

Questionnaire on child safety and mobile phone services

Comments of the Freiwillige Selbstkontrolle Multimedia-Diensteanbieter, FSM e.V. (Voluntary Self-Monitoring of Multimedia Service Providers)

Introduction

The Voluntary Self-Monitoring of Multimedia Service Providers (FSM) is a registered association founded in 1997 by e-commerce alliances and companies. The members of the FSM share the opinion of the federal government and the federal states that also the economy has to act in order to prevent the diffusion of content considered illegal and harmful to minors within the online-media. The FSM was founded for that reason. The FSM is operating a hotline and strives to communicate a responsible handling of online-media to the user of online services.

In Summer 2006, E-Plus, O₂, T-Mobile, The Phone House and Vodafone D2 have joined the FSM. Our goal is to enforce the Code of Conduct for the Protection of Minors that was signed by the mobile phone companies in 2005 and to seek joint measures in order to ameliorate youth protection in the domain of mobile radio under the umbrella of the FSM. At present, the FSM and the affiliated mobile phone companies are working on a classification paper for mobile content. Together, the FSM and the mobile phone companies are intensely seeking further measures and ways to diminish the dangers for children and juveniles and to provide effective youth protection.

Risks

1. Can you provide the Commission's services with figures and examples on risks raised by the use of mobile phones by children and young people?

a. The confrontation of minors with harmful content

The danger for minors to encounter harmful content (e.g. violence or pornography) is imminent in principle, but does not reach the magnitude as it is present regarding the internet or other media. The diffusion of such content already occurred in the past, e.g. via e-mail, video films or even via print media. In the major part of the cases, the harmful content is originated from the internet and is spread using built-in interfaces, like Bluetooth or Infra-Red. According to a survey conducted by Ipsos Insight, only 18%¹ of the internet-users in 2005 were using mobile devices to surf the web. Given these figures it must also be considered that a predominant number uses the internet for business matters. Accordingly, the survey shows a remarkable increase of mobile internet use among the above 35-year-olds.² The mobile use of the internet among minors using mobile phones has to be estimated as marginal, also considering the comparatively high costs.

However, the German mobile phone companies and the FSM are aware of the fact that the diffusion of violent or pornographic content via peer-to-peer-techniques means a danger to minors. Even though the rate of diffusion is low compared to e.g.

¹ <http://www.ipsos-na.com/news/pressrelease.cfm?id=3049>.

² <http://www.ipsos-na.com/news/pressrelease.cfm?id=3049>.

the internet, such content can be spread in locations where minors usually gather, such as schools, youth or sports clubs. The viewing of extreme violence (“snuff”-video clips) on mobile devices is partly considered as a test of courage among juveniles. Such video clips can cause severe states of anxiety among minors.³ The diffusion, the possession and the viewing of video-clips containing violence and pornography is regarded as “cool”. Such contents are also used in order to provoke and shock others. However, the transmission of content via Bluetooth is not possible in case the interface is disabled. In principle, mobile phones are delivered with the Bluetooth-interface deactivated. Users of mobile phones usually have to confirm each transmission before being able to receive and view the content.

From the point of view of the FSM, the problem of harmful content on mobile devices used by minors can to some extent be addressed by technical measures. Yet above all, the FSM considers educational and awareness raising-measures, in respect to both minors and parents, as the most effective way to fight such illegal content. The necessity of an effective education becomes evident considering the fact that parental control of mobile phones, due to their character as personal and intimate devices, is much more difficult compared to scrutinizing e.g. a PC. In most cases, parents do not dispose of the technical know-how which is necessary to thoroughly check and control content saved on the data storages of a mobile phone. Schools and public bodies should teach and communicate the required technical knowledge and a reasonable and sensible use of mobile phones. The mobile phone companies take as well responsibility for the issue and support sustained educational measures.

