

Questionnaire

Concerning the Recommendation of the Council of 24 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. Has an association of Internet Service Providers (ISPs) been established in your country? Please give details of the ISP association(s).

Yes. The Internet Service Providers Association of Ireland (ISPAI) was established in 1998 to represent the interests of the service provider industry in Ireland and to provide a central point of co-ordination for industry. The Irish Association is a member of the European Service Provider umbrella organisation, EURO ISPA. The Irish Association's website address is: www.ispai.ie

2. Has a code of conduct been drawn up by the ISPs in your country? If possible, please provide a copy or the web address where it can be accessed.

Yes. As part of the overall framework of self-regulation recommended by the Irish Government, the Irish Service Provider Association of Ireland's Code of Conduct and Ethics was launched in January 2002.

This Code can be downloaded from either of the following website addresses: www.ispai.ie or www.iab.ie/Publications/Reports/d33. PDF

3. To what extent were public authorities and consumers involved in the drawing up of the ISP code of conduct? Is consultation of public authorities and consumers required when the code is revised or amended?

In developing the Code of Conduct & Ethics for industry, the ISPAI worked closely with the Internet Advisory Board of Ireland. This Board comprises representatives from a broad sector and is the public body responsible for assisting and supporting the ISPAI to deliver an effective self-regulatory environment.

4. Are there any legal requirements in your country which apply **specifically** to ISPs and how they should deal with illegal or harmful content accessed over the Internet? If so, what are they?

There is no legal requirement for Internet Service Providers at the moment. However the Department of Justice, Equality and Law Reform is currently working on new legislation i.e. the Data Retention Bill which could place a legal obligation on industry to retain data concerning internet traffic for a period of 3 years or more. The purpose of retaining the data is to enable the detection of and/or prevention of criminal acts.

Prior to and during the development of the Code of Conduct & Ethics, self-regulation was agreed to be the most effective form of regulation and was subsequently accepted and agreed by the ISPAI.

5. Are there any specific requirements for ISPs to inform the police or judicial authorities about illegal content offensive to human dignity, which is available over the Internet?

There are no specific requirements for ISP's in Irish legislation. However, section 5.4 of the Code of Conduct & Ethics requires that "Members must provide to www.hotline.ie a nominated Garda contact via the agreed form. This contact will be available, at a minimum, during working days". In practice, there is ongoing co-operation between the Gardai and the service providers, and the Internet Advisory Board has facilitated the development of these contacts.

6. Has a "hotline" for reporting harmful or illegal content been established in your country? If so, please give details (including web and e-mail address) of the hotline(s), including their method of financing.

Yes. Arising from the Report of the Irish Working Group on the Illegal and Harmful Use of the Internet, a national public hotline was established in November 1999.

The website address for the hotline is www.hotline.ie and its email address is report@hotline.ie. The hotline works closely with the Internet Advisory Board, An Garda Síochána and the Internet Service Providers. It investigates and processes complaints from the public about illegal material on the Internet, and its primary focus is the reporting of child pornography. If it determines that illegal material is hosted, posted or provided within the Irish jurisdiction, it co-operates with ISP's and An Garda Síochána. If the material comes from outside this jurisdiction it forwards such reports to the appropriate hotline of that country.

The Irish hotline is an associate member of the European network of hotlines, Internet Hotline Providers in Europe (INHOPE), established under the European Commission's Action Plan to tackle illegal and harmful use of the Internet.

Funding for the www.hotline.ie service is provided by the Internet Service Provider Association of Ireland and it is also partly funded by the EU Safer Internet Action Plan programme, through INHOPE.

7. Of the problematic Internet content which has been reported, approximately what proportion of this is hosted outside your country or outside the EU?

Approximately 98% is hosted inside Ireland and 95% outside the European Union.

8. What measures and initiatives have been taken, either by public authorities or by operators, to raise public awareness of hotlines? Are these measures and initiatives judged to have been effective?

