

Reply to Questionnaire

Concerning the Recommendation of the Council of 24th September, 1998 on the development of the competitiveness of the European audio-visual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity (98/560/EC)

Internet

1.

Council of Hungarian Internet Providers (ISZT) (www.iszt.hu) (www.nic.hu)

The Council of Hungarian Internet Service Providers was registered in 1997. Its basic objectives are:

- Coordinating .hu top level domain (TLD) registration
- Operating BIX (Budapest Internet Exchange) which helps ISPs to discharge their international internet connections by coordinating local and regional data transmission

In the field of domain name registration ISZT has established a well functioning system: a Consulting Body and an Ad Hoc Arbitration Court helps to resolute legal disputes.

Hungarian Association of Content Industry (MATISZ) (www.matisz.hu)

The Hungarian Association of Content Industry was registered in January, 2002 as the successor of a former organisation, the Hungarian Association of Database Suppliers founded in 1991. Its basic objectives are:

- To perform professional interest representation and interest protection for members operating on the field of **IT content development, distribution** and related infrastructure;
- To promote free flow of information, the eContent market and the more effective social exploitation of information;
- To watch over the professional and ethical norms of the IT-sector and to take steps against practices violating generally accepted norms;

The organisation has **144 members** – three-quarters of them are small or medium enterprises (SMEs). About 50 companies – **mainly SMEs** – out of the 144 members are engaged directly or indirectly in multimedia production. Others have key position in telecommunications and at the same time are key Internet providers. (Source: www.matisz.hu)

Association of Hungarian Content Providers (MTE) (www.mte.hu)

MTE was founded in 2001 by the most important online content providers in Hungary. The association has published two codes of conduct (see **answer 2**) and set up a Professional Commission whose decisions binds the members of MTE.

MTE also coordinates talks on content regulation involving public authorities and NGOs.

INFORUM (www.inforum.org.hu)

INFORUM has been playing an important role in the building of knowledge based society since 1997. It is an “organization of organizations” as besides the abovementioned ISZT and MATISZ it includes several other organizations.

2.

Association of Hungarian Content Providers (MTE) has accepted a code of conduct titled “**Content Providing Code**”

(URL: http://www.mte.hu/text/text2/doc/text21012101011/mte_kodex_2002.rtf) (*in Hungarian*)

Despite the fact it is a voluntary agreement between the members of the association, it is quite an important document as the biggest and most prestigious online content providers in Hungary (Index.hu Ltd., Axelero Ltd., Népszabadság Online etc.) are members of MTE.

MTE has also accepted an “**Election Content Providing Code**” in 2001 in cooperation with the National Election Commission (OVB), in charge of managing the parliamentary elections in Hungary.

(URL: http://www.mte.hu/text/text2/doc/valasztasi_kodex_2002.doc) (*in Hungarian*)

The Council of Hungarian Internet Service Providers (ISZT) has accepted a document titled “**Domain registration rules and procedures**”.

(URL: <http://www.domain.hu/domain/English/szabalyzat.html>) (*in English*)

An other important document regulating the **procedure of Ad Hoc Arbitration Court** can be accessed at:

(URL: <http://www.domain.hu/domain/vb/dokumentumok/vb-esz.html>) (*in Hungarian*)

3.

ISZT’s „Domain registration rules and procedures” is totally harmonized with ICANN regulation. IT experts and lawyers specialized in IT law worked out the details of the document. Public authorities and consumers were not involved but it does not seem to be a problem considering legal barriers and the speciality of this issue.

MTE’s „Content providing code” was prepared in the same way, while the rules of „Election content providing code” were worked out in cooperation with National Election Commission (OVB)

4.

Act CVIII of 2001 on certain legal aspects of information society services, in particular electronic commerce regulates ISPs' liability in harmony with directive 2000/31/EC on e-commerce and the DMCA model of the USA. ISPs do not have to monitor the content they provide access for, transmit, host, cache or make available by search engines. However, they have to remove immediately illegal content they are aware of. In case of copyright infringement notice-and-takedown procedure has to be applied. There is still no special legal requirement concerning harmful content as negotiations have just started on content regulation.

5.

