

Comment on the General Comment on children's rights in relation to the digital environment

The following comment on the draft on the General Comment on children's rights in relation to the digital environment is the result of a consultation process initiated and organised by the Coordination Office for Children's Rights of Deutsches Kinderhilfswerk e.V. (German Children's Fund) in which a large number of mainly civil society organisations at federal level participated.

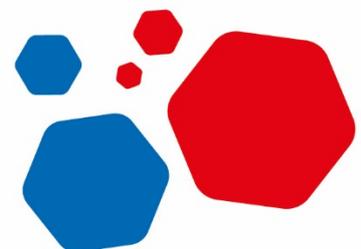
Twenty-eight associations and organisations from all over Germany took an active part in the process, participating in a group of experts on the subject of "Children's rights in the digital environment". The process was moderated by the head of National CRC Monitoring Mechanism.

After an information and kick-off event in March 2020, all participants engaged in intensive discussion of the draft of the General Comment in six working groups on various topics, such as "Equality of digital opportunity", "Digital literacy in the education chain", "Safe and healthy development" or "Digital identity and culture". After reviewing the output of all the working groups, a steering committee identified the comments submitted herein as being of greatest relevance.

Not all of those participating had a child rights-orientation in the context of their normal activities from the beginning of this process. For this reason, the consultation process aimed both to familiarise the various parties with the child rights provisions and, at the same time, to bring their diverse media expertise in the areas of research, technology and educational practice jointly to bear on the matter at hand. Another aim of the process was to generate awareness in civil society about the draft General Comment at an early stage. Deutsches Kinderhilfswerk e.V. would like to start using the text already as a source of interpretative guidance on the rights of children in the digital environment and hopes that it will provide important impulses for a process currently underway in Germany to enact legislation strengthening the protection of young people in the area of media¹.

We would like to congratulate the UN Committee, all of those involved in the working group, and particularly the children and young people who took part in previous consultations on the development of a very successful draft. In the opinion of the representatives of organisations and associations involved in the German consultation process, the draft already covers the relevant aspects of the digital environment, with all its facets, in an extremely comprehensive manner.

¹ Amendment of the Youth Protection Act (JuSchG)



Nevertheless, we would like to suggest the incorporation of a stronger emphasis on the interdependence of the analogue and digital environments, and that the Committee should draw attention to the interactions between these environments. This interaction works both ways: The influence of the digital environment on the analogue world is growing stronger and more pervasive, and digital identities increasingly influence how persons are perceived in the analogue environment. At the same times, risks in human interaction are being carried over from the analogue into the digital environment, where they can trigger more serious harms due to the rapid increase in exposure that the digital environment promotes. The digital environment is an extension of as well as an addition to the analogue environment; children tend not to distinguish between analogue as real and digital as virtual. We wish to draw attention to the fact that the development of the child's identity and personality can benefit from this entanglement.

Last but not least, the German stakeholders involved in the consultation process would like to encourage the UN Committee on the Rights of the Child to update the UN Convention on the Rights of the Child by drawing up an Optional Protocol on children's rights in relation to the digital environment. A binding obligation under international law is needed to serve as an authoritative guide for States Parties' efforts to take action to realise children's rights in an area which has taken on such great importance of children's lives but is not explicitly addressed in the Convention, and to enable them to do so with the assurance that they are interpreting their obligations in this area correctly.

Comments relating to specific paragraphs of the draft:

para. 5

We suggest that the Committee should amend the paragraph through the addition of a sentence emphasising that state policies need to be evidence-based and that this necessitates research, in which children should participate in an active role.

para. 10

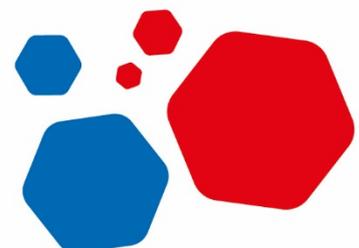
The Committee may wish to reconsider the inclusion of a reference to the provision of non-discriminatory access to devices.

para. 12

The Committee may wish to consider the possibility of clarifying that states should undertake efforts to identify all groups which might require measures of this kind, including through the collection and analysis of data, and to develop effective measures to prevent discrimination.

para. 16

We welcome the fact that the Committee stresses that the States parties should consult children in order to identify particular and emerging risks in the digital environment in paragraph 16!



para. 17

We welcome the Committee's emphasis of the importance of early childhood in the context of children's rights in the digital environment. The Committee should amend this paragraph to include a specific reference to early childhood education. Especially when talking about the state Parties' obligations, day care centres and kindergartens play an essential role in teaching even very young children digital literacy, one aspect of which, in our understanding of this concept, is the awareness that there are times and situations in which the use of digital technologies is not appropriate or safe.