The German mobile phone companies have made important steps by signing the Code of Conduct and by joining the FSM, in order to strengthen youth protection and to intensify educational measures.⁴ At present, the companies are undertaking efforts to fight harmful content by communicating a responsible use of mobile phones to minors. E.g. O₂ funded the development of the software “Polly and Fred” by the Institute for Film and Image in Science and Education, aiming to teach children between eight and twelve years the required media literacy.⁵ Since April 2006, both T-Mobile and Vodafone offer charge-free hotlines for parents to support the protection of their children by delivering practical tips, information and recommendations.⁶ Furthermore, T-Mobile (CombiCard Teens) and Vodafone (CallYa Junior Card), offer services and rates specifically fitted for the needs of juveniles, offering partly the opportunity to bar and block e.g. the Bluetooth-interface, access to portals, MMS- and GPRS/UMTS-services. Additionally to the “Kids&Teens”-rate-offer, E-Plus will issue an brochure in late 2006 in order to ameliorate the flow of information to the parents and to promote children’s and juvenile’s media literacy. A brochure, addressed to parents in order to inform about chances and risks of mobile phones, including practical tips, will be issued by Vodafone in October 2006.

³ Study “Media and Violence“ of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth; p. 120 ff., 239 ff; online: <http://www.bmfsfj.de/RedaktionBMFSFJ/Abteilung5/Pdf-Anlagen/medien-und-gewalt-lang,property=pdf,bereich=rwb=true.pdf>.

⁴ See § 1 d) aa) of the Code of Conduct, online: http://www.fsm.de/inhalt.doc/Verhaltenskodex_Mobilfunk.pdf.

⁵ Overview (O2) see at http://www.de.O2.com/ext/standard/index?page_id=861.

⁶ http://www.t-mobile.de/unternehmen/ueber_t-mobile/0,8989,15900-,00.html?svl=100.

Cases of violent acts, performed to be captured by built-in cameras of mobile phones are likewise problematic. The conducting of violence as well as the filming and diffusion of such acts are, similar to the diffusion of video-clips of extreme violence or pornography, no mere pranks among juveniles, but criminal offences which have to be prosecuted by law enforcement agencies. The problem here is to effectively enforce the law by prosecute contraventions. It is the belief of the FSM that this issue can ultimately and singly be addressed effectively by educational measures. Schools in particular should act on pupils accordingly and educate parents and guardians, who are often ignorant of such incidents. Mobile phones equipped with cameras are thus not the virtual cause or trigger of violence.

In this regard, the mobile phone companies are already playing an active role. In summer 2006, O₂ has started a project in collaboration with the JFF – Institute for Media Education in Research and Practice, aiming to promote better education. Supported by O₂, the JFF has conceived informative meetings addressed to educationalists and parents as well as projects dealing with possible dangers and creative potentials of mobile phones likewise. The informative meetings focus on informing about problematic issues of mobile phones and helping parents and educationalists faced with these problems. The mentioned projects aim to sensitise juveniles to problems of mobile phones (costs, violence, pornography). In doing so, the emphasis is on giving the opportunity to talk about and discuss problematic issues by including the experiences of the juveniles themselves. In a second part, the creative possibilities of the use of mobile phones are pointed out to the juveniles. In June 2006 the representative office of Vodafone hosted a workshop, titled “Mobile against violence? School, parents and industry shoulder to shoulder for a safe use of modern means of communication.”

b. Unwanted approach by extremists or potential criminal offenders

In Germany, incidents occurred where extremist propaganda was diffused among minors using their mobile phones. Mobile phones having “Sieg-Heil”-shouts as ring-tones were used among juveniles. Logos and ring tones of known rightist extremist bands were offered on the internet.⁷ Moreover, unwanted contact by potential criminal offenders, e.g. paedophiles, can be made using mobile phones.

Again, it is the conviction of the FSM that educational measures communicated by schools and other public bodies concerned are effective means to prevent and fight such development.