In Hungarian criminal law, failure to report an offence is considered crime in several cases. Crime committed by illegal content offensive to human dignity is not among these. Though a duty like that may strengthen protection against such content, it may also be followed by unwanted effects. According to Act on e-commerce ISPs do not have to monitor stored or transmitted data, but they have to immediately remove illegal content they are aware of. Besides, they also have the opportunity to inform the police, but it is not obligatory. These legal rules are entirely harmonized with the provisions of Convention on Cybercrime (Council of Europe, ETS No. 185).

6.

Three NGOs mentioned in the 1st answer (MATISZ, MTE and INFORUM) have founded a consortium to initiate a "hotline" in the near future. State budget financing with EU contribution shall ensure running costs. Application for EU financial sources is under preparation.

There is also a public authority informally called "Internet Police". It is a group of policemen within the organization of National Police Headquarters in charge of detecting illegal content on web sites. Focussing on child porn photos/videos presence on the web this group plays an important role in the fight against child abuse.

7.

As hotline still doesn't exist in Hungary, there is no information available. However, it is very likely, that the majority of reported problematic content will be hosted in Hungary in consequence of the low level of foreign language skills. It is true however, that content in Hungarian can be hosted outside Hungary and the EU which is a major problem to be solved.

8.

-

9.

-

10.

On the level of public authorities ORTT's "Fundamentals" (see answer 32) outlines a content filtering system to be realized with the following characteristics:

The planned **filtering system** has to be:

- 1) free for citizens
- 2) voluntary use
- 3) user-friendly

- 4) fitted in Hungarian cultural environment
- 5) safe
- 6) flexible (various settings available)
- 7) compatible with European standards – especially with PICS (Platform for Internet Content Selection)

The characteristics of the planned **labelling system**:

- 1) Obligatory labelling in case of harmful content to minors – free use of easy-to-use labelling systems
- 2) Use of categories defined in legal rules
- 3) Compatibility with PICS recommendations and several international labelling systems, compatibility with common browsers

Hungarian Association of Content Providers (MTE) supports content filtering in case the use of filtering software is voluntary. It is up to parents if they control their children' web surfing or not, no state censorship should be allowed.

One of the biggest filtering system firms in Hungary (Filter:Max, www.filtermax.hu) urges state control. According to Filter:Max parents are not aware of the dangers of Internet, and the tools which could give protection. Besides this, content filtering could be much more effective on the side of ISPs than on the side of users. (Source: <http://www.index.hu/infojog/filter1002/> – in Hungarian)

There is still no common position on the issue of content filtering in Hungary, but negotiations have already been started involving public authorities, content providers, ISPs and filtering software firms.

11.

MTE's Content Providing Code requires the members of the association to give easy access to filter softwares / systems or give information on such services.

12.

A wide forum is to be set up by three associations, INFORUM, MATISZ and MTE, whose main objective is to increase the awareness of safer Internet issues. Besides this INFORUM is planning to initiate an online forum for users to deal with illegal and harmful content beside other complaints.

13.

No, there is no such indication.

14.

Low level of International co-operation is one of the most important problems to be solved because of the international nature of Internet. Besides ensuring the legal status of hotlines, an international hotline network should be set up, co-operation between hotlines and public authorities should be developed.

15.

Hungarian IT legislation intends to be technologically neutral: rules have to be applicable regardless of technical solutions. Content providing via mobile networks is considered information society service, so anti-spam rules in Act CVIII of 2001 (Act on e-commerce) apply to mobile service providers, too.

ORTT's "Fundamentals" (see answer 32) outlines the concept of a future act on electronic content regulation. The planned scope of effect uses the concept of "information society service" as defined in Act on e-commerce.

Content providers' self-regulation also reflects the principle of technology neutrality: Content Providing Code defines "Internet content providing" as "providing information via WWW, mobile, broadband, e-mail" and by other technological means. GSM networks are already suitable for downloading texts, images and sounds (WAP, GPRS WAP). Even the most simple mobile phone is suitable for receiving any message (news, ads etc.) in SMS. As UMTS call for tenders is still not announced, no measure has been taken in this specific area. However, *any technological solution* should be covered by present and future legislation – we only have to take "technological neutrality" seriously.

16.