The hotline was publicly launched by the Irish Minister for Justice, Equality and Law Reform in November 1999 with all national media present. A link to the hotline is provided on the home pages of service provider association members' websites and also on the Internet Advisory Board website. Information leaflets about the hotline have been circulated to schools and libraries. The hotline produced its First Report for the period November 1999 to June 2001. The Internet Advisory Board also works closely with the hotline and continues to support and encourage its activities so that its important role can be successfully realised. The Secretariat for the Internet Advisory Board also advise members of the public about the public hotline when they make contact via phone or the Board's website.

All of these initiatives have aided and are continuing to enhance awareness of the public hotline.

9. Where hotlines have been established, please give, in so far as possible, an estimation of their effectiveness in reducing the extent and accessibility of harmful and illegal content. This could include public opinion as to their effectiveness/efficiency as well as the views of operators.

The hotline published its First Report in February 2002 for the period November 1999 to June 2001. During that time the hotline received a significant volume of reports which covered a wide range of issues such as child pornography, adult pornography, unsolicited adult emails, virus attacks, financial scams and enquiries about filtering software solutions. The hotline works closely with the ISP's and An Garda Síochána and collaborates at an international level with other hotlines. The Association of Internet Hotline Providers in Europe (INHOPE) of which Ireland is a member, provides the opportunity for hotlines to meet to exchange knowledge, expertise and intelligence about illegal trends on the Internet. No individual hotline could operate effectively on its own basis due to the complex nature of the Internet.

The level of reports received by the hotline since its first report indicates that the Irish public are aware of its existence and the opportunity it provides users to respond to illegal material on the Internet.

Relevant statistics in this regard are available on the public hotline website www.hotline.ie

10. Apart from any involvement in the work currently funded by the Community Action Plan on promoting safer use of the Internet, have any efforts been made, either by industry or public authorities, to develop a filtering and rating system for the Internet in your country? If so, what progress has been made and what are the difficulties encountered?

To date, Irish involvement in the development of a filtering and rating system has taken place in the context of the Commission's Safer Internet Action Plan.

Apart from the initiatives of the Safer Internet Action Plan, there is no separate plan to develop a filtering and rating system for the Internet in Ireland.

11. Do any obligations exist, either in law or in relevant codes of conduct, for ISPs to inform subscribers about available filtering and rating systems and age verification software?

Section 5 of the Code of Conduct and Ethics for ISP's outlines the following:

5.2 Members must provide information to Customers about the availability of software tools which may assist them in filtering content which Customers deem unsuitable.

5.3 Members must follow best industry practice in offering " filtering software" or " filtering services " to a Customer.

12. What measures have been taken at national, local or regional level to spread awareness of safer Internet issues? Have these been part of a larger plan for "media education"? Have they been supported by public funds or by private funding (e.g. from industry or from voluntary associations) or by a mixture of public and private funding?

Work is ongoing in the area of promoting safer use of the Internet, particularly for parents and children. The following initiatives have taken place to date:

- **Barnardos, supported by Eircom net, (an Irish Internet Service Provider) produced leaflets and posters on the Family Guide to the Internet.**
- **Specific Internet safety awareness initiatives in the education sector such as " Be Wise on the Net" leaflets, posters and information booklets for schools, an advertising campaign which took place on the back of over 6 million supermarket receipts. These initiatives have been co-ordinated by the National Centre for Technology in Education which is based in Dublin City University.**
- **The Internet Advisory Board's website www.iab.ie also offers safety tips for parents and children. To date, the Board has also run two radio awareness campaigns to enhance the issue of Internet safety. The Secretariat for the Internet Advisory Board provide a helpline for members of the public who wish to find out more information on Internet safety.**
- **In conjunction with the second radio campaign which took place from mid December 2002 to January 2003, the Internet Advisory Board also ran a poster campaign in 210 locations across Ireland for a four week period.**

These initiatives have been individually organised but the Internet Advisory Board has a role in ensuring that the same message is conveyed to the public.

The funding received has been a mixture of public and private funding.

13. Is there any indication that the development of the Internet in your country has been slowed down by public fears concerning harmful and illegal content which may be accessed over the Internet?

The most recent research undertaken in this regard by the Irish Information Society Commission indicates that while there is certainly concern amongst the public regarding the availability of illegal and harmful material on the Internet, such concerns are not slowing the development of the Internet to any significant degree in Ireland.

14. Is the current level of international co-operation in this matter, particularly within Europe, seen as sufficient? If not, what measures could be taken to improve it?

