Better Internet for Kids

Roundtable on child and youth consumer protection in digital markets

Roundtable report

22 September 2022
Online

Contents

Copyright and acknowledgements

Rapporteurs

Thanks to the rapporteurs who contributed to this report:

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Executive summary

The New Consumer Agenda, which was published at the end of 2020, acknowledged the requirement to address specific consumer needs and in particular the needs of children and young people in the digital environment, for example when they are exposed to misleading and aggressive commercial practices online. The European Strategy for a Better Internet for Kids (BIK+), adopted in May 2022, also emphasises that children use digital technologies for education, entertainment, social contact and participation in society from an ever-younger age and that, in doing so, they often encounter digital content and services that were not designed with children in mind.

With 2022 being the European Year of Youth, European Schoolnet organised an online Roundtable on child and youth consumer protection in digital markets on Thursday, 22 September 2022, on behalf of DG Communications Networks, Content and Technology (CONNECT) and DG Justice and Consumers (JUST) of the European Commission.

This executive summary provides a brief overview of the main points raised during the Roundtable and lists a number of questions in need of further attention. It equally explores the roles of different stakeholders within the field of child consumer protection in the digital environment, more specifically the roles of private and public stakeholders, parents and children themselves.

In her keynote speech, Prof Dr Eva Lievens set the scene for the panel discussions by identifying a number of consumer risks faced by children and youth online and by exploring which regulatory initiatives are being put in place to address these risks. Children and youth are avid users of both social media platforms and video games. While the digital environment has great potential for play, entertainment and creativity, the commercial stakes are high and different monetisation strategies are deployed, many of which are difficult to detect for children. The lines between different types of online content and services (editorial/commercial, videogaming/gambling) are becoming increasingly blurred, and these are accompanied by a plethora of commercial practices that have led to a new type of consumer risk for children in the digital environment. Here, Professor Lievens highlighted that several children's rights could be potentially violated due to these practices. Strong legal frameworks are important in order to prevent and remedy this. The EU legal framework includes different instruments that are potentially applicable, such as the General Data Protection Regulation (GDPR), the Audiovisual Media Service Directive (AVMSD), or the newly adopted Digital Services Act (DSA), but the interplay between these instruments is not always entirely clear.

Professor Lievens focused on three practices which are specifically relevant within the digital environment: influencer marketing, loot boxes and dark patterns.

First, influencer marketing is an extremely popular marketing strategy on platforms such as TikTok and Instagram. Influencers are perceived by children as relatable, accessible and credible and as such are ideal to influence children's consumption behaviour. Influencers sometimes use controversial content (for example, glamourising gambling or drug use) to generate views and revenues, and the content they produce contains both editorial and

commercial content, making it difficult for children to use their advertising literacy skills. A wide variety of (legal) instruments can be applied to this practice, such as advertising (self-) regulation, media law, consumer protection, data protection law, and even labour law.

Second, loot boxes are mystery boxes containing randomised virtual items that are obtained either through gameplay or by purchasing them with real money. Due to its close resemblance to gambling, the European Commission has stated that the presence of paid random content should be clearly disclosed to the consumer, including an explanation of the probabilities of receiving a random item, and that the sale of loot boxes in video games must comply with the information obligations under the Consumer Rights Directive and the Unfair Commercial Practices Directive.

Third, dark pattern refers to techniques incorporated in the design or structure of websites, platforms or apps that make users/consumers do things or take decisions that they did not mean to. These patterns use a variety of techniques, such as visually designing buttons to make the desired option more attractive, using trick questions and ambiguous language, creating an artificial sense of urgency for the user, or using emotional language to discourage certain choices. Studies have found that these techniques can lead to financial or other harm for children and youth, especially considering the susceptibility of children to behaviour-altering practices.

Professor Lievens highlighted the potential to address many of the identified risks by means of a variety of existing and proposed instruments. Nevertheless, there is still a lack of clarity regarding the application and interplay of different (legal) instruments. A shift is noticeable, especially at the EU level, towards a legal framework with stronger obligations for platforms and companies, but this framework should be sufficiently future-proof in order to tackle emerging technological evolutions which bring new issues to the table. Further, a key role must be played by the different authorities who should cooperate much more. Finally, the best interests of the child should always be taken into account, for example by using 'by-design' approaches, by taking a precautionary approach, and by using Child Rights Impact Assessments to determine the potential impact of commercial practices on children's rights.

