

Response

BITKOM response to the European Commission's Consultation on Child Safety and Mobile Phone Services

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P. 1

The German Association for Information Technology, Telecommunications and New Media (BITKOM) represents a total of more than 1,000 companies. Its 800 regular members employ some 700,000 people and generate revenues of 120 billion Euros. They include manufacturers of ICT equipment and providers of software, IT services, telecommunication services and content.

Summary

The EU Commission started a consultation on child safety and mobile phone services. The consultation aims to examine problems as well as countermeasures to solve them. Its questions cover different fields: risks, regulatory framework, technical options and solutions on the European level. BITKOM welcomes the opportunity to express its views on this important topic.

In comparison to other European countries, the protection of minors in Germany is covered by a very extensive legal framework. Based on that, wireless service providers and content providers established various instruments to protect minors from inappropriate content. One important element is a code of conduct regarding the protection of minors in mobile phone services. Implementation began in July 2006 as part of the Freiwillige Selbstkontrolle Multimedia-Diensteanbieter e.V. (FSM)¹ and by now all network providers participate in it.

Besides that, competition stimulates wireless service and content providers to offer various measures for the protection of minors. This shows that a combination of self regulatory regimes and competitive efforts provide for an effective protection of minors in media services.

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Response

Consultation on Child Safety and Mobile Phone Services

P. 2

Inhalt

1	Risks	3
1.1	Usage patterns	3
1.2	Options for parents to control use	3
1.3	Basic social problems	4
2	Regulatory Procedures	5
3	Measures taken by German wireless service and content providers	6
4	European solutions	7

Response

Consultation on Child Safety and Mobile Phone Services

P. 3

1 Risks

BITKOM welcomes the European Commission's intention to discover potential risks for the protection of minors in connection with mobile phone services. A rational analysis will be helpful in discussing a topic which tends to raise strong emotions in the wake of single incidents.

Without the instruments established so far, and without sufficient media literacy of minors (and of parents or educators as well), there are indeed risks for the protection of minors regarding inappropriate content or interactive services like chat rooms etc. It needs to be pointed out that inappropriate content as such is not a new phenomenon – but the means of communication are. Potential dangers for minors are not specific to mobile phone communication. For this reason, BITKOM finds it astonishing that the European Commission focuses so intently on the protection of minors in mobile phone services.

1.1 Usage patterns

A recent study published by Medienpädagogischer Forschungsverbund Südwest (MPFS)² clearly documents that mobile phones are predominantly used for sending SMS and far less for making phone calls. Today, children and youngsters do not often use mobiles for surfing WAP/internet, for chatting or for using email services. Comparatively high prices for these mobile services might be one reason. It is also of some importance when young people can use conventional internet in their parents' home (who also pay for the internet). In addition, erotic or chat services adapted for mobiles are (in most cases) not free. Not to be forgotten, mobiles have some technical restrictions for displaying graphics and video (e.g. small display).

1.2 Options for parents to control use

An often addressed point is that in contrast to the use of a personal computer, parents cannot control the use of a mobile phone. This is not true in all cases. On the one hand, prepaid products offer parents an easy way of controlling mobile phone costs. Postpaid products offer itemised bills each month which allows regular and precise control (costs and connections).

This becomes relevant if one considers the fact that most children get their mobile phone as well as the contract through their parents. Moreover, a study recently published by the European Commission³ shows that few parents monitor or control their

² JIM-Studie 2006, "Jugend, Information, (Multi-) Media", Vorabauswertung zu den Themengebieten "Mobiltelefon" und "Chat", September 2006; ebenso KidsVerbraucherAnalyse 2006 – Präsentation (http://www.ehapamedia.de/pdf_download/KVA06_Praesentation.pdf, S. 34.

³ vgl. Safer Internet, Special Eurobarometer, European Commission, Mai 2006, S. 29 f.

Response

Consultation on Child Safety and Mobile Phone Services

P. 4

children's usage when they use the internet at home. This monitoring ratio is disproportionately high only in the 5 years and less age range. In a time of proceeding convergence of media, networks and devices, it is more than doubtful that a single approach towards mobile phone services will be effective.

Nevertheless, mobile phone service and content providers established substantial instruments to prevent risks and dangers that come along with inappropriate content. (see below paragraph 3):

- BITKOM, mobile phone service providers and content providers permanently observe technological development and the changing use of mobile phones. Thus they are able to respond rapidly to increasing risks of such developments for the protection of minors.
- This may include user defined choice systems or blocking tools for GPRS/UMTS-based services, e.g. the Internet.
- BITKOM explicitly supports, that any provider of adult-only content protects such services using robust age verification systems, thus excluding minors from inappropriate content.

1.3 Basic social problems

Next to these potential threats (which may come along with network access or simply the offering of certain services) there are risks for children and youth in the way they use their mobile phones. The risks we are dealing with are rooted in social problems, especially violence amongst youngsters. One example is so-called "bullying," meaning threatening or harassing someone via SMS or phone calls. Another example may be the so-called "happy slapping": recording acts of violence with the integrated camera, breach of privacy with such cameras or the spreading of violent or pornographic videos and pictures via Bluetooth. In most cases, this affects individual communication between two or more persons. Such communication is widely protected by European and national (constitutional) law. Thus mobile phone service providers have little room for intervention.

These problems are – in most cases – not new. They are based on long-term social reasons. Most of all, these phenomena are known from other means of communication that have nothing to do with mobile phone communication. Therefore, the problems mentioned above can hardly be solved by technical measures when alternative ways of communication or access to such use are available through storage media, game consoles, mp3 players, electronic cameras, email and so forth. From the past we have learned that technical restrictions on devices or communication networks have a limited effect. This was due to the fact that it was often easy to find tools to break or avoid these technical restrictions via the Internet. Moreover, technical restrictions can only provide for would-be minor protection.

Response

Consultation on Child Safety and Mobile Phone Services

P. 5

A more promising attempt would be to increase the media literacy of children and youngsters as well as parents and educators. Next to governmental agencies and companies, schools play a key role in forming media literacy. Parents, who give a mobile phone to their children need to talk to them about how to use the media. They can also control the abilities of a mobile device, thus controlling the ways these devices are used by their children.

- For example, receiving violent videos can be avoided by taking easy steps: since a mobile is often sold with an inactive Bluetooth-interface, parents need to make sure it remains inactive or they need to modify it as “invisible” for unknown third parties. In most cases every data transfer must be confirmed, even if Bluetooth is set to active and “visible”.
- Parents who prefer an even higher level of safety are recommended to buy a mobile incapable of certain functions. In most cases, these mobiles are subsidised as well. Mobiles for children, which are especially designed for minors, have not been well accepted amongst youngsters. Not surprisingly, parents have not purchased these mobiles.

If it comes to violation of rules for the protection of minors or criminal law, penal action plays a key role. This applies to illegal content (such as child pornography) as well as “happy slapping” and/or sending of videos/pictures with violent or pornographic content. BITKOM recommends that schools and parents report such incidents to competent authorities. This is necessary to make it clear that these are no small matters. Schools and families should establish a clear set of rules regarding their childrens’ mobile use. Everyone concerned should participate in establishing these rules and make sure they are enforced.

There never was and there never will be an impenetrable protection for minors. If adverse effects begin to threaten children and youth, they should be taken seriously but not immediately assume the status of irreversible effects that must be fought with all means possible and eliminated in the future. Considering the constant technological progress, it becomes clear that this could not be achieved anyhow. That is why educating children and youngsters about the potential risks is so important. Mobile phone service and content providers have already taken initiative – technologically as well as educationally.

2 Regulatory Procedures

Due to rapid changes in technological frameworks and services, official regulatory procedures should be prioritized to focus on the objectives protecting minors. BITKOM emphasizes that wireless and content providers share the responsibility to form the way in which these goals can be accomplished. From the ITC industry’s point of view, a substantial protection of minors is already in existence, based on official regulatory procedures, self-regulatory procedures of the mobile providers and

Response

Consultation on Child Safety and Mobile Phone Services

P. 6

content providers as well as the competitive measures of different companies. Understandably, this framework must be continuously revised and, if necessary, adapted.