The need to support these facilities in this role should not be forgotten in the context of States parties' responsibilities in this area.

para. 18-19

We explicitly support the interpretation of the State parties obligation provided in paragraphs 18 and 19, especially with regard to ensuring that developers, designers and providers actively engage children and give due consideration to their views when developing their services. In addition, we suggest that the Committee should emphasise the provisions of art. 3 and art. 12 CRC in this context.

para. 20

The Committee should consider adding a sentence strongly recommending that or referring to an obligation of States parties to implement a system which helps children, parents and caregivers by identifying different kinds of risks and providing guidance on age-appropriateness.

para. 23

We welcome the fact that the Committee underlines the importance of consulting children, their parents and caregivers in this paragraph.

para. 27, 28, 32

We welcome the concrete mention and specification of necessary structural tasks in these paragraphs.

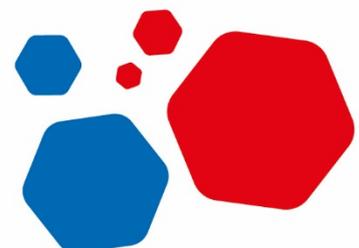
para. 31

We welcome the Committee's emphasis of children's role as active partners in research and data collection in this paragraph.

para. 41

We suggest that the Committee should consider highlighting the need for the provision of child appropriate information and transparency concerning commercially driven content:

"States should ensure that advertising and marketing are age appropriate and all forms of commercially driven content are clearly marked as such and distinguished from other content. All relevant information on commercially driven content that is provided must also be available in a child friendly format."



para. 42

We support the call for a legal prohibition as a protective measure in this paragraph.

para. 54

We note that the information provided online should include information addressing subcultures and diverse identities.

para. 55

We would like to draw the Committee's attention to the fact that the position of the adjective "biased" as the first in the series of adjectives suggests an undue emphasis.

para. 57

To render this paragraph more precise, we recommend inserting the following sentence directly before the last sentence: "*This concerns hardware and software or operating systems, factory settings and programmes.*"

para. 60

We welcome the Committee's use of strong language to emphasise that filters and other forms of barriers must not undermine children's right to freedom of expression.

para. 62

We welcome the inclusion of this paragraph and underline the necessity for States to prevent the provision of algorithm based manipulative content to children.

VI, E

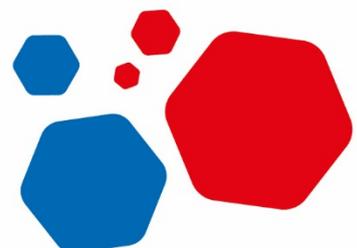
We welcome all of the recommendations contained in subsection E of section VI and urge the Committee to include additional language calling for information on privacy to be provided to children in child-friendly language and via images, audio and video, thus also contributing to accessibility.

para. 77

The Committee should take due account of the fact that abuses of the child's right to privacy can originate from children themselves. Therefore, we recommend inserting the following sentence at the end of the paragraph: "*Similarly, children should be made aware of the risks of their privacy being violated and should be educated about the danger of abusing the privacy of others.*"

para. 83

We note that newly developed technologies can render current technologies obsolete within short periods of time and urge the Committee to consider the use of less specific language that would also cover technical possibilities that may emerge the future.



para. 87

Paragraph 87 should also encourage States to require business enterprises to provide accessible, child-friendly and confidential reporting and complaint mechanisms.

para. 96

We urge the Committee to amend this paragraph by making the following important addition: *“In addition, states should promote media literacy for children with disabilities.”*

para. 113

In line with its General Comment on children’s rights in early childhood, the Committee should include a reference to the importance of early childhood education in the context of children’s rights in the digital environment and should mention the role of kindergartens and day care centres.

para. 120

We recommend amending the sentence by inserting the word “entertainment”, as follows: “Where States or businesses provide guidance, age ratings, labelling or certification regarding certain forms of digital play, *entertainment* and recreation, these should not curtail children’s access to the digital environment as a whole or interfere with their leisure opportunities.”

para. 123

We welcome the Committee’s emphasis of the importance of privacy- and safety-by-design in this paragraph.

Berlin, 13 November 2020