Panel 1: Key priorities moving forward – social media

The first panel discussion concerned key priorities for social media. Several participants noted that children and youth nowadays face constant commercial pressure, both directly and indirectly, with the latter often on an unconscious level. The potentially dangerous consequences of these pressures were acknowledged, both in the short term (for example, financial) and the long term (for example, addiction). The different responsibilities of industry and parents, and the importance of children being able to freely navigate the digital environment, were discussed. Suggested actions included better and more efficient enforcement of existing rules, more cooperation between authorities, better information for teachers and parents and providing them with easy-to-use tools, and more clarity on issues and gaps in the law. Dark patterns were considered to fall 'somewhere in the middle' of different laws, which brings about uncertainty as to the application of certain sets of rules to

the different techniques used. Participants concluded that, although there are promising initiatives, there is still work to be done regarding the respective roles and responsibilities of online platforms and parents in protecting children from potential harms within the digital environment.

Panel 2: Key priorities moving forward – gaming platforms

The second panel discussion covered risks and opportunities of videogaming platforms. The session started with a video presentation by Celia Hodent, who talked about the positive impacts of video games on children, for example in developing visual and cognitive skills, intelligence, or using video games as pedagogical tools and as social spaces for children that positively affect their well-being, motivation and satisfaction. Next, the concept of variable rewards was explained, where games use variable rewards and delayed gratification to keep players engaged, which can be especially effective for children. Additionally, companies sometimes use 'shady practices' such as emotional tricks (such as fear of missing out, placing time pressure on decisions, loss aversion, guilt trip…) or exploitation of other human biases.

This presentation was followed by a panel discussion in which one of the first observations was the acknowledgement that the video game environment does indeed include many different types of practices that can be seen as potentially unfair commercial practices. These practices take on many forms: nudges to spend money, the constant encountering of in-game purchases and loot boxes, targeted advertising, using dark pattern techniques such as artificial scarcity creation, guilt trips and other cognitive bias exploitations or manipulations, aggressive marketing strategies (such as pop-ups), misleading information (for example, loot box probability disclosure information) or lack of transparency (for example, when layers of virtual currencies mask the real price that is paid and distorts the feeling of spending real money). It was noted that this wide variety of challenges indicates a further need for regulation to protect children because many of the issues remain unaddressed at this point in time. Additionally, it became clear that video game players or streamers do not know about the different commercial practices used by companies and are oftentimes unaware of existing regulations, protection mechanisms, and complaint systems. Potential solutions suggested included the empowerment of children, providing safety tools in games, making privacy settings more accessible to children, or involving children in the design and decision-making process.

Full report

The European Union's New Consumer Agenda[1] was published at the end of 2020 and acknowledged the requirement to address specific consumer needs and in particular the needs of children and young people who are exposed to misleading and aggressive commercial practices online. Additionally, the Agenda stresses the importance of investing in more lifelong consumer education and awareness raising for people at all stages of life from school onwards.

Another policy instrument was adopted in May 2022: the European Strategy for a Better Internet for Kids (BIK+).[2] The BIK+ strategy acknowledges that children use digital technologies for education, entertainment, social contact and participation in society from an ever-younger age and that, in doing so, they often encounter digital content and services that were not designed with children in mind. This Roundtable, organised by European Schoolnet, provided an ideal opportunity to discuss these issues.

There are a number of important market trends which increase the commercial pressure on consumers within the European Union and which can be potentially constituted as unfair practices, including for children and youth. These include:

i)   A strong increase in youth's use of social networks and gaming platforms;

ii)   A growing number of games and apps which allow in-game and in-app purchases;

iii) The arrival and development of a market for virtual items and currencies and the possible manipulations stemming from virtual reality environments;

iv)   An increasing dominance of digital advertising;

v)   A substantial shift of advertising budgets to digital influencer advertising;

vi)   The use of neuro-marketing techniques.

