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# **Human rights guidelines for online games providers**

**Developed by the Council of Europe  
in co-operation with  
the Interactive Software Federation of Europe**



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Directorate General  
of Human Rights and Legal Affairs  
Council of Europe  
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Developed by the Council of Europe in close co-operation with the Interactive Software Federation of Europe (ISFE), these guidelines provide human rights benchmarks for online games providers and developers. While underlining the primary value of games as tools for expression and communication, they stress the importance of gamers safety and their right to privacy and freedom of expression and, in this connection, the importance for the games industry to be aware of the human rights impact that games can have.

For more information on the activities of the Council of Europe and ISFE: [www.coe.int](http://www.coe.int) • [www.isfe-eu.org](http://www.isfe-eu.org)

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Everyone has the right to freedom of expression and information. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 10 of the European Convention on Human Rights

Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 8 of the European Convention on Human Rights

# Understanding the role and position of online games providers in respecting and promoting human rights

1. Providers (designers and publishers) of online games design and make available products which can promote the exercise and enjoyment of human rights and fundamental freedoms, in particular the freedom to express, to create and to exchange content and communications while respecting the rights of others. Designed and provided in an appropriate manner, games can be powerful tools to enhance learning, creativity and social interaction, thereby helping users to benefit from the information society.

2. However, like other content, online games may also inadvertently impact on the rights and sensibilities of individuals, in particular children, as well as their dignity. The potential impact of such games may increase as they allow the gaming experience to become more creative and interactive (as the possibilities for expression, interaction and exchange of content with other gamers increase)

and ever more realistic (as the visual effects of games develop).

3. Online games can play an important positive role in the lives and development of individuals, especially for children and young people. It suffices to consider the importance of rights and freedoms, values and dignity, into the embedded design and marketing of games. In this regard, it is recalled that the exercise of freedom of expression carries with it duties and responsibilities, in particular as regards the protection of health and morals and the rights of others, which publishers of online games are encouraged to bear in mind when deciding on the content of their games.

4. Games designers and publishers are therefore encouraged to promote and facilitate gamers' wellbeing and should regularly assess and evaluate their information policies and practices, in particular regarding child safety and responsible use, while respecting fundamen-

tal rights, in particular the right to freedom of expression and the right to privacy and secrecy of correspondence. At the same time it should be noted that member states, civil society, other private sector actors, parents and gamers themselves have important roles to play in engaging in multi-stakeholder cooperation, promoting gaming literacy for children and assisting game providers in fulfilling their role.

5. In this regard, designers and publishers of online games are encouraged to take note of, discuss and make their best efforts to comply with the following guidelines (below) and to consider making reference to them within their games and in their end-user agreements.

6. The appended guidelines are without prejudice to and must be read in conjunction with the obligations applicable to online games providers and their activities under national, European and international law.

## Scope of the guidelines

7. The main focus of the following guidelines is online games although some of the guidelines can also be applied to games which are only playable offline. These online games include (i) classic board and card games mostly offered by web portals; (ii) personal computer (PC) or console games with network options; (iii) multiplayer games i.e. Massively Multiplayer Online Games where players play individually or in teams

in a virtual evolving world, and (iv) entertainment games that provide a platform for other types of learning, training and interactive applications. It should be noted that these guidelines are applicable to all online games irrespective of the platform used for delivery of the gaming content (fixed or mobile gaming console, PC or mobile phone).

8. These guidelines are mainly directed towards developers and

publishers of online games. Some guidelines, such as those concerning the development of parental control tools, may also be applied by producers of gaming consoles and platforms in their activities.

9. Although online virtual universes, such as Second Life, are confronted with some of the same issues connected with online social interaction as games, they are, for the purposes of these guidelines, not seen as

online games. In comparison with online games, such universes only to a lesser degree constitute a programmed experience under the control of a game publisher. Virtual uni-

verses also lack a specified gaming scenario and set of goals to achieve for the gamer, characteristics which are normally found in online video games.

10. Finally, the guidelines are not intended to apply to online gambling sites, such as online casino or online bookmaking websites.

