**Feedback on the General Comment on**

**Children’s Rights in relation to the digital environment**

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| **Abstract** |

‘Hope For Children’ CRC Policy Center welcomes the initiative for comments and general feedback for the effective implementation of the Rights of the Child in relation to digital environment. We strongly believe that the engagement of multidisciplinary, multiagency and multicultural teams, including academia and civil society is essential in order for professionals to grasp the complexities of, and required responses to children’s rights. Particular attention driven to children with vulnerabilities and their protection for the full enjoyment of their rights and civil liberties. Children’s rights to privacy and freedom of expression should be realised in the digital world as they are established in the UNCRC.  |

**I.** *Introduction*

3. The rapid growth of digital environment, especially due to the pandemic of Covid19, and the excessive use of ICTs by children and adolescents for education, communication and entertainment, requires States’ collaboration for the complex matters arising around the protection of children. One of the main challenges to be tackled is the division[[1]](#footnote-1) of social, cultural and economic statuses due to the fact that not all children are provided with the same prospects, especially when in regards of digital education and meaningful participation. The States shall ensure digital inclusion by clarifying roles and responsibilities of businesses (primarily ISPs and ICTs), parents/caregivers, educators and children themselves. Guidelines should include implementation of National Strategies and Action Plans to ensure Cyber Safety of children and adolescents as well as to include the vulnerable groups, especially when in regards of digital education. In order for children to be able to enjoy their rights, governments need to realise, respect and protect children and their views in order to include economic, geographic and cultural factors to tackle gender inequalities[[2]](#footnote-2), accessibility, and for children with disabilities[[3]](#footnote-3) and unaccompanied children[[4]](#footnote-4) to explore potential educational benefits deriving from technology.

5. Mitigation of associated harms should include monitoring by States in regards of illegal and/or harmful content, including pornography as well as racist and violent material to ensure the benefits of engagement in digital environment and enhance their well-being[[5]](#footnote-5). The collaboration of States is essential in providing precise guidelines for ISPs and ICTs in monitoring harmful content when in regards of children and adolescents. The excessive use of the internet by different age categories (children, adolescents and young people, makes States responsible for tackling the different aspects each group might be facing, with focus on disadvantaged and vulnerable groups. Special attention should be driven to the fact that migrant and/or unaccompanied children have a high rate of use of smartphones[[6]](#footnote-6) but not of computers and tables which are the prime items for education when in regards of digital technology. Additionally, the excessive use of social media platforms by adolescents and young people can hide harms such as: cyberbullying, online grooming, online sexual abuse and/or exploitation as well as data protection issues[[7]](#footnote-7), which should be tackled, especially when in regards of more vulnerable groups such as; migrant and/or refugee children. Evidence[[8]](#footnote-8) provides that migrant and/or refugee children use social media platforms not only to engage in communication with their family but also to keep in touch with their countries of origin.

**III.** *General principles*

A. The right to non-discrimination

10. The effective implementation of the principle to non-discrimination is undoubtedly the key to tackle digital exclusion and the developed sense of isolation from the online community on one side, and protect and fulfil the right of participation and freedom of expression, on the other[[9]](#footnote-9). For children coming from the most disadvantaged contexts, specific measures concerning considerable inequalities urge to be taken, in order to leave no one behind.

Working with children, we can state that children themselves consider the right of access to the digital environment as a fundamental right and States need to recognise as essential the development of `digital rights` in parallel with the increase of digitalisation. Promotion of child-centred digital policies should be enhanced, starting from the analysis of the current barriers that prevent children from accessing the digital environment and requiring specific strategies to tackle each issues (e.g. expand access and lower the cost from internet providers[[10]](#footnote-10), incentive the development of local companies which could be able to deliver relevant content online for minority groups) and enhance provision, participation and protection in relation to ICTs.

11. The online environment can really become an equalizer of new opportunity to learn, communicate and gain new skills but it also deconstructs the idea of privacy and this expose many children to wider risks and discrimination as well (disclosure of personal information[[11]](#footnote-11), hateful contents based on disparate factors, cyberbullying etc.)[[12]](#footnote-12).If having access on Internet has become a quite urgent matter for all the children, especially amidst Covid19, restrictive protective measures are essential as well to assist children during their time online. States should promote awareness and sensitisation on such delicate matter which it`s affecting children more than it seems and call for an active participation of adults on the content, conduct and contact that children are interacting with. States should work along with companies and communities to empower children online, support families to be alert on warning signs determined by the digital world and reinforce safety features for online platforms/social media/website and ensure transparent and responsible data collection, in line with the national and international legal framework[[13]](#footnote-13).

The right to non-discrimination online definitely demands a more child-friendly digital environment where children can enjoy their rights online.

12. It seems of foremost importance, in parallel with the right to non-discrimination, to focus on the physical and mental well-being of children online which could be easily put under risk, working on prevention actions as a matter of priority.

Girls, for instance, witness digital inequalities which have increased during the previous months creating a more intense digital gender gap accessing and using the digital environment and its content and facing much more episode of cybercrimes than men.[[14]](#footnote-14) Unaccompanied minors rely on the digital world during and after their journey to interact with families, friends and acquaintances but they might easily fall into networks of online predators (grooming, trafficking etc.).