Taking into account these trends, the Roundtable sought to map the main online risks for child and young consumers, as well as how child and youth protection in digital markets in the EU is being addressed through existing and proposed regulation, particularly focusing on:

a)   Social media advertising directed at children;

b)   Manipulative marketing techniques integrated into video games and the gamification of marketing;

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[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0696
[2] https://digital-strategy.ec.europa.eu/en/policies/strategy-better-internet-kids

c) Lack of transparency related to the use of virtual currencies of social media and in online games;

d) Exploitative use of children's data, for example by means of dark patterns.

The Roundtable included the participation of both public and private stakeholders and as such aimed to identify the key priorities moving forward for social media platforms and for gaming platforms. This report provides an overview of the main points raised during the keynote speech and the two panel sessions, and formulates a number of questions which require further attention. The report also explores the roles and responsibilities of the different stakeholders regarding the protection and empowerment of child and young consumers in the digital environment.

Introducing the Roundtable

After the Roundtable was opened by Dr Hans Martens (European Schoolnet), the first to address the audience was European Commissioner for Justice Didier Reynders, who is in charge of consumer protection throughout the EU. In his speech, the Commissioner stated that there are over 80 million children under the age of 18 in the EU, of whom 70 per cent play video games. More generally speaking, one of the key concerns within the EU is how it can be ensured that children are not subjected to commercial manipulation.

One of the main priorities as a means of solving this concern is to make sure that children are enabled to understand how the digital environment works and how it can influence them in multiple ways. The Commissioner noted the example of advertising, about which he stated that whereas it is relatively easy to make children aware of advertising in (physical) shops, this is much less the case within the digital environment. This is mainly due to two reasons: the standards applied to traditional advertisements do not work efficiently in the digital era, and an increase in the use of digital tools during the COVID-19 pandemic has made it even easier to reach children online. Parents are not always aware of how intensely children might be subjected to advertising while engaging online. Therefore, according to the Commissioner, it is key that EU consumer protection law is used to guarantee that consumers make informed choices and that vulnerabilities of groups such as children are taken into account when applying the law. Additionally, one of the objectives is to enter into dialogue and work more closely together with different companies to improve the protection of children against different types of advertisements.[3]

Finally, the Commissioner highlighted that 2022 is the European Year of Youth and that initiatives are being taken for children in the digital environment, and that the Safer Internet Centres play an important role in that regard.[4]

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[3] For example, TikTok has recently made a commitment to the Commission to align its practices with the EU rules on advertising and consumer protection and Amazon committed itself to bring its cancellation practices in line with EU consumer rules. See https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3823 and https://ec.europa.eu/commission/presscorner/detail/en/ip_22_4186.
[4] https://digital-strategy.ec.europa.eu/en/policies/safer-internet-centres

Next to address the audience was June Lowery-Kingston, Head of Unit, Accessibility, Multilingualism & Safer Internet of DG CONNECT. In her speech, Mrs Lowery-Kingston highlighted that this Roundtable provided the first instance where the European Commission has brought together both European Consumer Centres (ECC) and Safer Internet Centres (SIC). The goal of the EU consumer centres is to assist consumers in better understanding their rights in the digital single market and to increasingly develop awareness-raising activities for various groups, with a particular focus on children in 2022. She referred to the BIK+ strategy, adopted in May 2022, in which aside from the traditional content, contact and conduct risks for consumers there is now an increased focus on a fourth type of risk: the contract risks.[5] Mrs Lowery-Kingston emphasised the synergies, complementarities and the wealth of resources shared between the ECCs and SICs and the importance of 2022 as an ideal time for advancing the cooperation to the next level.

The final introductory speech was given by Marie-Paule Benassi, Head of Unit, Consumer Enforcement & Redress at DG JUST. Mrs Benassi highlighted that due to the growing importance of online activities in their day-to-day lives, children are increasingly learning to be consumers in digital markets. For example, instead of asking for toys, children nowadays ask for money to play online. Therefore, it is crucial for industry to work together to ensure that children are able to understand the rapidly changing markets and, in the process, become informed and cautious consumers. In achieving this goal, one of the objectives is for the ECCs to work together with EU Member States to assist consumers and enable them to better understand their rights in the digital single market, as well as to raise their awareness of the different issues in the digital environment.