## Human rights guidelines for online games providers

11. Before publishing your game, take care to consider and evaluate how the game content may impact on human dignity, the sensibilities and values of gamers, in particular children. In this regard specific attention should be paid to the risks connected with the dissemination of the following gaming content:

- gratuitous portrayal of violence (physical, mental or sexual violence), especially in games targeting minors whose physical, mental or moral development may be impaired by exposure to such portrayal;
- other content which, on account of its inhuman, cruel, sexist or degrading nature, may impact on the physical, mental or moral development of minors;
- content which may be seen as advocating criminal or harmful behaviour (theft, violence, sale and abuse of drugs etc.);
- content which conveys messages of aggressive nationalism, ethnocentrism, xenophobia, racism or intolerance in general including when such messages are concealed;

12. Consider promoting and applying independent, including combined, labelling and rating systems to your game, especially the Pan-European Game Information (PEGI) system and the PEGI Online Safety Code (POSC), to help inform gamers, parents and carers about games containing content which may affect their sensibilities and values, in particular by:

- using easily recognisable labels for sensitive content (for example using symbols or pictograms), in particular with regard to violence, sex, rac-

ism, references to drugs, strong language, horror, or gambling;

- ensuring that such labels are clearly indicated and visible on the packaging of games and the game website, as well as in the references to them such as in catalogues, advertisements and in the materials provided with the game itself.

13. When publishing games targeted for children and young people, provide appropriate information to gamers, parent and carers of the risks connected with online gaming. Such information, which should be available in the local language of the country where the game is marketed and could usefully be provided in an educational guide written for parents, in the game manual and/or the game itself, may in particular concern:

- the risk of excessive use of online games and the potential negative physical and psychological effects of such excessive use (e.g. isolation, loss of the sense of reality, disturbed sleep patterns, etc.);
- the fact that the game is a work of fiction which can be a simulation of reality but is not comparable to the real world, and therefore that actions and behaviours in the game should not necessarily be re-enacted in the real lives of gamers;
- the risk of encountering illegal or harmful content uploaded by other gamers when playing the game online, and information and guidance for parents and carers on where to report the existence of such content within the game;
- the risk of harm associated with interaction with other gamers (for example with regard to bullying, har-

assment or stalking), and information and guidance about how to identify and deal with such risks;

- the risks to privacy of exchanging personal data (name, address, credit card details, images or videos) when playing the game online.

14. Consider developing in-game parental control tools to assist parent and carers in protecting minors. Such parental control tools could include facilities for setting time-limits and slots for gaming thereby limiting the risks of excessive use and addiction. If the parental tool include the option of filtering or blocking certain content, make sure that the filtering process is transparent both to the parent and gamer and can be adjusted to the level of protection required for the individual gamer, in accordance with the guidelines in Council of Europe Recommendation CM/Rec (2008) 6 on measures to promote the respect for freedom of expression and information with regard to Internet filters.

15. Consider developing in-game mechanisms allowing gamers encountering illegal or harmful content or behaviour easy access to a facility to report the problems encountered, notify a game moderator and seek assistance.

16. Before removing gamer-generated content from a game, you should take care to verify the illegality or harmfulness of the content, for instance by contacting the competent authority law-enforcement authorities. Acting without first checking and verifying may be considered as an interference with legal content and with the rights and free-

doms of those gamers creating and communicating such content, in particular the right to freedom of expression and information.

17. Consider developing mechanisms for the automatic removal of gamer-generated content after a certain time of inactivity, in particular for games targeting children and young people. Creating a lasting or permanently accessible online record of the content created by gamers

could challenge their dignity, security and privacy or otherwise render them vulnerable now or at a later stage in their lives.

18. Provide gamers with clear information about the presence of advertisements or product placements within the game along the lines of the principles contained in Article 10 of the PEGI Online Safety Code. When the game is targeted for minors, ensure that the content of

advertisements and product placements is appropriate having regard to the age of the target group. As far as in-game advertising is concerned, make sure that there is no confusion between games for children and games for adults by respecting the labelling of the game, in particular by not including advertising for or clips from games treating mature subjects in children's games.

## Extracts from existing Council of Europe standards relevant to the roles and responsibilities of games providers

### Recommendation No. R (92) 19 on video games with a racist content

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members, particularly for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Being aware that video games with a racist content, whose existence in member countries is unfortunately beyond doubt, convey a message of aggressive nationalism, ethnocentrism, xenophobia, anti-Semitism or intolerance in general, concealed behind or combined with violence or mockery;

Considering therefore that such games cannot be tolerated in democratic societies, which respect *inter alia* the right to be different, whether

that difference be racial, religious or other;

Convinced that it is all the more necessary to take measures designed to put an end to the production and distribution of these games as they are used mainly by young people;