For this, a multi-layered approach seems necessary and coordination among relevant stakeholders (e.g. network providers, app developers, other companies) could achieve better results. Law enforcement and focused policies in line with the different approach/use of the digital technologies are necessary to reach every child and encourage them to recognise and report cybercrimes.

B. The best interests of the child is one of the prime aspects States should take into consideration when in regards to children’s access to digital environments. They should be reflected in age appropriate designs such as; children, adolescents and young people in order to safeguard and promote their rights in a respectful manner, since the internet was primarily designed by and for adults[[15]](#footnote-15). Since children are most of the times the discoverers of new digital opportunities[[16]](#footnote-16), ICTs should address child online protection and create their market products and services according to the best interests of the child. Such coordinated actions should be in place by States and their National Strategies and Action Plans in order to include stakeholders, educators, parents/caregivers and children to safeguard the best interests of the child. Additionally, children should be equipped with digital literacy skills to enable them to take informed decisions and choices when generating and sharing personal content, where age appropriate.

Respect to their personal data

18. As the internet can be a provider of prospects for children to express their views and themselves, the broader society should be able to provide assistance for them to safely enjoy their rights to freedom of expression and access to information, as well as their right to private and family life in the digital environment while enjoying their right to be heard. Civic engagement should be part of their right to be heard through child-friendly e-tools, while States should take all appropriate measures to have inclusive strategies for children who lack access to technology and therefore, not enjoying their rights to the fullest.

19. Generating and process of data of children who use e-tools and platforms should be carefully monitored and respected. Additionally, ICTs, ISPs, general marketplace, parents/guardians and media to be refrained from sharing information that could undermine children’s current or future reputation and/or disclose their personal data to safeguard their right to be heard in accordance to the protection of their personal data. Information which should be easily accessible, it should also be stated in a clear and plain language through age-appropriate channels which articulate children’s expressions and engage them in decision making and governance for matters that matter to them.

**IV.** *Evolving capacities*

21. In times of crisis, such as the pandemic of Covid19, the arising issues in the marketplace, ICT companies should be guided to take actions to address child online protection and adjust marketplace having in the center of their approach, the best interests of the child, in a manner that takes into account the complicated risks to children’s evolving capacities. Additionally, ICTs should be engaged for the challenge of age verification when children are online. Children undertake a series of roles when in regards of community, civic engagement and social roles, especially during adolescence with increased citizenship roles. Consequently, children should be supported through their involvement and development through offline and online channels, respecting their rights as evolving capacities. Prevention and training are considered to be key aspects in regards of informed consent, especially for children’s ability to understand terms of services when using an application and/or sharing content. Parental control and filtering tools should take into account rights of older children and empower them to take decisions both offline and online. States should also be provided with a set of guidelines for a unified minimum age of consent; since Art.8 of the GDPR allows children to give consent at the age 16, allowing States to allocate their own age consent at 13, allowing each State to act independently and thus, creating inequalities between children.

**VII.** *Violence against children*

83. While the sexual offences against children are multiplying online taking many forms (grooming, sexting, trafficking etc.), the pandemic is posing new and alarming challenges in term of interaction between children and possible offenders facilitated by speediness of action, the anonymity ensured by the privacy settings, action from home with a simple”click” and ability to take advantage of the digital channels in which children are surfing (websites, social media, apps, online games etc.). Sometimes, the same ISPs are facilitating such kind of crimes which constitute an issue of both public health and criminal justice. The push factors[[17]](#footnote-17) , which attract sexual offenders to act online, encourage interaction and communication through manipulation and/or coercion of children to normalise sexual activities[[18]](#footnote-18) and when online sexual material is collected and shared, the child is exposed to constant re-traumatisation and re-victimisation. Particular emphasis should be given to online sexual trafficking and international binding policies urge to be created to address this issue which is still in the shadow.

85. Two important approaches are emerging: the first one stresses the significance of mental health and well-being of children, the second one is focused on the need of improved legal instrument to tackle this issue. Even though many steps ahead have been taken to intervene (law enforcement, hotlines, international cooperation etc.), it’s still quite difficult to detect violence against children in the online dimension[[19]](#footnote-19). Reinforcement of specific tools[[20]](#footnote-20) to monitor and assess/analyse online relationships seems to be urgent more than ever as well as the cooperation and intervention of all the actors involved. States are all called to insert in the prevention and protection measure[[21]](#footnote-21) from Covid 19 also this issue, ISPs and business companies and law enforcement agencies should work in strong cooperation providing a multi-layered set of actions to protect children online and set up transparent reporting mechanisms.