Keynote Prof Dr Eva Lievens – What consumer risks are children and young people exposed to and which regulatory responses are being put in place?

The keynote speaker at the Roundtable was Eva Lievens, Professor of Law & Technology at Ghent University in Belgium. The aim of Professor Lievens' presentation was to set the scene for the following panel discussions, by identifying consumer risks children and young people are exposed to online, and exploring which regulatory responses are being put in place as an answer.

Recent research in Flanders shows how active children are in the digital environment and what they do. They love social media as well as online gaming and video-sharing platforms. For example, 86 per cent of kids (6-12) and 96 per cent of youth (12-18) use YouTube, 56 per cent and 86 per cent respectively use TikTok, and 40 per cent and 91 per cent use Snapchat.[6] The same research showed that around a fifth of children and a fourth of youth

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[5] See the '4C-model of online risks' of the EU Kids Online project: Livingstone, S., & Stoilova, M. (2021). The 4Cs: Classifying Online Risk to Children. (CO:RE Short Report Series on Key Topics). Hamburg: Leibniz-Institut für Medienforschung | Hans-Bredow-Institut (HBI); CO:RE - Children Online: Research and Evidence. https://doi.org/10.21241/ssoar.71817.

[6] Apestaartjaren (2022). Report – Digital Lives of Children and Young People, available in Dutch at https://www.apestaartjaren.be/.

play video games for one hour to two hours a day (on schooldays). The same is true for social media use.[7] As such, according to Professor Lievens, it is important to recognise that aside from great potential for play, entertainment and creativity, the commercial stakes in the digital environment are high. Platforms are highly commercial spaces that often rely on advertising-based business models that benefit from keeping users on the platform for as long as possible. Moreover, a variety of commercial strategies – such as behavioural advertising, in-app purchases by means of micro-transactions and in-game advertising – are used which are difficult to detect, especially for children. More specifically, the lines between activities that used to be separate, such as watching content, video gaming and gambling are becoming increasingly blurred, as is the case for the lines between persuasion and manipulation and more generally between editorial and commercial content.[8] Children themselves have expressed concerns about these practices. In the consultation conducted in the run-up to the BIK+ strategy, for example, children reported feeling harassed by advertisements in games that promote the installation of gambling apps, or more generally feeling pressured to spend (large amounts of) money while playing video games to enhance performance or gameplay experiences (for example, paid upgrades).[9]

These commercial practices and evolutions have led to new 'consumer risks' – also sometimes called 'contract risks' – in the digital environment.[10] This type of risk in general is increasingly mentioned in children's rights policy documents, such as the UN General Comment No. 25 on the rights of the child in the digital environment[11], the OECD's Recommendation on Children in the Digital Environment[12] or the Council of Europe's Guidelines on children's rights in the digital environment,[13] and the EU Strategy on the Rights of the Child. These documents stress that the general children's rights principles such as the best interests of the child (article 3 UNCRC) and the right of the child to be heard (article 12 UNCRC) should always be considered when making decisions that affect children, also in the digital environment. Moreover, they acknowledge that various children's rights may be positively impacted in relation to social media and gaming but may also potentially be infringed by certain – unfair – digital commercial practices. These rights include the right to

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[7] Ibid.

[8] See the Gam(e)(a)ble project (https://www.gameable.info), with ongoing Phd research by N. Feci on the regulation of influencers in light of harmful content on video-sharing platforms, https://www.law.kuleuven.be/citip/en/research/phd-research/ongoing/phd-nadia-feci and by P. Declerck on the blurring lines between gambling and gaming, https://www.ugent.be/re/mpor/law-technology/en/contact/pieterjanen.

[9] Better Internet for Kids (2022). How to make Europe's Digital Decade fit for children and young people? A report from the consultation with children and young people, https://www.betterinternetforkids.eu/documents/167024/6847388/How+to+make+Europe%E2%80%99s+Digital+Decade+fit+for+children+and+young+people+-+A+report+from+the+consultation+with+children+and+young+people+-+October+2021.pdf.