Recalling the terms of its Resolution (68) 30 relating to measures to be taken against incitement to racial, national and religious hatred and its Resolution (72) 22 on the suppression of and guaranteeing against unjustifiable discrimination;

Bearing in mind the Declaration regarding intolerance – a threat to democracy which it adopted on 14 May 1981;

Having regard to Recommendation No. R (89) 7 concerning principles on the distribution of videograms having a violent, brutal or pornographic content, and the European

Convention on Transfrontier Television (European Treaty Series, No 132),

Recommends that the governments of member states:

a. review the scope of their legislation in the fields of racial discrimination and hatred, violence and the protection of young people, in order to ensure that it applies without restriction to the production and distribution of video games with a racist content;

b. treat video games as mass media for the purposes of the application, *inter alia*, of Recommendation No. R (89) 7 concerning principles relating to the distribution of videograms having a violent, brutal or pornographic content, and of the European Convention on Transfrontier Television (European Treaty Series, No. 132).

### Recommendation No. R (97) 19 on the portrayal of violence in the electronic media

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Recalling its commitment to the fundamental right to freedom of expression as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms, and to the principles of the free flow of information and ideas and the independence of media operators as expressed, in particular, in its Declaration on the freedom of

expression and information of 29 April 1982;

Bearing in mind the international dimension of the gratuitous portrayal of violence and the relevant provisions of the European Convention on Transfrontier Television (1989);

Recalling that at the 4th European Ministerial Conference on Mass

Media Policy (Prague, 7-8 December 1994), the Ministers responsible for media policy addressed to the Committee of Ministers of the Council of Europe an Action plan containing strategies for the promotion of the media in a democratic society, in which they requested the Committee of Ministers to “prepare, in close consultation with media professionals and regulatory authorities, possible guidelines on the portrayal of violence in the media”;

Recalling that the exercise of freedom of expression carries with it duties and responsibilities, which media professionals must bear in mind, and that it may legitimately be restricted in order to maintain a balance between the exercise of this right and the respect for other fundamental rights, freedoms and interests protected by the European Convention on Human Rights;

Concerned at the overall increase in the portrayal of violence in the electronic media, which makes it an important social issue;

Recalling that violence cannot be considered a proper means for conflict-resolution of any kind, including inter-personal conflicts;

Noting, nevertheless, that violence is part of the daily reality of society and that the right of the public to be informed also covers the right to be informed about various manifestations of violence;

Noting that there are many ways in which violence may be portrayed by the media, corresponding to different contexts, ranging from information to entertainment and that, especially in the latter case, violence is sometimes trivialised or even glorified so as to attract large audiences;

Noting also that, regardless of the aim invoked, violence is sometimes portrayed in the electronic media in a gratuitous manner, in no way justified by the context, reaching unacceptable inhuman and degrading levels as well as an excessive overall volume;

Aware that this may impair the physical, mental or moral development of the public, particularly young people, by creating, for instance, growing

insensitivity to suffering, feelings of insecurity and mistrust;

Noting that not all persons in charge of the various electronic media perceive the increased portrayal of violence as a problem;

Considering that the economic reasons advanced by certain persons in charge of electronic media cannot justify the gratuitous portrayal of violence;

Convinced that the various sectors of society should assume their responsibilities in regard to the portrayal of violence in the electronic media;

Convinced also that all electronic media professionals must assume their responsibilities and that they are best placed to address the question of gratuitous portrayal of violence; and welcoming efforts already made by certain professionals and sectors,

Recommends that the governments of the member States:

*a.* draw the attention of the professionals in the electronic media sector, the regulatory bodies for this sector, the educational authorities and the general public, to the overall policy framework represented by the appended guidelines;

*b.* take concrete measures to implement these;

*c.* ensure, by all appropriate means, that these guidelines are known by the persons and bodies concerned, and encourage general debate on this subject;

*d.* keep the effective application of them in their internal legal orders under review.

Instructs the Secretary General of the Council of Europe to transmit this recommendation to the governments of those States party to the European Cultural Convention which are not members of the Council of Europe.

### Scope

This recommendation concerns the gratuitous portrayal of violence in the various electronic media at national and transfrontier level. The gratuitous nature is to be assessed

with reference to the parameters contained in the appendix to this recommendation.