In its Content Providing Code MTE published a recommendation (Annex no. 3) titled "Moderation Fundamentals". It helps content providers who have the intention of initiating moderated chat groups. The recommendation lists several cases in which problematic content should be removed. This list includes but not limited to:

- a, Topic destruction (technical / content)
- b, Vulgar / aggressive style
 - pornographic content
 - hate speech
 - prohibited symbols and links to such content
- c, Nickname fraud

The recommendation does not explicitly mention minors but intends to protect human dignity in general.

Most online chat groups are moderated nowadays: some of them use wildcards (mostly asterisks) to delete problematic words / expressions – while others delete the whole message. MTE recommends the latter solution.

17.

Ministry of Education took the necessary steps to increase the level of media literacy. „National Media Education Strategy” is under preparation by the Ministry of Education Media Expert Commission, call for tenders is announced by the Association Hungarian Movie and Media Education for the working out of programmes improving media literacy of students, teachers and parents. „National Media Education Strategy” aims to introduce media studies in school education (see reply 23).

18.

Article 6 in Content Providing Code prepared by MTE (see answer 31) deals with the question of the right of reply. Content providers assume that they will apply the general rules of the right of reply to the specific conditions of Internet and ensure that the emendation shall be published on the same lines (same time and manner) with the original content.

Broadcasting

19.

The principles and the detailed provisions of the protection of minors in broadcasting are regulated by the Hungarian Media Act (Act I of 1996). According to this Act the broadcasters have to classify their programmes on the basis of the categories determined by the Act and explained by the regulatory authority (National Radio and Television Commission – ORTT). The Act provides that the program-previews, news, current affairs and sports programmes need not to be classified according to the rating system of the Act, but they cannot be broadcast during that period of the day which would be prohibited if it was classified. (Prior to the adoption of these provisions the commercial private broadcasters applied two symbols [red circle: only for adults, blue triangle: only for persons above 14], that were shown at the beginning and the restart of the programme after the commercial breaks for 10 seconds, but these did not prove efficient, because the application was not forceable.)

So the present system is based on categories the law, but it partly applies self-regulation, since the broadcasters have to classify their programmes themselves.

20.

On the basis of the above reasons there are no codes of conduct regarding the protection of minors. The application of the categories are explained by the ORTT in a communication which helps the broadcasters interpret the provisions of the Act. There are some additional rules of conduct in the “public service regulations books” of the public service broadcasters. These books are made by the public service broadcasters and are approved by the ORTT. There is another legal norm (the Act on economical advertising activities) which contains special regulations on the content of advertising. This prohibits the pornographic advertising content, the advertising of sexual services, the advertising directed to raise sexual desire.

21.

The provisions in the Media Act concerning the classification (rating) of the programmes are as follows:

- (1) Programmes that are for all viewers regardless of their age shall be classified to category I.
- (2) Programmes that can cause fear in the viewers under 12, or cannot be understood or can be misunderstood by them due to the viewers’ age, shall be classified to category II. The qualification of such programmes is: For viewers under 12 years this programme is recommended only under the supervision of an adult.
- (3) Programme which may impair the physical, mental or moral development of viewers under 16 years, especially by referring indirectly to violence, sexuality, or a conflict solved violently is a determining element of its theme, shall be classified to category III. The qualification of such programmes is: Not recommended for viewers under 16 years.
- (4) Programmes that may impair the physical, mental or moral development of minors, especially by the fact that its determining element is the violence or direct, natural exhibition of sexuality, shall be classified to category IV. The qualification of such programmes is: Not recommended for viewers under 18 years.
- (5) Programmes that may seriously impair the physical, mental or moral development of minors, especially by the fact that it contains violence or direct, natural exhibition of sexuality, shall be classified to category V. The qualification of such programme is: Not recommended for viewers under 18 years.

The programmes in category III can be broadcast between 21.00 and 05.00 accompanied by the appropriate signal.

The programmes in category IV can be broadcast between 22.00 and 05.00 accompanied by the appropriate signal.

The programme in category V cannot be broadcast.

Every category has its own pictogram which are to be shown during the whole duration of the program, plus prior to the program the qualification of the program has to be announced acoustically as well. The surveys made by the ORTT showed that 60 per cent of the population supported the introduction of the signals. ORTT permanently supervises the classification by the broadcasters and can apply sanctions if the classification is not lawful, or the programme is broadcast within the prohibited time period.