[10] See Livingstone, S. and Stoilova, M. (2021). The 4Cs: Classifying Online Risks to Children; CO:RE – Children Online: Research and Evidence, https://doi.org/10.21241/ssoar.71817.

[11] https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation.

[12] https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0389.

[13] https://rm.coe.int/guidelines-to-respect-protect-and-fulfil-the-rights-of-the-child-in-th/16808d881a.

freedom of expression and freedom of thought (articles 13-14 UNCRC), access to diverse information and protection against harmful content (article 17 UNCRC) and the right to play and protection against economic exploitation (articles 31-32 UNCRC). Therefore, strong legal frameworks are important to prevent and remedy this.

The EU legal framework includes different instruments that are potentially applicable, such as the General Data Protection Regulation (GDPR), which has a high potential to protect children's data but where enforcement is slow; the Audiovisual Media Services Directive (AVMSD), which is applicable to video-sharing platforms which need to take measures to protect children against harmful content; or the newly adopted Digital Services Act (DSA), which includes obligations for (very large) online platforms to take targeted measures to protect the rights of the child. Important in that regard is that, also, children themselves want policymakers to exercise pressure on the industry to provide safe, child-appropriate and age-appropriate platforms.[14]

In addition to these general observations, Professor Lievens focused on three practices which are specifically relevant within the digital environment: influencer marketing, loot boxes and dark patterns.

First, influencer marketing refers to user-generated content that endorses brands and which is often engaging and interactive (especially video content).[15] Influencers are perceived as relatable, accessible and credible and this is ideal for influencing the behaviour of child consumers. It is known that controversial content (such as glamourising gambling, drug use or alcohol) generates more views and revenue, and hence, this type of content is sometimes also promoted by influencers.[16] This can be problematic, especially considering the fact that influencers build relationships based on trust (and sometimes personal connections) with their (often young) audiences. In its Notice on the Unfair Commercial Practices Directive (UCPD), the EU Commission has noted that certain behaviour by influencers can amount to an aggressive commercial practice through the use of undue influence in some cases, and other practices could potentially be qualified as prohibited direct exhortations to children.[17] Furthermore, for children, it will often be difficult to identify the commercial and persuasive intent of certain influencer content and to activate their advertising literacy skills. There are many relevant (legal) instruments that might potentially be applicable to influencer marketing, such as advertising (self-)regulation, media law, consumer protection law, data protection law, and even labour law, but this plethora of rules is often confusing for influencers themselves, but also for children and parents (for example, the different hashtags

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[14] See Better Internet for Kids (2022). How to make Europe's Digital Decade fit for children and young people? A report from the consultation with children and young people, https://www.betterinternetforkids.eu/documents/167024/6847388/How+to+make+Europe%E2%80%99s+Digital+Decade+fit+for+children+and+young+people+-+A+report+from+the+consultation+with+children+and+young+people+-+October+2021.pdf.

[15] See also Verdoodt, V. and Feci, N. (2019). Digital Influencers and Vlogging Advertising: Calling for Awareness, Guidance and Enforcement, in Auteurs & Media 1, 11-21.

[16] See also Feci, N. (2021). Influencers and the legal implications of conflict as a genre of audiovisual content online, in Tijdschrift voor Informatie, Telecommunicatie en Recht 2, 160-168.

[17] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC1229(05).

and notices that are used to indicate whether there is a 'paid partnership' or when a product was 'gifted').