### Definitions

For the purposes of this recommendation:

*a.* the term “gratuitous portrayal of violence” denotes the dissemination of messages, words and images, the violent content or presentation of which is given a prominence which is not justified in the context;

*b.* the term “electronic media” denotes radio and television programme services, services such as video-on-demand, Internet, interactive television, and so on, and products such as video games, CD-ROMs, and so on, with the exception of private communications which are not accessible to the public;

*c.* the term “those responsible for the content” denotes natural or legal persons responsible for the content of messages, words and images made available to the public by the various electronic media.

### Guidelines

#### *Guideline No. 1 – General framework*

Article 10 of the European Convention on Human Rights, as interpreted in the case-law of the European Court of Human Rights, must constitute the general legal framework for addressing questions concerning the portrayal of violence in the electronic media.

Freedom of expression also includes, in principle, the right to impart and receive information and ideas which constitute portrayal of violence. However, certain forms of gratuitous portrayal of violence may lawfully be restricted, taking into account the duties and responsibilities which the exercise of freedom of expression carries with it, provided that such interferences with freedom of expression are prescribed by law and are necessary in a democratic society.

More specifically, measures taken to counter gratuitous portrayal of vio-

lence in the electronic media may legitimately aim at upholding respect for human dignity and at the protection of vulnerable groups, such as children and adolescents, whose physical, mental or moral development may be impaired by exposure to such portrayal.

*Guideline No. 2 – Responsibilities and means of action of non-state actors*

*Those responsible for the content*

Member states should recognise and take into account that it is first and foremost for those responsible for the content to assume the duties and responsibilities which the exercise of their freedom of expression entails, since they have primary responsibility for the content of the messages, words and images they disseminate. In particular, operators of electronic media have certain responsibilities when they decide to disseminate messages, words and images portraying violence, in view of the potentially harmful effects on the public, especially young people, as well as on society as a whole. These responsibilities have been assumed by media professionals in various ways, depending on the kind of electronic media, including, for example:

- i. ensuring, through appropriate means, that the public is made sufficiently aware in advance of messages, words and images of a violent content which they will make available;
- ii. the establishment of sectoral codes of conduct which specify the concrete responsibilities of the professional sector concerned;
- iii. the establishment of internal guidelines, including standards for evaluating content, in the various electronic media enterprises;
- iv. the establishment, at both sectoral level and within individual media enterprises, of appropriate consultation and control mechanisms for *monitoring* the implementation of self-regulatory standards;
- v. taking self-regulatory standards into account in contracts with other sectors, such as audiovisual produc-

ers, manufacturers of video games, advertising agencies, and so on;

- vi. regular contacts and exchange of information with national regulatory authorities, as well as with self-regulatory authorities, in other countries.

*The various sectors of society*

Member states should recognise and take into account the fact that various sectors of society have responsibilities in their own fields of activity. They may assume their responsibilities in various ways, for example by approaching those responsible for the content, in particular by awareness-raising campaigns; by promoting and providing media education; by promoting or undertaking research on the portrayal of violence, and so on.

As regards access to and the use of electronic media by children and adolescents at home and at school, as well as with respect to their understanding of violent messages, words and images transmitted by these media, parents and teachers have a special responsibility. They may assume this responsibility in various ways, including by:

- i. developing and maintaining a critical attitude towards the gratuitous portrayal of violence;
- ii. using the electronic media in a conscious and selective manner, as well as by demanding quality products and services;
- iii. stimulating children and adolescents to develop a critical attitude, for example through media education within the family and in schools;
- iv. examining ways of restricting access of children and adolescents to the violence portrayed in the electronic media where this is likely to impair the latter's physical, mental or moral development.

*Guideline No. 3 – Responsibilities and means of action of member states*

Member states bear general responsibility for, *inter alia*, the well-being of their population, for protecting human rights and for upholding

respect for human dignity. However, as concerns the gratuitous portrayal of violence in the electronic media, member states only bear subsidiary responsibility, since the primary responsibility lies with those responsible for the content.

*National media policy*

Member states should adopt a global approach which is not limited to those responsible for the content but addresses the professional and social sectors concerned as a whole. This approach should, where appropriate, aim to:

- i. promote the establishment of independent regulatory authorities for the various electronic media. These authorities should be endowed with appropriate competence and means for regulating the portrayal of violence at national level;
- ii. enable electronic media consumers, both national and foreign, who criticise the violent content of certain services or products, to lodge a complaint with the regulatory authority or another competent national body;
- iii. include among the licensing conditions for broadcasters certain obligations concerning the portrayal of violence, accompanied by dissuasive measures of an administrative nature, such as non-renewal of the licence when these obligations are not respected;
- iv. establish methods to facilitate the division of responsibilities between those responsible for the content and the public (warnings, "watersheds", and so on);
- v. raise the electronic media professionals' awareness of the problems connected with the gratuitous portrayal of violence and the public's concern about them;
- vi. promote research on the portrayal of violence in the electronic media, in particular on trends in the various media, and studies of the effects of such portrayal on the public.