The mobile phone companies are as well aware of the danger. By signing the Code of Conduct, they have set out in writing the ambition to implement monitoring-systems of chat-rooms. E-Plus, O₂, T-Mobile and Vodafone D2 have already implemented monitoring-systems of self-operated chat rooms.⁸

2. Do you see specific risks associated with the use of pre-paid cards, which ones?

⁷ Report concerning the protection of the constitution, Federal State of Nordrhein-Westfalen, 2005; p. 87; online at http://www.im.nrw.de/sch/doks/vs/verfassungsschutzbericht_2005.pdf.

⁸ See e.g. http://www.O2.com/cr/report2005/report_233.asp.

From the FSMs point of view, a mobile phone operated via pre-paid cards offers a safe alternative for children and juveniles compared to a contract-bound mobile phone. The costs can be controlled more easily, for the amount of money spent is more evident to the user. According to the survey “Youth and Money – 2005”, conducted by the Institute for Youth Research, pre-paid-cards are by far the prevalent way for minors to use mobile phones, cost control being the most important reason for choosing the pre-paid option.⁹

The financial risk for children and juveniles using mobile phones has to be considered as low. The mentioned survey “Youth and Money – 2005” shows that the predominant reason for debts among children and juveniles is clothing and fast-food.¹⁰

Though the use of pre-paid-card might imply the risk of juveniles spending most or all of the money at their disposal for mobile phones, the FSM estimates the overall-risk as rather low. This is particularly true in case parents, schools and mobile phone companies are handling the issue appropriately by starting to apply the necessary educational measures. Parents should be informed and sensitised accordingly in order to recognise financial exigencies of their children at an early stage. For the money of minors usually comes from their parents, an appropriate control of the financial situation is possible.

A reasonable way is to use services offered by mobile phone companies including the possibility of automatic cost-limitation. In case the limit has been reached, the mobile phone can not be used for services with costs until the next month. The services CombiCard Teens (T-Mobile), CallYa Junior Card (Vodafone) and Kids&Teens (E-Plus) are offering such cost-control. SIM-cards are being “charged” with a monthly fixed sum.¹¹ The partly blocking of expensive services, e.g. calling overseas, MMS or certain service numbers (e.g. numbers with the 0190-prefix), is also possible.¹²

In the FSMs point of view, the use of pre-paid-cards neither implies other risks. Of course, the youth media protection laws apply irrespective of the mobile phone being operated using pre-paid-card or according to contractual terms. The measures planed by the companies and those already implemented by them do therefore equally apply to whatever mode of operating.

Regulatory framework

⁹ Study „Jugend und Geld“, IJF, p. 57 f., online at <http://www.schulden-kompass.de/downloads/jugend-und-geld/index.php>.

¹⁰ Study „Jugend und Geld – 2005“, IJF, p. 67 f., online at <http://www.schulden-kompass.de/downloads/jugend-und-geld/index.php>.

¹¹ http://www.t-mobile.de/combicard/teens/0,10849,15658-_,00.html;
<http://www.vodafone.de/privat/callya/68000.html>.

¹² http://www.t-mobile.de/combicard/teens/0,10849,15658-_,00.html;
<http://www.vodafone.de/privat/callya/68000.html>.

3. Please identify which of the above risks are not covered by the current national regulatory, co-and self-regulatory frameworks.

In Germany, legal requirements exist as regards to all mentioned domains (youth protection laws, criminal laws, civil/private laws). The problem is not a lack of regulatory framework, but its enforcement. To carry out violence (e.g. “Happy Slapping”), the capturing of violence via built-in cameras and the exchange and diffusion of such content via the Bluetooth-Interface or the Internet are prohibited. However, to enforce these prohibitions is complex and difficult. Technical restrictions, as proposed in many cases, e.g. the blocking of the Bluetooth-Interface, are rather less reasonable, given that they can easily be circumvented and the disproportionality of a such measure in light of alternative ways of diffusion. Nevertheless, the German mobile phone companies are offering devices, rates and other possibilities for the parents to prevent the transmission of and the access to improper content. Educational measures and the promotion of media literacy of both parents and minors is a much more promising way. The mobile phone companies have already implemented actions as well in this regard.