Second, loot boxes are mystery boxes in video games containing randomised virtual items (such as virtual currencies, weapons, and skins), where players do not know beforehand exactly which item(s) they will receive. These loot boxes are obtained either by playing the game or by purchasing them with real-world money (i.e. an example of a microtransaction). Recent research within the Gam(e)(a)ble project has shown that, in Flanders, over half of the teenage respondents had already opened a (free) loot box and that around 25 per cent of respondents sometimes pays for a loot box, with almost 15 per cent stating that they have tried to regain money by selling items obtained through loot boxes.[18] In its UCPD Notice, the Commission has stated that the presence of paid random content should be clearly disclosed to the consumer, including an explanation of the probabilities of receiving a random item, and that the sale of loot boxes in video games must comply with the information obligations under the Consumer Rights Directive and the UCPD.[19] More generally, a wide variety of rules potentially apply to loot boxes in video games, most notably gambling regulation, video game industry self-regulation (such as the Pan-European Game Information system (PEGI)), and consumer protection regulation.[20]

Third, 'dark patterns' refer to techniques incorporated in the design or structure of websites, platforms or apps that make users do things or take decisions that they did not mean to. These patterns can be personalised (based on the collection of personal data) or general (based on knowledge of human behaviour) and use a variety of techniques, such as visually designing buttons to make the desired option more attractive, using trick questions and ambiguous language, creating an artificial sense of urgency for the user or play on the 'fear of missing out', or using emotional language to discourage certain choices. According to a mystery shopping exercise performed in a study for the Commission, 97 per cent of the most popular websites and apps used by EU consumers deployed at least one dark pattern.[21] Such techniques can lead to financial and other harm for children and young people, especially considering their still-growing decision-making skills and susceptibility to behaviour-altering practices. Here again, the same patchwork of rules can be potentially applied, with a prominent role for data protection and consumer protection regulation. This is also supported by the increase in attention to dark patterns by other regulatory bodies and organisations

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[18] See https://www.gameable.info/_files/ugd/7f91ff_c197ace0298e44ff8dca0fb124e36b78.pdf.
[19] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC1229(05).
[20] See Declerck, P. and Feci, N. (2022). Mapping and analysis of the current regulatory framework applicable to gambling(-like) elements in video games – a report written in the framework of the Gam(e)(a)ble Research Project, https://www.gameable.info/_files/ugd/7f91ff_0b51d9c313db43729fe6150ec671219a.pdf. See also https://pegi.info/ and https://www.gameable.info/.
[21] Lupianez-Villanueva, F., Boluda, A., Bogliacino, F. et al (2022). Behavioural study on unfair commercial practices in the digital environment: dark patterns and manipulative personalization: final report, Publications Office of the EU, https://data.europa.eu/doi/10.2838/859030.

such as the European Data Protection Board,[22] and BEUC (European Consumer Organisation).[23]

In conclusion, Professor Lievens highlighted the potential to address many of the identified risks by means of a variety of existing and proposed instruments. Nevertheless, there is still lack of clarity regarding the application and interplay of the different (legal) instruments. A shift is noticeable, especially at the EU level, towards a legal framework with stronger obligations for platforms and companies, but this framework should be sufficiently future-proof in order to tackle emerging technological evolutions which bring new issues to the table. Further, enforcement and dissuasive sanctions for unacceptable and unlawful practices are key. In this context, cooperation between the different authorities (data protection and consumer protection authorities, media regulators, gambling authorities) could provide added value. Finally, the best interests of the child should always be taken into account, for example by using 'by-design' approaches, by adopting a precautionary approach, and by using Child Rights Impact Assessments to determine the potential impact of commercial practices on children's rights. Here, it is important that children are seen as active actors and citizens, not just victims in need of protection[24], and that children's views are sought and considered in the decision-making process.

Panel 1: Key priorities moving forward – social media

The first panel discussion concerned social media and was moderated by Karl Hopwood from European Schoolnet. The panel consisted of Prof Dr Simone van der Hof, Professor of Law & Digital Technologies at Leiden University, David Martin from BEUC, and Andrea Parola from the ICT Coalition for Children Online.

