



Briefing for MEPs

Comments on the draft *Directive of the European Parliament and of the Council on combating the sexual abuse, sexual exploitation of children and child pornography.*

1. Child Abuse and the Internet

There is no doubt that the best way to prevent child abuse images being circulated on the internet is to stop child abuse in the first place. The draft Directive contains a broad range of measures which tackle the wider setting within which child abuse takes place. It would be wrong for the debate on the draft Directive to focus solely on the images of child abuse. Whilst we urgently need to find a solution for dealing with these images, it would be regrettable if this issue were to dominate the debate on the many other key challenges which are reflected in and addressed by the other articles within the draft Directive.

2. Child abuse images are a visual record of abuse and humiliation

On top of the devastating impact of sexual abuse itself, research indicates that it creates additional distress for the child to have to live with the knowledge that once an image has been uploaded on the Internet it may be replicated and downloaded an unlimited number of times.

3. The images undermine the child's self confidence and self esteem

The child in the image can never be certain who might have seen or downloaded the images. This severely undermines self confidence and self esteem.

As a distinguished clinician in the field has put it¹

“The distribution of child sex abuse images means there can be one victim and many offenders. The fact that these images are spread and downloaded by others leads to heightened symptoms of post traumatic stress disorder, depression and or anxiety, plus a diagnosis so far not commonly seen in child sex abuse cases – paranoia.”

4. The images are a gross violation of the child's right to privacy

In any and all proceedings concerning the abuse of a child, the courts and the professional staff working with the child go to extraordinary lengths to preserve the anonymity of the victims. This is

¹ Dr Sharon Cooper, MD FAAP, University of North Carolina Chapel Hill School of Medicine, USA

rooted in sound therapeutic principles. We invite people to think about the production and publication of child abuse images as being a gross violation of the child's right to privacy. Critics of Article 21 are often completely silent on this point.

5. Preventing further publication is an important child protection measure

Therapists and counsellors who work with child abuse victims whose images have appeared on the internet² agree it can help the child to regain some sense of control over their lives, and immeasurably improves their chances of getting on to a path to some sort of recovery, if the child is believed about the abuse they have suffered. Children who have been abused are greatly comforted by the reassurance that if not everyone can be stopped from seeing the images, e.g. people who have already downloaded the images and are storing them offline, at least everything is being done to stop the images spreading any further or being seen by additional people. As another distinguished clinician put it:

“If we as clinicians do not convey to the child that we are doing everything in our power to stop further distribution of the images, we send the wrong signals to the child and may strengthen destructive patterns.”³

The same clinician observed:

“On the other hand if we convey the sense that it is absolutely necessary to stop all further distribution for the child ever to feel OK about herself or himself again we end up in another corner and may disrupt the healing process. Working with accepting the consequences of a crime committed towards the child must always be connected with a clear message and a clear stand against the injustice committed against the child. And such a stand must also always be followed by actions. Thus I believe the disruption of distribution of the images to be a key factor in the recovery process but it is not the only or necessarily the main factor.”

6. Further publication re-abuses the child

Echoing these views, for as long as the images remain on public view the child is in a very real sense being "re-abused". This is also why individuals who deliberately engage in viewing or downloading these images are child abusers by proxy, not so very different from those who made or put the images on the internet in the first place. A survivor of abuse that was recorded in photographs put it like this:

“Those who view the images of my abuse are no different from those who made them in the first place. It feels like they are in the room, encouraging my abuse. I know, technically, there is a difference but, for me, it's not a lot of difference”⁴

² Tink Palmer, Marie Collins Foundation, UK, Julia von Weiler, Innocence in Danger e. V, Germany.

³ Bengt Söderström, psychologist, Stockholm Child & Adolescent Psychiatry

⁴ Marie Collins, Dublin

7. Further publication risks creating new child abusers

There is a growing body of evidence which suggests that people who deliberately download and start collecting child abuse images have a higher likelihood of going on to commit further offences against children, either online or in the real world, or both⁵. The images can fuel their fantasies and spur them on to commit further illegal acts. That is the second major reason for wanting such images to be removed from public view as quickly as possible: it helps reduce the numbers of potential new online and offline child abusers.

8. Removal of the illegal images by deletion or take down is the preferred option

We believe once discovered, child abuse images must be removed from public view as swiftly as possible. This removal will be achieved by the deletion of the material at source, linked to an immediate investigation by relevant agencies to determine who the children are and where they are to be found so that appropriate forms of intervention to help the victims can be planned and put in hand. Linked to this should be a law enforcement investigation to determine who was responsible for producing and distributing the material and holding them to account.

However, where deletion at source cannot be achieved swiftly, blocking can play an extremely valuable role. Blocking can be used as an important short-term disruption tactic whilst the content is fully and permanently removed. It is in this sense that Article 21 makes a very important contribution to child protection.