An effective abatement can above all be achieved by intense educational measures. Parents, schools and mobile phone companies should contribute to such efforts, whereas parents and schools, depending on the circumstances, should firstly inform themselves adequately. The FSM and the affiliated mobile companies will do the necessary steps in order to accomplish effective educational measures.

The Alfred-Teves-Schule has made a successful approach themed “Violence prevention through media literacy”. The project shows that the learning of a reasonable use of mobile phones and a comprehensive education is a better way compared to mere prohibitions.¹³ We hope that other schools will realise the necessity to follow suit.

With regard to unwanted and impure approaches, regulations still may have to be adopted. For the most part, this domain is already covered by criminal laws in force (Coercion, §240 StGB, Threat, §241 StGB, Child Stealing, §235). However, there is still room for further stipulation when it comes to stalking-like situations. The problem of “cyberstalking” is presently discussed¹⁴ and gave reason to recent bills: “Severe Harassment”, §238 and “Stalking”, §238. §238 is planned to ban among other things the harassment by means of telecommunication under certain conditions.¹⁵ If chat rooms are covered by this stipulation remains to be seen. The wording of the regulations militates in favour.

Concerning the domain of chat, the implementation of such elements of crime would not be easy, considering the difficulty of law enforcement. A more effective protection of children and juveniles would be the monitoring of chat rooms for minors by personal. At present, automatic solutions (filters etc.) can easily be circumvented and are thus hardly beneficial (all the more considering the aptness of children and juveniles when it comes to mobile techniques).

¹³ <http://www.alfred-teves-schule.de/ats2005/unterrichtspraxis/gewaltpraevention/index.php>.

¹⁴ See Blog of Brigitte Zypries, secretary of justice, at <http://blog.brigittezypries.de/2005/08/10/besserer-schutz-fur-stalking-opfer/>.

¹⁵ See <http://dip.bundestag.de/btd/15/054/1505410.pdf>; <http://www.bmj.bund.de/media/archive/989.pdf>.

4. Do you think the current balance between regulation/co-regulation and self-regulation is the right one?

In Germany regulations of youth media protection (Jugendmedienschutz) are adopted, which ensure a coherent and practicable comprehensive framework. With the State Treaty on Protection of Minors in the Media (Jugendmedienschutz-Staatsvertrag) the legal basis for the protection of children and juveniles in all electronic media is irrespective of the transmission path (all "electronic information and communications services", including mobile services are covered). The major German mobile phone operators have joined the FSM in summer 2006 in order to comply with these stipulations and to achieve a more effective protection of the youth. A balanced concept between effective measures and practical feasibility has to be found and carried out.

In principle, policy and the legislator should concentrate on formulating clearly outlined goals, while specific measures are decided by the industry and self-regulated bodies. Self regulation has the advantage to be able to react more swiftly and flexible to changes of technique and new social problems.

A uniform standard of youth media protection has to be applied to regulation/co-regulation as well as to self-regulation. In the FSMs point of view, there is no specific need for regulation concerning mobile radio, considering the convergence of media, networks and end devices.

Technical solutions

5. What measures do you recommend in the different areas described below, and why? By whom should they be implemented?

a. Classification of commercial content.

A classification of commercial content using age brackets by mobile companies and content-providers is useful, enforceable and partly already put into place. Providers, both mobile phone providers and content providers, should obtain instruments to classify the content easily and compliant to the law. Accordingly, in cooperation with their affiliated mobile phone companies, the FSM is currently developing classification documents. Additional to the age labelling, a thematic labelling, similar to the Dutch KIJKWIJZER-system¹⁶, could be useful to achieve more extensive transparency.

In any case, the intensive education of legal guardians and minors themselves is of paramount importance. Schools and other public institutions which typically get in contact with minors should act accordingly on parents and minors. Possible dangers should be pointed out and appropriate media literacy should be conveyed at schools.