Several participants noted that children and youth nowadays face constant commercial pressures, both directly and indirectly, the latter often working on an unconscious level. Examples of direct pressures include manipulation to make in-app purchases (for example, not being able to progress or win in a game without spending money on virtual items); examples of indirect pressures are deception, holding children's attention, or making them return with a notification. One participant noted that "*social media is not like a park where kids play around, but more like a shopping centre where there is also a casino present*". The potentially dangerous consequences of these pressures were acknowledged, both in the short term (for example, financial) and the long term (for example, addiction). As a response, one of the participants noted that the primary responsibility lies with parents, and that the

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[22] https://edpb.europa.eu/system/files/2022-03/edpb_03-2022_guidelines_on_dark_patterns_in_social_media_platform_interfaces_en.pdf.
[23] BEUC (2022). "Dark patterns" and the EU Consumer Law Acquis - Recommendations for better enforcement and reform, https://www.beuc.eu/sites/default/files/publications/beuc-x-2022-013_dark_patters_paper.pdf.
[24] Livingstone, S. (2022). Reflecting on Youth Mental Health and Tech Regulation in Anticipation of the Metaverse. *The Children's Media Yearbook 2022,* https://www.thechildrensmediafoundation.org/wp-content/uploads/2022/06/The-Childrens-Media-Yearbook-2022.pdf.

industry makes a lot of information available for parents to be used. Other participants argued that children should be able to navigate the digital environment freely without much parental interference, for example by adopting an age-appropriate design approach.

Parents often find themselves in vulnerable situations or possess low levels of digital literacy, especially considering the specific features of different online platforms. It was also noted that some online platforms bypass parental autonomy by blocking children from features that they deem age-inappropriate for certain ages. In this context, age verification remains controversial, as current techniques are not yet fully reliable or accurate, and the different age thresholds for access to online platforms across the EU complicate implementation.

Other potential actions that were suggested included better and more efficient enforcement of existing rules, more cooperation between authorities, and more clarity on issues and gaps in the law. The latter refers to dark patterns falling 'somewhere in the middle' of different laws, which brings about uncertainty as to the application of certain sets of rules to the different techniques that are used. Participants concluded that, although there are promising initiatives, there is still work to be done regarding the respective roles and responsibilities of online platforms and parents in protecting children from potential (commercial) harms within the digital environment.

When asked about one thing that can be done to improve the situation of children and young people, varying answers were presented. One participant stated that the information available to parents and teachers is crucial, because of their role in educating and guiding children in their online adventures. Complementary to this information, more transparency and easy-to-use tools are required. Another participant highlighted the importance of initiatives such as the upcoming age-appropriate design code, because it can bring together different fragmented sets of rules and can put more pressure on industry. A final suggestion by one of the participants was a further 'fitness check' of consumer law to bring it up to speed. In that regard, it would also be helpful if, at the national level, authorities would implement and enforce existing (consumer law) rules, and if Child Right Impact Assessments would be made a legal requirement.

Panel 2: Key priorities moving forward – gaming platforms

The second panel discussion covered opportunities and risks related to videogaming platforms and was moderated by Dr Valerie Verdoodt, Postdoctoral Researcher in Law & Technology at Ghent University.[25]

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[25] In preparation for this session and for the Roundtable in general, an article by Dr Verdoodt was published on the BIK platform discussing how to address consumer risks for children on social media and in gaming, see
https://www.betterinternetforkids.eu/practice/articles/article?id=6962173.

The session started with a video presentation by Dr Celia Hodent, a gaming User-eXperience consultant and psychologist.[26] Dr Hodent talked about the positive impacts of video games on children, for example in developing visual and cognitive skills, intelligence, or using video games as pedagogical tools and as social spaces for children which positively affect their well-being, motivation and satisfaction. Next, she explained that games often use variable rewards and delayed gratification to keep players engaged, which can be especially effective for children. Additionally, companies sometimes use 'shady practices' such as emotional tricks (for example, fear of missing out, placing time pressure on decisions, loss aversion, guilt trips…) or exploitation of other human biases. According to Dr Hodent, the important question to ask is whether these practices serve players' gameplay interests or rather the company's interests. Because children are often not fully equipped to deal with these practices, it is important to protect them through regulation. However, it is not easy to simply prohibit all practices in video games due to their importance for children as part of their playing environment. Therefore, it is crucial to understand the dark patterns and other shady practices that are used, adapt regulation to remove the harmful ones, and simultaneously reward game developers for doing the right thing.