Whilst it is common ground that the ideal solution is for the images to be completely deleted and removed from the server where they are being housed, evidence shows that this is not taking place. The Italian experience shows us it is possible to act against images at great speed⁶ yet academics from the University of Cambridge have shown⁷ that, in reality, once a report has been made to the appropriate authorities, images can nonetheless still stay up on the web for substantial periods of time. The work of these academics is confirmed on an on-going basis by the daily experience of the individual hotlines that make reports relating to the same sites that they have previously reported on many occasions.

The great majority of the child abuse images on the web are housed on servers in countries outside of the EU. This does not mean that the children being depicted are necessarily from outside the EU. It is often hard to know where the children are from, but children the world over deserve our concern. The universal reach of the internet means we can no longer confine our safeguarding activities to children living within the geography of our own national boundaries and in any event the fact remains that the presence of these images on the internet has a very direct impact within the EU, in the ways we have described above. That is part of the justification for the Commission's proposal.

⁵ See for example, *Self-Reported Contact Sexual Offenses by Participants in the Federal Bureau of Prisons' Sex Offender Treatment Program: Implications for Internet Sex Offenders*, Hernandez, November 2000, presented at the Association for the Treatment of Sexual Abusers (ATSA) in San Diego, California; also *From Fantasy to Reality: The Link Between Viewing Child Pornography and Molesting Children*. Kim, C (2004), based on data from the US Postal Inspection Service, Kim, C; and *Internet traders of child pornography and other censorship offenders in New Zealand: Updated Statistics (November 2004)*, Wilson and Andrews.

⁶ In Italy by law once notified by the police ISPs have six hours to remove or block access to identified illegal material or addresses.

⁷ "The Impact of Incentives on Notice and Take-down", Moore and Clayton

9. Do not let the best be the enemy of the good – blocking can play a valuable role

The web is by far the most popular and most widely used internet interface and that is why it is so important to deal with it as best we can. We acknowledge that at the moment it is possible to circumvent web blocking but if every country in the world were doing blocking there would be far fewer or no alternative addresses for people “to circumvent to”.

Moreover, the evidence we have about the profiles of people arrested for downloading child abuse images suggests that the majority were not technically literate or competent⁸. They could have been deterred from going on to find images that had been put behind a technical barrier such as web blocking. The fact that highly motivated and highly technically literate offenders can circumvent a particular measure is no reason to abandon that measure altogether, for example, consider the continuing battle against spam and viruses.

If we can prevent a significant number of people from becoming engaged with child abuse images it will allow law enforcement to use their time and resources to track down and deal with the smaller numbers of people who are determined to find the images and who also have the technical knowledge so to do.

10. Very large numbers of attempts are involved

In 2009 BT announced that they estimated their blocking solution is preventing up to 40,000 attempts per day to access known child abuse web sites over their broadband network. Extrapolated across the whole of the UK broadband network this suggests that blocking is preventing up to 58 million attempts per year⁹. Five months after blocking was launched in Denmark in 2006 the Danish police estimated that 238,000 users had attempted to reach known illegal child abuse images on the web¹⁰. It was estimate that in Norway blocking was stopping between 10 and 12,000 attempts per day and in Sweden it was in the order of 20 – 30,000 per day¹¹. These are substantial numbers which give us an insight into the scale of offending which blocking addresses. The Danish police referred to the number of users, but the UK, Norwegian and Swedish numbers refer to attempts, many of which will be machine based but even so each and every attempt whether by a human or an automated system represents a criminal act of some sort.

11. Other technologies present different challenges demanding different solutions

We acknowledge that web site blocking does not touch other technologies that are also used to distribute child abuse images. Most obviously we need to address the issue of Peer2Peer software and the re-emergence of Usenet Newsgroups as repositories for child abuse images. They require separate and additional measures. It is not a choice between tackling these or tackling the web, we need to address both.

We are glad that the European Financial Coalition is busy dealing with the supply side of commercial sites. Locking out the producers and distributors from online payments systems is hugely important. ICANN¹² and their associated TLDs¹³ should formulate policies and procedures to forbid the use of

⁸ Lucy Faithfull Foundation

⁹ http://www.theregister.co.uk/2009/04/07/bt_cp_figures/

¹⁰ http://www.politi.dk/da/aktuelt/nyheder/2006/boernepornofilter_24052006.htm

¹¹ http://www.politi.dk/da/aktuelt/nyheder/2005/filter_181005.htm

¹² The Internet Corporation for Assigned Names and Numbers

¹³ Top Level Domains

the domain names system to promote sites which obviously provide access to child abuse images, or which regularly contain such images or disseminate information about where to obtain them.