¹⁶ <http://www.kijkwijzer.nl/>.

b. Opt-in /opt out. Should the Opt-in (where the user has to explicitly request access to adult content rather by accessing it by default) approach be applied in all EU countries?

In Germany, an opt-in-model is adopted by the German mobile phone companies for all 18+ content. The German youth protection law demands a so called age verification system. The demands made on such systems are high. As a result, the access to adult content is always conditioned by an age check conforming to the law. This age check has to be conducted obligatory for all adult content, excepting the possibility of all other ways of access.

In the opinion of the FSM, a solution throughout the EU should as well comprise an age check when it comes to accessing adult content.

c. Age verification: should Mobile network operators implement face to face identity check to determine the age of the user? Should this process also be applied when a customer buys a pre-paid card?

In Germany it is a legal requirement to verify the age via an age verification system, on which high demands are made, to get access to adult content (e. g. pornography). For that purpose the mobile companies already submitted technical system, which was approved by the Kommission für Jugendmedienschutz (KJM), which is the competent administrative body for youth media protection.¹⁷

An age verification system is applied in any case of access to adult content, as it is demanded by the law, irrespective of the mode of operation (pre-paid or contract).

The legal requirements for the conclusion of a contract are another issue. The conclusion of a mobile phone contract is only offered to adults. To check age and identity of each customer he has to show an identification card. This ID-check and the check of creditworthiness prevent financial risks for the mobile phone companies.

The purchase of pre-paid-mobile phones and pre-paid-cards by minors is, under certain conditions, permitted by German law.¹⁸ The general regulations of civil law offer an adequate protection for children and juveniles.

Nevertheless, as mentioned above, the access to adult content is only legal if an age verification system is put in place, irrespective of the mode of operation. This legal requirement is fulfilled by the German mobile phone companies. We do not consider supplementary ID-checks to be necessary.

d. Filtering and blocking systems. Should filtering systems be installed by default when the subscription allows internet access?

The German Code of Conduct for the Protection of Minors provides the possibility for parents to block certain content.¹⁹ At present, the German mobile phone companies

¹⁷ See system used by Vodafone D2 Germany, vgl. http://www.kjm-online.de/public/kjm/index.php?show_1=91,85,56.

¹⁸ See §110 BGB.

¹⁹ See §1 d) aa) of Code of Conduct, online at http://www.fsm.de/inhalt.doc/Verhaltenskodex_Mobilfunk.pdf.

are working on the implementation of such systems. The implementation of filtering- or blocking-system on the access level however is problematic for legal reasons: in Germany, pre-censorship is forbidden by the constitution. E.g. T-Mobile provides a reasonable solution by offering the parents the possibility to bar all UMTS-/GPRS-services like mobile internet access.

For the domain of search engines, the FSM and the German Agency for the Examination of Media for Young People has developed the so called BPJM-module. In a first step, internet content harmful to minors is indexed by the competent state authority in a constitutional procedure. In a second step, the indexed sites are implemented in the BPJM-module and used by the affiliated search engines. As a result, the indexed sites are not shown in the search results. At present the FSM and the mobile phone companies are analysing if a correspondent module, aligned and adjusted for mobile radio, would be a sound and realisable solution.

Aside from this concept, the application of different non-access-levelled youth protection programs by the user is possible. Promising filtering systems already exist for the internet, reading out preliminary labelled websites according to the labelling (e.g. ICRA/ICRA plus)²⁰. An adequate system for the mobile phone business is desirable in general. Expense and actual benefit of such a system for the domain of mobile radio are yet to be analysed.

e. Chat rooms. Should chat rooms accessible by children be moderated (in an automatic way or by a person)?