This presentation was followed by a panel discussion between Belgian game streamer Abulic, Finn-Lützow-Holm Myrstad from the Norwegian Consumer Council, and Dr Catherine Garcia-van Hoogstraten, Director of Digital Safety at Microsoft.

One of the first observations within the panel was the confirmation by some participants that the video game environment does indeed include many different types of practices that can be seen as potentially unfair commercial practices. These challenges and issues have many forms: nudges to spend money, the constant encountering of in-game purchases and loot boxes, targeted advertising, using dark pattern techniques such as artificial scarcity creation, guilt trips and other cognitive bias exploitations or manipulations, aggressive marketing strategies (such as pop-ups), misleading information (such as loot box probability disclosure information) or lack of transparency (for example, when layers of virtual currencies mask the real price that is paid and distorts the feeling of spending real money).

Regarding loot boxes specifically, it was noted that these sometimes closely resemble real-life gambling and are advertised by 'shady websites'. In the past, there were multiple situations where acquaintances lost high amounts of money due to participation in loot box mechanisms. However, it was also acknowledged that some of these issues, for instance regarding the selling of obtained game items outside of the game, have already been addressed.[27] Another example that was given concerned free-to-play games where, at a certain point, making progress in the game becomes nearly impossible without spending (high amounts of) money.

One of the participants noted that this wide variety of challenges requires a further need for regulation to protect children, because many of the issues remain unaddressed at this point

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[26] See Dr Hodent's full video presentation at
https://www.youtube.com/watch?v=zxAs9_38KZU.
[27] This example concerned the banning of selling weapon skins on third-party websites for the game Counter-Strike: Global Offensive for real money and the ability to wager money-bought skins in an effort to obtain higher-value skins.

in time. Furthermore, the redress mechanisms to enforce consumer rights are in many cases inadequate. Even though many issues could be addressed with existing rules of data and consumer protection law, a ban on certain commercial practices in the video game environment should be considered if these rules are demonstrated to be insufficient to protect children. In addition, certain thresholds of minimum protection should be required, such as the denomination of virtual currencies in real money values, or the banning of paid loot boxes in games targeted at children. It was also noted that there is a need for cross-border cooperation and the right level of resources to tackle the issues. This is because the video game market is expected to grow massively by 2025 and beyond and, as such, requires more initiatives from a regulatory point of view. One of the participants mentioned that video game players or streamers are sometimes unaware of existing regulations, protection mechanisms and complaint systems. At the same time, many players and streamers do not know about the different commercial practices used by companies to get the most money out of them. Participants also discussed the change in gambling policy by the livestream platform Twitch, which now bans certain (but not all) forms of gambling from its livestream services after an outcry from some of its users. It remains to be seen whether a similar outcry will take place concerning some of the dark patterns or other commercial practices with potentially harmful consequences.

As a potential starting point for a solution, it was argued that industry should provide enough features to ensure the safety of children, as well as features for parents to control online interactions. Such features include filtering of inappropriate content, providing safety tools in games, making privacy settings more accessible to children, or involving children in the decision-making process. Possibilities for improvement from an industry point of view are better implementation of (parental) control tools (such as Microsoft's control tools which enable the management of money spent or time spent in the game), safety measures, and enhancing awareness of the existence of these tools. At the same time, it is important for the video game industry to have more clarity on the different sets of rules that are applicable. More specifically, it should be made clear how regulation was drafted, what the scope of regulation is, what its objectives are, and which risks it wants to address. Answering these questions could ensure better implementation and enforcement of existing rules.

In conclusion, when asked what should be the key priority for policymakers and the research community, different answers were provided. Whereas one participant highlighted the importance of further regulation to ensure a safe video game environment in which the many existing challenges are addressed efficiently, another participant stated that the focus should not be put on banning practices too rapidly but instead should be on educating different stakeholders involved: parents, industry, content creators such as streamers, and child players. Finally, it was stated that clarity on existing regulations should be provided, and that user empowerment is an important factor to take into account.

Agenda

Part 1: Open public session	
09:30 – 09:45	**Introduction and welcome** *Speakers:* • Dr Hans Martens, European Schoolnet/Better Internet for Kids • Commissioner Didier Reynders, