

Promoting and protecting children's digital rights:

Why the UNCRC needs a General
Comment on 'The Rights of the Child
Online'

The Commissioner for England's Growing Up Digital Taskforce

Childhood has been transformed by technology. It has happened swiftly, in a creative but socially and legally disorganised way. The potential for creativity, for knowledge and innovation is immense. But it carries challenges with it which are unprecedented. In England:

- 50% of 8-10 year olds have a smart phone
- 80% of three to four year olds have access to the internet
- The average 11 year old boy has viewed pornography
- Four of the five most popular channels on YouTube are aimed at children

Set up in October 2015, the Growing up Digital Taskforce is a group of high-level technology, legal and policy experts. Their aim is to explore how children's rights are incorporated and respected within a digital environment. It builds on the highly regarded work of 5rights which was led by digital champion Baroness Kidron.

The Growing Up Digital Taskforce

The Taskforce has 4 key aims:

1. To work with the main internet service providers, social media platforms and technology companies to understand and map how children's rights are currently understood and incorporated in the design, development and delivery of online services.
2. To provide content for children and young people which will allow them to better understand and act on their rights when they sign up to websites, services and apps.
3. To improve access to legal and emotional online support.
4. To produce a General Comment on the UNCRC in order to provide clarification in interpreting the Convention articles in a digital context. This would allow states to fully understand the challenges and opportunities facing the child's enjoyment of their rights online.

What is a General Comment?

- Each of the Committees responsible for a treaty, such as the UN Committee on the Rights of the Child, publishes its interpretation of the provisions of its respective human rights treaties in the form of “General Comments” or “General Recommendations”.
- These cover a wide range of subjects, from the comprehensive interpretation of substantive provisions, such as the right to life or the right to adequate food, to general guidance on the information that should be submitted in State reports relating to specific articles of the treaties.
- General comments have also dealt with wider, cross-cutting issues, such as the role of national human rights institutions, the rights of persons with disabilities, violence against women, and the rights of minorities.
- There are currently 18 General Comments in place and 2 in draft form for the UNCRC.

What is a General Comment?

- Relevant General Comments include ‘Right of the child to rest, leisure, play, recreational activities, cultural life and the arts’.
- The draft General Comment on The Rights of Adolescents briefly covers digital rights, below are some relevant excerpts:

“Efforts must be made to support and promote equity of access in digital citizenship and to provide training and support as part of the basic education curricula to ensure the development of their digital and social literacy skills. In addition, States are encouraged to require businesses to undertake child-rights due diligence with a view to identifying, preventing and mitigating their impact on children’s rights when using digital media and ICTs.”

“While the digital environment offers huge opportunities for adolescents, it can also expose adolescents to online fraud, severe and growing incidence of cyberbullying, grooming for sexual exploitation, and targeting by armed groups. However, it is not only unrealistic to seek to restrict adolescents’ access to the digital environment, but may also serve to violate their rights, for example, to information, to freedom of expression and association, and to culture and the arts. Instead, their safety should be promoted through holistic strategies including digital literacy to educate them with regard to online risks”

The Day of General Discussion on Digital Media and Children's Rights, 2014

One of 13 general days of discussion held since 1992 on specific provisions of the Convention or on related issues.

Aims Included:

- To arrive at a better understanding of how the use of or prevalence of digital media interplay with children's enjoyment of their rights
- Identify and evaluate the differentiated opportunities and risks children face in interacting with ICT and digital media
- Facilitate the Committee's mandate of examining the progress of State parties in achieving the implementation of children's rights in relation to their access to digital media.

The Day of General Discussion on Digital Media and Children's Rights, 2014

Recommendations included:

- States should adopt and effectively implement comprehensive human rights-based laws and policies which integrate children's access to digital media and ICTs and ensure the full protection under the Convention
- States should empower and provide adequate resources including a specific mandate to address the rights of children in relation to digital media and ICTs, and be able to receive, investigate and address complaints by children in a child-sensitive manner, ensure the privacy and protection of victims.
- The Committee further recommends that States provide adequate training and support for children to ensure the development of their digital and social literacy skills with a view to enhancing a responsible use of digital media and ICTs as well as their capacity to avoid risks and protect themselves from harm.

The Day of General Discussion on Digital Media and Children's Rights, 2014

Participants discussed the possibility of a General Comment:

*“Participants acknowledged that even though the Convention on the Rights of the Child was adopted by the General Assembly at a time where the Internet was still in its infancy, it is fully relevant and applicable in the digital environment. However, **it is important to apply a digital-age specific interpretation of every article, adapted to today's realities.** During the discussion, the possibilities of adopting a General Comment, a new Optional Protocol or even a new Convention on digital media and children's rights were addressed. Some participants cautioned that new legal instruments may create uncertainties and urged to rather build upon existing norms and standards and ensure their effective implementation.”*

A General Comment on The Rights of the Child Online

The General Comment would be a much needed opportunity to:

- Provide urgently needed clarification on interpreting the Convention articles in a rapidly evolving and technologically challenging environment.
- Assist States to fully understand the challenges and opportunities facing the child's enjoyment of rights online and in the digital sphere, and meet their obligations to promote and protect these rights.
- Set out some of the steps required to see the full implementation of the recommendations proposed by the day of general discussion.

Update to September 16

- We are in the process of recruiting a partner who will assist in the General Comment drafting process.
- We have invited support and comment from the UNCRC regarding offer to submit the Comment and will follow up with them over the next month.
- A letter has been sent to all Children's Commissioners worldwide to ask them to express their interest and support the Comment.
- The first draft of the General Comment will be available early next year for comment and consultation.