### *International co-operation*

In addition to their existing international obligations and activities carried out within the framework of the Council of Europe, member States should co-operate bilaterally and multilaterally as well as within the framework of competent international organisations, with a view to developing policies for addressing problems related, in particular, to the international dimension of the gratuitous portrayal of violence in the electronic media.

In this respect, they should facilitate the exchange of information and co-operation between competent regulatory authorities, in particular as concerns content classification and the handling of any complaints lodged from abroad.

### *Legal measures*

Where those responsible for the content engage in the gratuitous portrayal of violence which grossly offends human dignity or which, on account of its inhuman or degrading

nature, impairs the physical, mental or moral development of the public, particularly young people, member States should effectively apply relevant civil, criminal or administrative sanctions.

Member states which are not yet Parties to the European Convention on Transfrontier Television (1989) are invited to accede to this instrument. All States Parties to the Convention should ensure its effective implementation, in particular as concerns the provisions dealing with the portrayal of violence, and regularly evaluate its effectiveness. Member states are also invited to give an appropriate follow-up to Recommendation No. R (89) 7 of the Committee of Ministers on principles on the distribution of videograms having a violent, brutal or pornographic content.

### *Promotion of non-violent quality programmes, services and products*

Within the framework in particular of the various national and Euro-

pean programmes of support for the production and distribution of audiovisual works, and in close co-operation with European bodies and professional circles concerned, member states should promote the principle of non-violent quality programmes, services and products which reflect the cultural diversity and richness of European countries.

### *Guideline No. 4 – Shared responsibility for electronic media education*

States should consider electronic media education as a responsibility shared between themselves, those responsible for the content and the various sectors of society. Such education constitutes a particularly appropriate way of helping the public, especially the young, to develop a critical attitude in regard to different forms of portrayal of violence in these media and to make informed choices.

## **Declaration of the Committee of Ministers on protecting the dignity, security and privacy of children on the Internet<sup>1</sup>**

The Committee of Ministers of the Council of Europe,

Recalling the fundamental right to freedom of expression and to receive and impart information and ideas without interference by public authorities and regardless of frontiers, as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights – ETS No. 5);

Recalling the 1989 United Nations Convention of the Rights of the Child, in particular the inherent right for children to dignity, to special protection and care as is necessary for their well-being, to protection against all forms of discrimination or arbitrary or unlawful interference with their privacy and to unlawful attacks on their honour and reputation;

Convinced that the well-being and best interests of children are fundamental values shared by all member states, which must be promoted without any discrimination;

Convinced that the Internet is an important tool for children's everyday activities, such as communication, information, knowledge, education and entertainment;

Concerned however by the enduring presence of content created by children which can be damaging to their dignity, security, privacy and honour both now and in the future as adults;

Recalling the Committee of Ministers' Declaration on freedom of communication on the Internet, adopted on 28 May 2003, which stresses that the exercise of such freedom should not prejudice the dignity or fundamental rights and freedoms of others, especially children;

Conscious that the traceability of children's activities via the Internet may expose them to criminal activities, such as the solicitation of children for sexual purposes, or otherwise illegal or harmful activities, such as discrimination, bullying, stalking and other forms of harassment, by others;

Recalling the measures to protect children referred to in the 2001 Convention on Cybercrime (ETS No. 185), in particular concerning child pornography, and the 2007 Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201), in particular concerning the solicitation of children for sexual purposes;

Convinced of the need to inform children about the enduring presence and risks of the content they create on the Internet and, in this connection, of the need to develop

1. Adopted on 20 February 2008.

and promote their information literacy, defined as the competent use of tools providing access to information, the development of critical analysis of content and the appropriation of communication skills to foster citizenship and creativity, as referred to in Recommendation Rec (2006) 12 of the Committee of Ministers on empowering children in the new information and communications environment;

Aware that communication using new technologies and new information and communication services must respect the right to privacy and to secrecy of correspondence, as guaranteed by Article 8 of the European Convention on Human Rights and as elaborated by the case-law of the European Court of Human Rights, as well as the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108);

Concerned by the profiling of information and the retention of personal data regarding children's activities for commercial purposes;