It is acknowledged that the problems associated with illegal and harmful use of the Internet are of an international nature which require an international response. It is felt that, while it would be extremely difficult to fully eliminate these problems, due to the nature of the Internet, that much can be done to ameliorate the situation.

Measures at European level such as the further two year extension of the Safer Internet Action Plan are encouraging. It is especially hoped that the extension of the Commission's Action Plan to 2004 will successfully build on tackling the illegal and harmful use of the Internet, and coupled with increasing international police co-operation will greatly assist in the fight against such activity. Measures within Europe are only part of the problem. Most of the harmful and illegal content emanates from outside the European Union.

15. Have you already covered or do you intend to cover by the above mentioned self-regulation measures or by regulation similar services such as transmission via mobiles, in particular as concerns UMTS?

No special arrangements envisaged at this stage.

16. Please describe any initiatives which have been taken to control online chat-groups, in particular measures taken in order to avoid any abuse, which could be harmful to minors?

No initiatives have been taken in this regard as few chat rooms are hosted in Ireland. However, the web services of the national broadcaster, Radio Telefis Eireann, have operated chat rooms on an experimental basis. Strict public service guidelines have been observed on all such occasions.

17. Please describe measures which have been taken in order to improve media-literacy (e.g teaching children how to make a responsible use of new media)?

The Internet Advisory Board website gives safety tips for children. The public hotline website provides many useful links including a link to “ Chat Danger – How to keep children safe in chat rooms”. The National Centre for Technology in Education produced acceptable use policy guidelines for primary schools in 1998. They also produced a booklet called “ Be Wise on the Net – Information and Advice for Schools” this year and this provides guidelines on safe use of the Internet. See also question 12 re awareness initiatives.

In addition, the Civic, Social, Personal Education (CSPE) course which all second level students take includes training in understanding the media.

18. Is there any specific regulation or self-regulation concerning the specific question of the right of reply with respect to online-media? Have there been concrete problems during the last two years concerning these issues, in particular problems involving cross-border aspects?

The national broadcaster, Radio Telefís Eireann, offers a complaints service, a review of complaints and an information service across all its outlets including web services. The web service posts comments received via e-mail.

Broadcasting

19. Have broadcasters in your country established a system of self-regulation relating to the protection of minors? Please give details of this, particularly with regard to membership.

There are only two broadcasters in Ireland, Radio Telefís Eireann, (public service broadcaster) and TV3 (commercial broadcaster).

In its “ Guidelines for Programme-makers, RTE has a lengthy section on Children and Broadcasting. The document is available on the RTE website www.rte.ie in the “ About RTE” section.

TV3 programme output is primarily targeted at the 15 + age group and no significant amount of programme material is aimed at a younger audience. In terms of self-regulation the station’s internal procedures in relation to ensuring compliance with the Directive include pre-vetting of advertising material and a review by internal management of material considered unsuitable. In addition, the station previews all programme content for compliance, using internal guidelines.

In addition to the provisions of the Television Without Frontiers Directive, the principal legislative provisions are contained in section 19 of the 2001 Broadcasting Act which provides that the Broadcasting Commission of Ireland must prepare a code specifying standards to be complied with, and rules and practices to be observed, in respect of the taste and decency of programme material and, in particular, the portrayal of violence and sexual conduct in such material. One of the key objectives of the code is the protection of minors.

20. Does this system of self-regulation include a code of conduct regarding the protection of minors and harmful content? (Please note, this question does not concern only advertising specifically aimed at minors. It concerns audiovisual content which could be harmful to minors, regardless of whether this is contained in advertising or in general programming.)

As indicated at 19 above, section 19 of the Broadcasting Act 2001 requires the Broadcasting Commission of Ireland to draw up a code of standards, rules and practices in respect of advertising, tele-shopping material, sponsorship and other forms of commercial promotion which relate to matters likely to be of direct or indirect interest to children. In addition, the legislation requires that the Commission give priority to the preparation of a children's advertising code. Copies of such codes or rules must be made available to the public and the Commission must consider any submissions made in response to any draft codes or rules.

The Commission has powers, in drawing up the Code, to specify certain prohibitions on certain class or classes of commercial activities in so far as they relate to children in general or children under a particular age. Periodically the Commission is required to report to the Minister in respect of its activities in this regard and to review the effectiveness of any codes and rules drawn up further to the provisions of section 19.

The Commission is currently engaged in preparing the Children's Advertising Code. Phase 1 of the preparation of the Code involved research and consultation and this has recently been completed. The consultation process commenced with an invitation extended by the Commission for submissions in respect of a number of key matters including the definition of child and children's advertising. The Commission hopes to shortly announce the results of the first phase of consultation and to publish a summary of the submissions received in this regard.

The Commission expects to commence work in the near future on preparation of the Taste and Decency Code in accordance with the provisions of section 19 (a) of the Broadcasting Act 2001. The initial phase of this work will include a review of all available research at both national and international level.

Pending the introduction of section 19 codes, the existing Code of Practice in respect of Advertising, Sponsorship and Other Forms of Commercial Promotion continues to apply. This includes specific provisions in relation to advertising in children's programmes. These will continue to apply until such time as the new code comes into effect.

21. Are on-screen warning icons required, either by law or by codes of conduct, for potentially harmful television programmes? Are acoustic warnings before such programmes required, either by law or by codes of conduct? Where such measures are used, are they considered to be effective?

RTE television carries on screen warnings before all its programming advising viewers on the suitability of upcoming programmes. On radio, presentation

announcements precede any programming judged to be unsuitable for young listeners. TV3 does not utilise on-screen warning icons and there is no legislative requirement for them to do so. Acoustic warnings are carried however from time to time although this is not a legal requirement. In addition the station occasionally edits material to ensure compliance with its own guidelines and the station generally considers these measures to be effective.

The Broadcasting Commission of Ireland monitors the programme output of the independent TV3 to ensure compliance with the full range of statutory and contractual obligations. Matters involving non-compliance can also be referred to the Broadcasting Complaints Commission by members of the public.

22. Do any broadcasters established in your country use technical filtering devices to ensure that minors may not view harmful programmes? If so, what measures and initiatives have been taken to ensure that parents and guardians are aware of these devices and how to operate them. Are these devices held to be an effective means of protecting minors in your country?

No.

23. Please describe measures which have been taken in order to improve media-literacy (e.g teaching children how to make a responsible use of television)?

A number of advertising industry bodies in Ireland have been engaged in media literacy activities as part of other Europe-wide initiatives. The Broadcasting Commission of Ireland which regulates the independent broadcasting sector has not been involved in this area to date. However they are considering involvement in this area of activity particularly in the context of the section 19 Codes referred to above. See also measures outlined at 17 above.

Video Game Software

24. Are there any specific legal provisions in your country concerning the sale of video games? (This question concerns the physical sale of video game software, not the provision of software over the Internet for downloading onto computers.)

Video games are exempt from classification under the 1989 Video Recordings Act but a video game may be prohibited under section 3(1) of the Act if the Censor is of the opinion that it is unfit for viewing because:

(a) the viewing of it:

would be likely to cause persons to commit crimes, whether by inciting or encouraging them to do so or by indicating or suggesting ways of doing so or of avoiding detection, or

(i) would be likely to stir up hatred against a group of persons in the State or elsewhere on account of their race, colour, nationality, religion, ethnic or national origins, membership of the travelling community or sexual orientation, or

- (ii) **would tend, by reason of the inclusion in it of obscene or indecent matter, to deprave or corrupt persons who might view it, or**
- (iii) **it depicts acts of gross violence or cruelty (including mutilation and torture) towards humans or animals.**

25. Is there any self-regulatory system in place which covers questions relating to age-rating for video games? (e.g. such as the system of self-rating which has been announced by the Interactive Software Federation of Europe (ISFE)) If so, please give details.

Previously the Film Censor's Office had recognised the self-regulatory system adopted by ELSPA (European Leisure Software Publishers Association) in relation to age-ratings for the sale of video games. As a member of ISFE (Interactive Software Federation of Europe) the Film Censor's Office subscribes to the PEGI (Pan- European Game Information System) rating system and its accompanying Code of Conduct.

