of focusing only on a selected few technologies, it is important to ensure respect for human rights in the design, development and deployment of new and emerging digital technology per se, e.g. by ensuring that the existing human rights framework is translated and applied in the digital economy.*

1. **What should be the role of the private sector in mitigating the risks of new and emerging digital technologies to human rights? What about the roles of other key stakeholders?**

*See above.*

*The private sector, especially the tech industry, has a critical role to play, from the management suite to individual coders and engineers. The private sector should play an active role in mainstreaming a responsible and ethical approach to technology. While legitimacy in global affairs ultimately lies in the community of nations, a variety of stakeholders, including the tech industry, should be brought into the equation to find adequate solutions and ensure that all actors show a level of responsibility proportional to their influence. The tech industry has to acknowledge that their platforms and products have played - and will continue to play - a role in relation to human rights violations in the digital age. In addition, this requires that the UN and other international organizations should continue to innovate their approach to partnerships and engagement with tech and relevant industries and civil society.*

**[…]**

**Specific questions for States**

1. **What measures, if any, (legislative, administrative, institutional, or other) have been put in place in your country to deal with human rights risks arising from new and emerging digital technologies? Are these measures still in the process of being implemented? If not, why are they no longer in progress?**

*The aforementioned Danish focus on technological diplomacy (TechPlomacy), with a dedicated Ambassador and representation to technology, is one of the measures Denmark has taken to begin to address the global human rights risks of emerging technologies. One of the central elements of this initiative is engaging with the tech industry, countries & civil society organizations to raise awareness of human rights risks tied to technology, as well to bring home insights and knowledge to inform policy making. As a specific example, Denmark hosted a closed-door roundtable discussion in September 2019 on the situation in Myanmar with participation of social media, local and international civil society and OHCHR. Over the last two years, Denmark has also collaborated closely with the OHCHR on engaging the industry in a discussion around technology and human rights.*

***Danish regulation and initiatives on CSR and business and human rights***

*T****he following is also relevant in terms of human rights risks arising from new and emerging digital technologies***

*Danish CSR-regulation*

*Since 2009, the Financial Statements Act, cf. Section 99a, has required the approximately 1,100 largest Danish companies and all state-owned limited liability companies to report on Corporate Social Responsibility (CSR) in their annual reports. Companies must explicitly state in their annual reports which measures they are taking to respect human rights and report if they do not have such measures in place. It must be stated for each policy area how the undertaking puts its CSR policy into practice, and any systems or procedures in this respect must be described. Details must also be given of the due diligence processes applied, if the undertaking uses such processes.*

*Non-judicial complaints-handling institution for issues related to corporations’ respect for human rights*

*The Mediation and Complaints-Handling Institution (NCP Denmark) is the OECD national contact point in Denmark and has a mandate to handle disputes regarding infringements of the OECD Guidelines for Multinational Companies. This includes issues related to human and labour rights, international environmental standards and corruption. Moreover, the NCP Denmark undertake promotional activities, which includes guidance on how companies should implement risk-based due diligence for responsible business conduct.*

*The Council for Corporate Social Responsibility and Sustainable Development Goals*

*The Council for Corporate Social Responsibility and Sustainable Development Goals (The Council) was appointed in 2018. The Council is the official multi-stakeholder platform for discussions and actions in support of business-driven corporate social responsibility and achieving the Sustainable Development Goals (the SDGs) by 2030.*

*The Council was launched with the purpose to actively contribute to better framework conditions in support for companies working strategically with corporate social responsibility (CSR) and the SDGs. Sustainable business models, digital opportunities to strengthen corporate social responsibility in global supply chains and the retention of vulnerable groups in Danish labour market are just some of the topics to be addressed by the Council.*

1. **How are new and emerging digital technologies affecting the protection and promotion of human rights in your country? What unique challenges or advantages does your country have in responding to the issue? What are the lessons or best practices that can be shared?**

*[No specific information.]*

1. **In your country, which government agency has an initiative in the decision-making of new and emerging digital technologies policies? Does your country have a special agency that exclusively deals with the issues of new and emerging digital technologies? (for example: The Disruption Council in Denmark, The Presidential 4th Industrial Revolution Committee in Korea) If so, how much does the agency take the human rights issues into account in its agenda?**

*The former Danish Government established a Disruption Council in 2017 with the aim of seizing the opportunities of new technologies and new ways of working. The work of the Disruption Council was concluded in 2019, but the current Government will continue to prepare Denmark for the future of work.*

*In Denmark, there is not one specific government agency that has the initiative in the decision-making of new and emerging technologies policies, nor one specific agency that exclusively deals with the issues of new and emerging digital technologies. Different ministries, agencies etc. address the issues where relevant, cf. as an example the abovementioned development of a data ethics initiative.*