Council of the European Union: Adoption of a Recommendation on the Protection of Minors and Human Dignity

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On 24 September the Council of the European Union formally adopted a Recommendation on the protection of minors and human dignity in audiovisual and information services. This marks the end of a long institutional process which began with the adoption of a Green Paper in 1996 (see IRIS 1998-10: 4). The field of application of this new Community instrument is relatively extensive as it covers audiovisual and information services available to the public in any form. Broadcasting services are nevertheless excluded (these are already covered by the Directive on "Television without Frontiers"), as are radio broadcasting services. The text specifically quotes parental control measures as a means of combating illegal and harmful content, and opts for auto-regulation, which offers companies the advantage of being able to adapt more readily to rapid technological change. The Council nevertheless takes care to point out that any restriction or attack on the principle of freedom of expression must be "non-discriminatory, necessary to achieve the desired objective and strictly proportional with regard to the limitations it imposes", and proposes a different approach depending on whether content is deemed to be unlawful or harmful. In keeping also with national and local sensitivities as well as cultural diversity in determining content, it stressed that "particular attention must be paid to the application of the subsidiarity principle", as the transnational nature of the problem could then be resolved by means of very close international coordination.

The Council addresses both the Member States and the industry, recommending that they set up national frameworks for auto-regulation and the implementation of codes of conduct by collaboration between all the parties concerned (users, consumers, companies and public authorities). As regards broadcasters, it advocates experimentation - on a voluntary basis - of new ways of protecting minors and viewers' information and, for on-line services, the creation of structures for dealing with complaints with a view to combating illegal content; such structures must be suited to cooperation at both national (with the relevant legal and police authorities) and international level. The Council then presents the guidelines embodying these recommendations. Thus the codes of conduct , in their provisions aimed at combating harmful content, should make provision for measures such as a warning page, a sound or visual signal, a descriptive label and/or a classification of content, or a system for checking the age of the user. Parental control should become easier with the supply of filter software, installed

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and activated either by the user or by the services operators. Lastly, and although established on a voluntary basis, it must ensure that the codes of conduct are adhered to by means of dissuasive sanctions which would involve penalising any violations.

Council Recommendation of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity. OJEC No. L 270, 7 October 1998: 48-55.

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