26. Are current measures to protect minors from harmful video games considered to be effective?

At present the Film Censor's Office has no evidence to suggest that the existing measures are not effective.

27. As online games and computer games, especially on LANs (Local Area Networks) are very similar, have you also included them into measures of self-regulation and/or regulation?

No.

Other Content Delivery Systems

28. With regard to cinema, videocassette and DVD rating systems, have there been any major developments since the year 2000?

In June 2001, the Official Film Censor made changes in two classification certificates in respect of films for cinema exhibition.

The over 15 certificate was replaced by a new 15PG certificate. This indicates that while the film is, in the opinion of the Film Censor, only suitable for those over 15 years of age, a person under that age may be admitted to a cinema screening if accompanied by a parent or guardian.

The over 12 certificate was replaced by a new 12PG certificate. This again indicates that while the film is, in the opinion of the Film Censor, only suitable for those over 12 years of age, a person under that age may be admitted to a cinema.

General

29. In what way have you associated consumer associations, voluntary associations and non-governmental organisations to the implementation of the Recommendation?

Recommendation was not disseminated to such organisations.

30. Is the lack of coherence between the various rating and classification systems for audiovisual media (cinema, television, videocassettes, video games, Internet) seen as problematic in your country, e.g. in terms of creating confusion among customers? Are any measures or initiatives being considered to introduce greater coherence in the way audiovisual media are evaluated and classified? Has there been any cooperation to this extent with other Member States or organizations from abroad?

It is important to note that regulatory bodies with responsibility for the different media in Ireland are independent of each other. However, in relation to the mediums which come under the remit of the Film Censor's Office i.e. cinema, videos and DVD's, there is no lack of coherence as the Film Censor is responsible for classification of these mediums.

31. Have the efforts in your country with respect to the protection of minors been accompanied by scientific boards and specific studies with respect to violence or other harmful content and their impact on minors? Are there any voluntary agreements by broadcasters and by content providers on the Internet?

A Working Group was established in 1997 following the Taoiseach's request to the Minister for Justice, Equality and Law reform to establish a Working Group on the illegal and harmful use of the Internet. Draft Terms of Reference and proposals for membership were submitted to Government in mid- February 1997. Upon its formation the Group comprised of representatives from Government Departments, Internet Service Provider Association of Ireland, education, law enforcement, Office of the Attorney General, etc. Due to the range of issues and the need to quickly establish a framework to address these issues in the short term, sub-groups were formed to carry out a detailed assessment of four major areas – legal implications, international aspects, child issues and issues relating to the role of the ISP's.

The Code of Practice and Ethics for the ISP's requires that members of the Internet Service Provider Association of Ireland use their “ best endeavours to ensure that Services (excluding Third Party Content) and Promotional Material do not contain material inciting violence, cruelty, racial hatred or prejudice and discrimination of any kind “.

32. If you are aware of any study or scientific report which has been prepared on this issue during the last two years, please transmit a copy or give the references.

The Report of the Working Group on the Illegal and Harmful Use of the Internet, published in 1998, can be downloaded from the Internet Advisory

Board's website www.iab.ie or the Department of Justice, Equality and Law Reform website www.justice.ie

See also the work of the UNESCO International Clearing House on Children, Youth and Media at Nordicom, Goteborg University, Sweden. www.nordicom.gu.se

33. The Commission is aware that Member States' authorities may not be in a position to answer all the questions posed here. Nevertheless, the Commission would request that they be answered insofar as possible. Any additional information and any relevant views which might help the Commission in evaluating the effectiveness of the self-regulatory approach laid out in the Recommendation on the Protection of Minors should also be given.

The Internet Advisory Board of Ireland is assisting and supporting the Irish Internet Service Provider Industry in the delivery of an effective self-regulatory environment. To this end, a Code of Practice and Ethics was adopted by the Internet Service Providers Association of Ireland in February 2002. The Internet Advisory Board is currently reviewing the Code of Practice and ethics following a commitment to review it one year from the date of operation. The Department of Justice, Equality and Law Reform will be better placed to comment on issues re evaluating the effectiveness of self regulation after the review is completed.

No studies on the effectiveness of the various awareness campaigns have as yet been undertaken by the Department of Justice, Equality and Law Reform.