Child-chat rooms should be moderated by a person. Filter software is usually less effective and can easily be circumvented by minors, who are in many cases technically versed. In the future, improved technical filter systems may offer an equally effective protection. Methods of resolution for the internet already exist, which could be transferred to the domain of mobile radio. In consideration of the financial burden caused by the introduction of personal control of chat rooms, such development is desirable for the mobile phone companies.

f. Raising awareness among parents and children

Contract conclusion and the sale of mobile phones provide possibilities for mobile phone companies to point out potential dangers of mobile phone use to their customers, e.g. via the provision of information material. Moreover, parents/guardians should inform themselves about possible dangers and possibilities of prevention before giving a mobile phone to their children. Provincial and federal governments, state media institutions, the police and child protection organisation are already providing comprehensive informative literature.

Currently, the German mobile phone companies seeking ways to ameliorate their offers of information. All potentially sound measures are being scrutinised, e.g. informative websites, print media, hotlines and possibilities at point-of-sale.

²⁰ See <http://www.icra.org/>.

All in all, the increase of parental awareness is of vital importance for an effective protection of minors. As a result, parents would be able to both control and educate their children more thoroughly, as well by teaching them about possible risks and their prevention. Schools and other public institutions should increasingly work towards an accordant education.

The German mobile companies bear their part of the responsibility. By signing the mobile Code of Conduct the companies signalled that they are aware of this responsibility and as well willing to fulfil it.²¹ Important steps towards the promotion of the needed media literacy have already been done.²² Together with the FSM, other measures will be taken to ensure a comprehensive education.

A uniform and thematic labelling of content similar to the Dutch Kijkwijzer-system or the European PEGI-system would also help to increase the awareness and attention of parents. In general, the use of clear-cut, easily perceivable symbols is desirable to reach the needed transparency for parents and children.

g. Dedicated mobile phone packs for children, for which age group?

Children and teenagers usually desire to use the same mobile phones as adults. "Child-specific" modifications will not be attractive for them. The German mobile phone companies have subsidised mobile phones within their portfolio, which do not support certain services or ways of transmission (e.g. Bluetooth, MMS, Internet-Access). From an educational point of view, modifications as mentioned above, especially the blocking of internet access, would not be reasonable for certain age brackets. Children of a certain age should already learn or possess the adequate media literacy.

More promising are specific rates: T-Mobile, Vodafone and E-Plus offer a variety of rates for minors, which allow cost-control, possibilities to bar certain services and partly an option to call the parents free of charge (CombiCard Teens – T-Mobile; CallYa Junior Card – Vodafone; Kids & Teens Youth-Prepaid Card – E-Plus).

European solutions

6. Among the measures listed above which ones would be useful to elaborate at European level? For which ones would it be useful to discuss/exchange best practices at European level?

To discuss and to exchange information will be useful concerning all measures mentioned above. Given that some member states have already developed different solutions and measures than others, every country could benefit from an exchange of experiences. Some European countries have already made steps towards filter- and blocking techniques. Accordingly, the experiences made are precious for everyone involved.

²¹ See §1 d) aa) of Code of Conduct, online at http://www.fsm.de/inhalt.doc/Verhaltenskodex_Mobilfunk.pdf.

²² See e.g. http://www.de.O2.com/ext/standard/index?page_id=861&state=online&style=standard; http://www.t-mobile.de/unternehmen/ueber_t-mobile/0,8989,15900-,00.html?svl=100.

An elaboration of a thematic classification system would be interesting at European level: a cross-national solution would increase the effectiveness and transparency. With the Pan European Game Information (PEGI) for computer- and video-games a European wide classification system, which also labels thematically, was already implemented in a number of European countries.²³ However, all efforts at European level have to consider the differing national standards and preferences when it comes to age brackets: thus, a European uniform classification system including age brackets seems less reasonable, while the thematic classification and labelling of content remains desirable.

A sound approach would be to elaborate specific aspects of the educational work at European level. European requirements for the member states to support schools and other public institutions in order to teach and convey the needed media literacy would effectively ameliorate protection of minors.

²³ <http://www.pegi.info/pegi/index.do?language=en>