Noting the outcome documents of the United Nations World Summit on the Information Society (Geneva, 2003/Tunis, 2005), in particular the 2005 Tunis Agenda for the Information Society which reaffirmed the commitment to effective policies and frameworks to protect children and young people from abuse and exploitation through information and communication technologies;

Noting also the mandate of the United Nations Internet Governance Forum, in particular to identify emerging issues regarding the development and security of the Internet and to help find solutions to the issues arising from the use and misuse of the Internet, of concern to everyday users;

Aware of the emerging tendency for certain types of institutions, such as educational establishments, and prospective employers to seek information about children and young people when deciding on important issues concerning their lives,

Declares that, other than in the context of law enforcement, there should be no lasting or permanently accessible record of the content created by children on the Internet which challenges their dignity, security and privacy or otherwise renders them vulnerable now or at a later stage in their lives;

Invites member states, together, where appropriate, with other relevant stakeholders, to explore the feasibility of removing or deleting such content, including its traces (logs, records and processing), within a reasonably short period of time.

## **Recommendation No. CM/Rec (2008) 6 on measures to promote the respect for freedom of expression and information with regard to Internet filters**

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Recalling that States Parties to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, ETS No. 5) have undertaken to secure to everyone within their jurisdiction the human rights and fundamental freedoms defined in the Convention;

Reaffirming the commitment of member states to the fundamental right to freedom of expression and to receive and impart information and ideas without interference by public authorities and regardless of frontiers, as guaranteed by Article 10 of the European Convention on Human Rights;

Aware that any intervention by member states that forbids access to specific Internet content may constitute a restriction on freedom of expression and access to information in the online environment and that such a restriction would have to fulfil the conditions in Article 10, paragraph 2, of the European Convention on Human Rights and the relevant case-law of the European Court of Human Rights;

Recalling in this respect the Declaration on human rights and the rule of law in the information society, adopted by the Committee of Ministers on 13 May 2005, according to which member states should maintain and enhance legal and practical measures to prevent state and private censorship;

Recalling Recommendation Rec (2007) 11 of the Committee of Ministers to member states on promoting freedom of expression and information in the new information and communications environment, according to which member states,

the private sector and civil society are encouraged to develop common standards and strategies to promote transparency and the provision of information, guidance and assistance to the individual users of technologies and services concerning, *inter alia*, the blocking of access to and filtering of content and services with regard to the right to receive and impart information;

Noting that the voluntary and responsible use of Internet filters (products, systems and measures to block or filter Internet content) can promote confidence and security on the Internet for users, in particular children and young people, while also aware that the use of such filters can impact on the right to freedom of expression and information, as protected by Article 10 of the European Convention on Human Rights;

Recalling Recommendation Rec (2006) 12 of the Committee of Ministers on empowering children in the new information and communications environment, which under-

lines the importance of information literacy and training strategies for children to enable them to better understand and deal with content (for example violence and self-harm, pornography, discrimination and racism) and behaviours (such as grooming, bullying, harassment or stalking) carrying a risk of harm, thereby promoting a greater sense of confidence, well-being and respect for others in the new information and communications environment;

Convinced of the necessity to ensure that users are made aware of, understand and are able to effectively use, adjust and control filters according to their individual needs;

Recalling Recommendation Rec (2001) 8 of the Committee of Ministers on self-regulation concerning cybercontent (self-regulation and user protection against illegal or harmful content on new communications and information services), which encourages the neutral labelling of content to enable users to make their own value judgements over such content and the development of a wide range of search tools and filtering profiles, which provide users with the ability to select content on the basis of content descriptors;

Aware of the public service value of the Internet, understood as people's significant reliance on the Internet as an essential tool for their everyday activities (communication, information, knowledge, commercial transactions, entertainment) and the resulting legitimate expectation that Internet services be accessible, affordable, secure, reliable and ongoing and recalling in this regard Recommendation Rec (2007) 16 of the Committee of Ministers on measures to promote the public service value of the Internet;

Recalling the Declaration of the Committee of Ministers on freedom of communication on the Internet of 28 May 2003, which stresses that public authorities should not, through general blocking or filtering measures, deny access by the public to information and other communication on the Internet, regardless of frontiers, but that this does not pre-

vent the installation of filters for the protection of minors, in particular in places accessible to them, such as schools or libraries;