Empowerment and protection of children should be balanced, supporting children to report such kind of crimes, conducting online vulnerability and risks assessments, providing training for experts, criminalising not only offences committed but also steps which imply the intention to commit the crime[[22]](#footnote-22) and ensuring support and assistance to children committing crimes through specific restorative justice programmes.[[23]](#footnote-23)

**VIII.** *Family environment and alternative care*

94. Since working with and for vulnerable children, humanitarian sector cannot be excluded by the huge impact that the digital environment has on children, especially for those coming from or living in conflict settings. The need to keep contacts with families and/or find help in tracing the relatives far away from them, can become a matter of live or death. In situations like this one, data breaches, in fact, could be easily used with the specific purpose of targeting children, engaging or recruit them. For this purpose, additional privacy protection is essential (privacy policies, terms and conditions need to be clear and simple for children to understand).

 For NGOs working with unaccompanied and/or separated children as well as with migrant or refuge children, data protection is an issue to deal with. Technologies are also useful to facilitate family reunification procedures and establish new familiar perspectives for a child: ICTs structures, in fact, maintain the management of the cases and facilitate connection with both beneficiary and stakeholders in an efficient way.

Common standard of data collection, use and management in compliance with the international legislation[[24]](#footnote-24) should be established to enable the enjoyment of children`s right[[25]](#footnote-25) but with specific rules about privacy and data sharing.

1. Young and Online, Children’s Perspectives on life in the digital age, The State of the World’s Children, 2017, Companion Report [↑](#footnote-ref-1)
2. <https://plan-international.org/education/bridging-the-digital-divide> [↑](#footnote-ref-2)
3. It’s Our World: Children’s Views on How to Protect their Rights in the Digital Environment, 2017, Council of Europe, Children’s Rights Division [↑](#footnote-ref-3)
4. *Ibid*. [↑](#footnote-ref-4)
5. Recommendation CM/REC(2009)5 of the Committee of Ministers to Member States on measures to protect children against harmful content and behavior and to promote their active participation in the new information and communications environment, Adopted by the Committee of Ministers on 8th of July 2009. [↑](#footnote-ref-5)
6. Casado, Garitaonandia, Moreno, Jimenez, ‘Immigrant Children and the Internet in Spain: Uses, Opportunities and Risks’, Media and Communication, 2019, Vol. 7, Issue 1 [↑](#footnote-ref-6)
7. <https://www.coe.int/en/web/children/the-digital-environment> [↑](#footnote-ref-7)
8. Casado, Garitaonandia, Moreno, Jimenez, ‘Immigrant Children and the Internet in Spain: Uses, Opportunities and Risks, Media and Communication 2019, Vol. 9, Issue 1 [↑](#footnote-ref-8)
9. <https://www.unicef.org/media/66616/file/Industry-Guidelines-for-Online-ChildProtection.pdf> [↑](#footnote-ref-9)
10. *Idem*,” Implementing equity-focused approaches would be affordable. For instance, closing the gap in access to the Internet for low- and middle-income countries is estimated to cost just one per cent of the extraordinary fiscal support packages the world has so far committed to respond to COVID-19” [↑](#footnote-ref-10)
11. <https://www.unicef.org/csr/css/UNICEF_CRB_Digital_World_Series_PRIVACY.pdf> [↑](#footnote-ref-11)
12. <https://www.apa.org/science/about/psa/2015/12/online-racial-discrimination> [↑](#footnote-ref-12)
13. <https://www.itu.int/en/ITU-D/Cybersecurity/Documents/COP/COVID-19%20and%20Its%20Implications%20for%20Protecting%20Children%20Online.pdf> [↑](#footnote-ref-13)
14. [https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604940/IPOL\_STU(2018)604940\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604940/IPOL_STU%282018%29604940_EN.pdf) [↑](#footnote-ref-14)
15. Children’s Rights and the Internet, From Guidelines to Practice, UNICEF, 2016 [↑](#footnote-ref-15)
16. *Ibid*. [↑](#footnote-ref-16)
17. Discussion paper series: Children’s Rights and Business in a Digital World- Privacy, Protection of personal information and reputation, UNICEF,2017 [↑](#footnote-ref-17)
18. <https://www.interpol.int/en/Crimes/Crimes-against-children/Appropriate-terminology> , Terminology Guidelines for the Protection of Children from sexual exploitation and sexual abuse. [↑](#footnote-ref-18)
19. Encryption and anonymization are tools used by offenders to avoid detection. [↑](#footnote-ref-19)
20. Cohen-Almagor Raphael Online Child Sex Offenders: Challenges and Counter-Measures, pag. 194 -197 [↑](#footnote-ref-20)
21. [↑](#footnote-ref-21)
22. Sorell Tom, Online grooming and preventive justice, 2016 [↑](#footnote-ref-22)
23. <https://sustainabledevelopment.un.org/content/documents/2599Promoting_restorative_justice.pdf> [↑](#footnote-ref-23)
24. <https://www.privacypolicies.com/blog/global-privacy-laws-explained/#:~:text=The%20General%20Data%20Protection%20Regulation,the%2025th%20of%20May%2C%202018.&text=Here's%20how%20Article%204%20of%20the%20GDPR%20defines%20%22personal%20data.%22> [↑](#footnote-ref-24)
25. <https://rm.coe.int/how-to-convey-child-friendly-information-to-children-in-migration-a-ha/1680902f91> [↑](#footnote-ref-25)