Compared to other European countries, the German regulation on the protection of minors is very extensive and intricate. Protection of minors is expressed in the German „Jugendmedienschutz-Staatsvertrag“ (JMStV) which applies to „Telemedien“ (virtually all Internet services, but not including any broadcasting) and in some other laws for mobile phone services. In the summer of 2006, most of the large mobile phone service companies began cooperation with the FSM (an institution of voluntary self-control) and created their code of conduct regarding the protection of minors in mobile phone services, thus furthering the measures taken for the protection of minors. This new self-regulatory framework and the measures included must demonstrate its practical effectiveness. Experiences from similar models in different European countries were taken into account, especially the British model of self-regulation.

3 Measures taken by German wireless service and content providers

BITKOM members are aware of their responsibility for the effective promotion of the protection of minors. Technological framework and media services are continuously progressing, as do the steps taken by mobile phone service and content providers:

- A high level of protection was established through the code of conduct from June 2006. This legal policy prevents children access to adult-only content through mobile phone services. This general barrier needs to be enforced by a robust method of age-verification and obligatory input of a PIN number before every user session. This applies both to prepaid and for long-term contracts.
- Moreover, mobile phone service and content providers offer optional barriers for content which may be adequate for some ages and not for others not (e.g. 16+). Again, this applies both to prepaid and for long-term contracts.
- From the industry's point of view, rating commercial content is an adequate measure for protecting minors from inappropriate content. The basis for such ratings are the German rating standards.
- According to the code of conduct mentioned above, chat rooms should not be offered if there are no monitoring systems.
- Illegal content is, of course, not provided. The providers will be supportive in cases of penal action against such content (“notice and take down”).
- According to the code of conduct, mobile phone service providers also oblige their contractual partners (third parties) to keep with the established rules.
- Every mobile phone services provider offering content services employs a youth protection coordinator who advises the company regarding the protection of minors. This coordinator is also the contact person for customers for such matters.
- Competition amongst companies, with quality being a strong aspect for the customer, has led to customised products supportive for the protection of minors. For example, parents can block access to WAP/Internet as well as they can

Response

Consultation on Child Safety and Mobile Phone Services

P. 7

disable the ability to receive MMS. Companies use these blocking tools to promote their products to parents.

- Mobile phone service and content providers successfully established tariffs dedicated for children and youngsters, which contain cost control or blocking tools: T-Mobile (CombiCard Teens), Vodafone (CallYa junior Card), E-Plus (Kids & Teens Jugend-Prepaidkarte), Jamba! („Kindersicherung“) etc..
- Moreover many mobile phone service providers also offer subsidised devices incapable of certain interfaces like Bluetooth or services like MMS or WAP/Internet.
- Mobile phone service providers offer different content- and information services targeting different groups of consumers: for example, information via Internet, hotline or at the shop. These services are being extended. Next to that, governmental agencies, media agencies or minor protection agencies offer various information services.
- Educational media is successfully used in schools. A good example is the CD-ROM mobile course “Polly und Fred”, which was co-initiated by O₂.
- The self-control body Freiwillige Selbstkontrolle Multimedia-Diensteanbieter e.V. offers a “media suitcase“ which supports education about the media. The mobile phone service providers founded the “Informationszentrum für Mobilfunk“ (information centre for mobile services, IZMF, www.izmf.de) which provides educational material for media literacy as taught in the school subjects German and Social Studies.
- The self-control body FSM (Freiwillige Selbstkontrolle Multimedia-Diensteanbieter e.V.) offers an online mechanism for complaints (regarding illegal content) at www.internet-beschwerdestelle.de.

4 European solutions

BITKOM is convinced that all essential regulatory framework for the protection of minors can only be appointed at national level, considering local preferences and standards. Therefore, it is not beneficial to define regulatory framework at European level. When it comes to content rating and classification systems, a European solution nevertheless might be a good approach: cross-national framework could improve effectiveness and transparency. For computer and video games, a Europe-wide rating and classification system is already at work: the Pan European Game Information (PEGI).

European mobile phone service providers continuously exchange experiences regarding questions of protection of minors. This also helps with establishing a high level of protection of minors in mobile phone services. This so-called “best practice exchange” could take advantage of further support by the European Commission. This includes the exchange of information about successful regulatory and self-regulatory measures within the member states. By doing so, the European Commission should assure all different media meet a uniform level in the protection of minors and that the increasing convergence of content, networks and end-user devices is taken into consideration.