



Child Rights Centre

Dobracina 29/3A, 11000 Belgrade, Serbia

Tel: (+381 11) 33-44-170, 32-86-690; Fax: 33-44-170; E-mail: office@cpd.org.rs

Comment on Draft General Comment No. 25 Children's rights in relation to the digital environment

In line with the Committee on the Rights of the Child's call for submissions on the draft of a General Comment on children's rights in relation to the digital environment, please take into consideration the following submission.

The Child Rights Centre warmly welcomes drafting of General Comment on children's rights in relation to the digital environment as well timed and highly relevant initiative.

This submission will focus on discrimination, commercial advertising and marketing, child-rights impact assessments, right to privacy, independent monitoring, remedies and right to education.

Discrimination

In paragraph 11 in the second sentence one should include the words "and machine learning" immediately after "deployment of automated decision-making".

Machine learning (ML) should be emphasized as special risks related to discrimination because predictive algorithms sometimes lead to biased outcomes, reproducing inequalities already present in society.

Commercial advertising and marketing

In paragraph 41 the following sentences should be added at the end: "States should pay special attention to regulation of sponsorships, product placement and affiliate programs targeting children by influencers on social networks. States should stimulate the advertising industry to develop self-regulatory instruments and mechanisms in this field."

Influencer marketing on social networks has an exceptional impact on children and youth, considering that the younger population extensively consume social media content. Although national commercial advertising and marketing regulation do regulate children advertising and usually forbid these practices there is evident lack of specific rules related to social media and limited supervision mechanisms. Therefore, we propose that states pay special attention to regulation of sponsorships, product placement and affiliate programs on social networks targeting children. The measures should be directed mainly to advertisers and advertising industry (marketing agencies etc.) which should be stimulated to improve and empower self-regulatory instruments and mechanisms. In addition, the capacities of trade/commercial inspections should be improved in order to be able to supervise these breaches.

Child-rights impact assessments

Following sentences should be inserted where appropriate: “States should require the public sector to undertake child-rights due diligence, in particular to carry out and disclose to the public child-rights impact assessments, with special consideration for the differentiated and, at times, severe impact of the digital environment on children. States should take appropriate steps to prevent, monitor, and investigate child rights violations by the public sector in the digital environment.”

Child-rights impact assessments (CRIA) are mentioned in relation to legislation (paragraph 24) and business sector (paragraph 24) but it is not mentioned in relation to implementation of technology solutions in the public sector. By mandating CRIA in relation to the rapid deployment of advanced technology across public sector (IT systems in education and health, profiling, use of AI and ML, video surveillance and facial recognition technology, etc.) potential risks related to children should be reduced.

Right to Privacy

In paragraph 41 one should insert the third sentence “States should require that implementation of facial recognition technologies should undertake child-rights due diligence, in particular to carry out and disclose to the public child-rights impact assessments”.

Implementation of video surveillance and facial recognition technology is quite popular in recent times. The introduction of these technologies is done in secrecy, without clear evidence on the need for biometric mass surveillance. Projects implementing such a technology are popular both in public spaces but also in relation to the educational institutions. It violates right to express freely, to assemble, to speak against injustices and to live without discrimination.

Independent monitoring

In paragraph 32 at the end of the first sentence one should include the words “via digital technologies”.

Communication by using digital technologies in relation to children’s rights in the digital environment should be considered as a default.

Remedies

In paragraph 49 in the third sentence one should include the words “data protection” after “consumer rights”.

Majority of newly developed data protection laws based on GDPR do require appointment of representatives of foreign companies if they perform cross border personal data processing.

The right to education

In paragraph 112 the following should be added as a last sentence: “States should ensure that implementation of technology infrastructure and solutions in education do not provide opportunity to private companies to obtain and misuse children data for data mining and other commercial and non-commercial purposes”.

Partnerships between the public and private sector in relation to implementation of technology infrastructure and solutions in education might provide private sector actors the opportunity to acquire educational big data and misuse children/students

personal data. Private companies are eager to use the data obtained in such a way for development of new business models. State institutions are usually not aware of such practices.

Belgrade, November 14, 2020

Jasmina Mikovic
Director
Child Rights Centre