Reaffirming the commitment of member states to everyone's right to private life and secrecy of correspondence, as protected by Article 8 of the European Convention on Human Rights, and recalling the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and its Additional Protocol regarding supervisory authorities and transborder data flows (ETS No. 181) as well as Recommendation No. R (99) 5 of the Committee of Ministers on the protection of privacy on the Internet,

Recommends that member states adopt common standards and strategies with regard to Internet filters to promote the full exercise and enjoyment of the right to freedom of expression and information and related rights and freedoms in the European Convention on Human Rights, in particular by:

- taking measures with regard to Internet filters in line with the guidelines set out in the appendix to this recommendation;
- bringing these guidelines to the attention of all relevant private and public sector stakeholders, in particular those who design, use (install, activate, deactivate and implement) and monitor Internet filters, and to civil society, so that they may contribute to their implementation.

### **Appendix to Recommendation CM/Rec (2008) 6: Guidelines**

#### *Using and controlling Internet filters in order to fully exercise and enjoy the right to freedom of expression and information*

Users' awareness, understanding of and ability to effectively use Internet filters are key factors which enable them to fully exercise and enjoy their human rights and fundamental freedoms, in particular the right to freedom of expression and information, and to participate actively in

democratic processes. When confronted with filters, users must be informed that a filter is active and, where appropriate, be able to identify and to control the level of filtering the content they access is subject to. Moreover, they should have the possibility to challenge the blocking or filtering of content and to seek clarifications and remedies.

In co-operation with the private sector and civil society, member states should ensure that users are made aware of activated filters and, where appropriate, are able to activate and deactivate them and be assisted in varying the level of filtering in operation, in particular by:

- i. developing and promoting a minimum level of information for users to enable them to identify when filtering has been activated and to understand how, and according to which criteria, the filtering operates (for example, blacklists, whitelists, keyword blocking, content rating, etc., or combinations thereof);
- ii. developing minimum levels of and standards for the information provided to the user to explain why a specific type of content has been filtered;
- iii. regularly reviewing and updating filters in order to improve their effectiveness, proportionality and legitimacy in relation to their intended purpose;
- iv. providing clear and concise information and guidance regarding the manual overriding of an activated filter, namely whom to contact when it appears that content has been unreasonably blocked and the reasons which may allow a filter to be overridden for a specific type of content or Uniform Resource Locator (URL);
- v. ensuring that content filtered by mistake or error can be accessed without undue difficulty and within a reasonable time;
- vi. promoting initiatives to raise awareness of the social and ethical responsibilities of those actors who design, use and monitor filters with particular regard to the right to freedom of expression and information and to the right to private life, as well

as to the active participation in public life and democratic processes;

vii. raising awareness of the potential limitations to freedom of expression and information and the right to private life resulting from the use of filters and of the need to ensure proportionality of such limitations;

viii. facilitating an exchange of experiences and best practices with regard to the design, use and monitoring of filters;

ix. encouraging the provision of training courses for network administrators, parents, educators and other people using and monitoring filters;

x. promoting and co-operating with existing initiatives to foster responsible use of filters in compliance with human rights, democracy and the rule of law;

xi. fostering filtering standards and benchmarks to help users choose and best control filters.

In this context, civil society should be encouraged to raise users' awareness of the potential benefits and dangers of filters. This should include promoting the importance and significance of free and unhindered access to the Internet so that every individual user may fully exercise and enjoy their human rights and fundamental freedoms, in particular the right to freedom of expression and information and the right to private life, as well as to effectively participate in public life and democratic processes.

#### *Appropriate filtering for children and young people*

The Internet has significantly increased the number and diversity of ideas, information and opinions which people may receive and impart in the fulfilment of their right to freedom of expression and information without interference by public authorities and regardless of frontiers. At the same time, it has increased the amount of readily available content carrying a risk of harm, particularly for children and young people. To satisfy the legitimate desire and duty of member states to protect children and young

people from content carrying a risk of harm, the proportionate use of filters can constitute an appropriate means of encouraging access to and confident use of the Internet and be a complement to other strategies on how to tackle harmful content, such as the development and provision of information literacy.

In this context, member states should:

i. facilitate the development of strategies to identify content carrying a risk of harm for children and young people, taking into account the diversity of cultures, values and opinions;

ii. co-operate with the private sector and civil society to avoid over-protection of children and young people by, *inter alia*, supporting research and development for the production of "intelligent" filters that take more account of the context in which the information is provided (for example by differentiating between harmful content itself and unproblematic references to it, such as may be found on scientific websites);

iii. facilitate and promote initiatives that assist parents and educators in the selection and use of developmental-age appropriate filters for children and young people;

iv. inform children and young people about the benefits and dangers of Internet content and its filtering as part of media education strategies in formal and non-formal education.