22.

Currently there are no technical filtering devices in use in Hungary capable of filtering out the harmful content. The introduction of such means requires broad legal and practical considerations, because the implementation of such methods and devices might impact on the present channel distribution system regulated by the Media Act. The ORTT is working on the possible implementation of such a new system, which will have to take into consideration the financial possibilities of the Hungarian households, and demands of the widest possible population.

23.

Concrete programs in this regard are under preparation in the country. Currently the Ministry of Education is working on the co called National Media Educational Strategy. This strategy determines the main fields of the activities in the programme, the time period of each programme (the whole strategy covers a ten-year-long period from 2004 till 2013), and the costs and resources of each programme. The main fields of the programme are: projects aiming at the teachers and the children, programmes on media research and education, proposals aiming at the regulators and decision makers, projects aiming at the families and the other social backgrounds of media education, programmes regarding the operation of publicity and media law. (More details will be available when the strategy is approved by the government at the end of this year.)

Video Game Software

24-27.

At present there is no specific regulation in Hungary concerning the sale of video games. The sale of those games have to be in accordance with general legal provisions (civil and penal law). According to the ordinance on the operation of commercial stores and retailers sexual products can be distributed only in closed wrap, separated from other goods. It is prohibited to sell sexual products to minors, to lend, or to place them in public places or in shop windows. Shops selling these products may not operate within 200 meters of schools, churches and institutions for minors.

Other Content Delivery Systems

28.

According to the draft of the Act on the Motion Pictures (planned to be adopted by the Parliament this year) the classification categories of the Media Act have to be applied also in the cases of films shown in the cinema or exhibited elsewhere. The categories of the films will have to be applied to the box or wrap of the videotape, DVD or other device carrying the given film, plus it is to be indicated in every communication and advertising of the film.

General

29.

Multi-lateral talks have been started involving the Ministry of Informatics and Telecommunications (IHM), National Radio and Television Commission (ORTT) and several NGOs to draw up the strategy of content regulation based on the Recommendation.

30.

The problem of rating and classification systems is the hardest to be solved. Internet gives access to illegal and harmful content without borders but cultures still differ. However, it may be possible to work out a unified rating system in European level. Broadcasters are already obliged to label their programmes according to a rating system set up by the National Radio and Television Commission (ORTT). MTE's Content Providing Code proposes a simpler solution (see next answer). There is a bitter controversy on the rating system set up by ORTT. The problem has to be solved on national level involving public authorities, NGOs and scientific boards.

31.

Association of Hungarian Content Providers (MTE) has accepted a code of conduct titled "**Content Providing Code**"

(URL: http://www.mte.hu/text/text2/doc/text21012101011/mte_kodex_2002.rtf)

Despite the fact it is a voluntary agreement between the members of the association, it is quite an important document as the biggest and most prestigious online content providers in Hungary (Index.hu Ltd., Axelero Ltd., Népszabadság Online etc.) are members of MTE.

Article 7 in Content Providing Code deals with content which is not suitable for children (under 18). Content providers have to ensure that no adult content shall be available unless

1. user is warned that the home page contains adult content
2. user actively confirms that he/she is over 18

Content providers also assume to publish links on their sites to content filtering systems.

MTE has also accepted an **Election Content Proving Code** in 2001 in cooperation with the National Election Commission (OVB).

32.

Several studies have been published in the field of content regulation. Some of them are focusing on the question of the impact of violence and other harmful content on minors. The following studies are available on the site of National Radio and Television Commission (ORTT) *in Hungarian*. (URL: www.ortt.hu/tanulmanyok.htm)

1. Fundamentals of content regulation of public communication by electronic means (Author: ORTT, Strategic Directorate)

(URL: http://www.ortt.hu/tanulmanyok/koncepcio_20020619.doc)

2. Internet content regulation in EU members and national legal systems. (Author: ORTT, Strategic Directorate)

(URL: http://www.ortt.hu/tanulmanyok/tanulmany_internet_011024.doc)

3. Audio-visual child and youth protection in EU member states (Author: Szilvia, Szilády)

(URL: <http://ortt.hu/tanulmanyok/gyermekved.doc>)