12. Investigating the producers and distributors is essential in all cases

We reject the idea that if blocking is put in place it will lead to a lessening of the pressure to apprehend the criminals behind the production and distribution of the abusive images. Blocking is a legitimate and necessary tactic to disrupt the trade in or display of images whilst they are properly investigated and taken down by deletion at source.

13. We must improve our record of locating, identifying and helping victims

We have already commented on the importance of every case being investigated by law enforcement. However we acknowledge that finding the children depicted in the images is often a huge challenge for law enforcement. Technical improvements in the ability of different police held databases to work together may lead to more efficient, speedier efforts to determine the whereabouts of victims depicted in images but it is obvious that, usually, before a serious investigation can even begin it is necessary at least to have an idea about the country or jurisdiction where the offence shown took place. Unless the producer of the image has unwittingly left a clue about the geography, it can be very hard to make any real progress. Improved technical analytical tools are likely to have an important role to play in this area.

14. Vital to reduce the possibility of the images reaching their intended markets

The individual behind many of the commercial child abuse web sites typically are not sex offenders in the ordinary sense. They systematically arrange for children to be abused solely in order that they can photograph and film the abuse for commercial gains. If these criminals cannot access a large part of their market, through the web, or if they are unable to collect payments for the images because the banks and credit card companies have locked them out, they will stop doing it or the volumes will be reduced as their trade is disrupted or closed down. Fewer new children will be abused, fewer children who have already been abused will be re-abused by their images remaining on display and fewer new people will find the sites so we reduce the risk of creating new child abusers.

15. Worries about “mission creep” must be addressed

There have been concerns expressed with regard to the way web blocking could be misused for other purposes. This is sometimes called “mission creep”. This is not an argument we can accept. The right to block access to child abuse images deserves to be considered on its own merit. We do not accept arguments presented by parties who refuse to engage in discussions regarding blocking child abuse images because of concerns related to potential misuse. We acknowledge there are issues related to inappropriate use of blocking against gambling web sites and this is no justification for refusing to consider the blocking of child abuse images.

16. Democratic accountability and scrutiny are essential

Underlying aspects of people’s anxieties about “mission creep” is often a related concern that the use of blocking technology is open to abuse. They are concerned that access to web sites could be blocked surreptitiously, for political or commercial reasons.

We agree that the way in which blocking is carried out must be the subject of clear and transparent policies and procedures. It should not be possible for any reasonable person to harbour any reasonable doubt about the way the list of sites to be blocked is constructed, maintained or used. In the UK the operation of their hotline system and the blocking list which they produce is subject to full scrutiny by respected, independent external experts. If an address is blocked the reasons why it has been blocked should be stated and there should be an appeal mechanism. The draft of Article 21 takes this into account:

“The blocking of access shall be subject to adequate safeguards, in particular to ensure that the blocking is limited to what is necessary, that users are informed of the reason for the blocking and that content providers, as far as possible, are informed of the possibility of challenging it.”

17. Working within the framework of the rule of law is fundamental

We need new approaches to address the increase in prevalence of child abuse images which the internet has facilitated. Analogue solutions are not effective in the new digital world which we have all helped to create. Article 21 brings the use of blocking clearly within the framework of law. It is a measure that deserves widespread support.

ECPAT - ECPAT International works for the elimination of child prostitution, child pornography and the trafficking of children for sexual purposes. It seeks to ensure that children everywhere enjoy their fundamental rights free and secure from all forms of commercial sexual exploitation. www.ecpat.net

eNACSO, The European NGO Alliance for Child Safety Online is a network consisting of children's rights NGOs from across the EU working for a safer online environment for children. Our Mission is to promote and support actions at national, European and international level to protect children and promote their rights in relation to the Internet and new technologies. Our work is based on the 1989 UN Convention on the Rights of the Child (UNCRC) and the Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography. eNACSO is funded by the European Commission's Safer Internet Programme. www.enacso.eu

Missing Children Europe is the European Federation for Missing and Sexually Exploited Children. It groups 24 organisations in 16 EU member countries and in Switzerland which are active in the fight against child disappearances and sexual abuse and exploitation of children. www.missingchildreneurope.eu

NSPCC – The NSPCC is the UK's leading NGO specialising in child protection. The NSPCC aims to end cruelty to children by seeking to influence legislation, policy, practice, attitudes and behaviours for the benefit of children and young people. This is achieved through a combination of service provision, lobbying, campaigning and public education. www.nspcc.org.uk

Save the Children's vision is a world in which every child attains the right to survival, protection, development and participation. We are 29 national organisations working in 120 countries worldwide. As the world's leading independent organisation for children, Save the Children's mission is to inspire breakthroughs in the way the world treats children, and to achieve immediate and lasting change in their lives. In Europe, 13 national Save the Children work together to promote children's rights in EU measures and action. www.savethechildren.net/brussels