Furthermore, the private sector should be encouraged to:

i. develop "intelligent" filters offering developmental-age appropriate filtering which can be adapted to follow the child's progress and age while, at the same time, ensuring that filtering does not occur when the content is deemed neither harmful nor unsuitable for the group which the filter has been activated to protect;

ii. co-operate with self- and co-regulatory bodies in order to develop standards for developmental-age appropriate rating systems for content carrying a risk of harm, taking

into account the diversity of cultures, values and opinions;

iii. develop, in co-operation with civil society, common labels for filters to assist parents and educators in making informed choices when acquiring filters and to certify that they meet certain quality requirements;

iv. promote the interoperability of systems for the self-classification of content by providers and help to increase awareness about the potential benefits and dangers of such classification models.

Moreover, civil society should be encouraged to:

i. debate and share their experiences and knowledge when assessing and raising awareness of the development and use of filters as a protective measure for children and young people;

ii. regularly monitor and analyse the use and impact of filters for children and young people, with particular regard to their effectiveness and their contribution to the exercise and enjoyment of the rights and freedoms guaranteed by Article 10 and other provisions of the European Convention on Human Rights.

#### *Use and application of Internet filters by the public and private sector*

Notwithstanding the importance of empowering users to use and control filters as mentioned above, and noting the wider public service value of the Internet, public actors on all levels (such as administrations, libraries and educational institutions) which introduce filters or use them when delivering services to the public, should ensure full respect for all users' right to freedom of expression and information and their right to private life and secrecy of correspondence.

In this context, member states should:

i. refrain from filtering Internet content in electronic communications networks operated by public actors for reasons other than those laid down in Article 10, paragraph 2, of the European Convention on

## Extracts from existing Council of Europe standards

Human Rights, as interpreted by the European Court of Human Rights;

ii. guarantee that nationwide general blocking or filtering measures are only introduced by the state if the conditions of Article 10, paragraph 2, of the European Convention on Human Rights are fulfilled. Such action by the state should only be taken if the filtering concerns specific and clearly identifiable content, a competent national authority has taken a decision on its illegality and the decision can be reviewed by an independent and impartial tribunal or regulatory body, in accordance with the requirements of Article 6 of the European Convention on Human Rights;

iii. introduce, where appropriate and necessary, provisions under national law for the prevention of intentional abuse of filters to restrict citizens' access to lawful content;

iv. ensure that all filters are assessed both before and during their implementation to ensure that the effects of the filtering are proportionate to the purpose of the restriction and

thus necessary in a democratic society, in order to avoid unreasonable blocking of content;

v. provide for effective and readily accessible means of recourse and remedy, including suspension of filters, in cases where users and/or authors of content claim that content has been blocked unreasonably;

vi. avoid the universal and general blocking of offensive or harmful content for users who are not part of the group which a filter has been activated to protect, and of illegal content for users who justifiably demonstrate a legitimate interest or need to access such content under exceptional circumstances, particularly for research purposes;

vii. ensure that the right to private life and secrecy of correspondence is respected when using and applying filters and that personal data logged, recorded and processed via filters are only used for legitimate and non-commercial purposes.

Furthermore, member states and the private sector are encouraged to:

i. regularly assess and review the effectiveness and proportionality regarding the introduction of filters;

ii. strengthen the information and guidance to users who are subject to filters in private networks, including information about the existence of, and reasons for, the use of a filter and the criteria upon which the filter operates;

iii. co-operate with users (customers, employees, etc.) to improve the transparency, effectiveness and proportionality of filters.

In this context, civil society should be encouraged to follow the development and deployment of filters both by key state and private sector actors. It should, where appropriate, call upon member states and the private sector, respectively, to ensure and to facilitate all users' right to freedom of expression and information, in particular as regards their freedom to receive information without interference by public authorities and regardless of frontiers in the new information and communications environment.



*Developed by the Council of Europe in close co-operation with the Interactive Software Federation of Europe (ISFE), these guidelines provide human rights benchmarks for online games providers and developers. While underlining the primary value of games as tools for expression and communication, they stress the importance of gamers safety and their right to privacy and freedom of expression and, in this connection, the importance for the games industry to be aware of the human rights impact that games can have.*

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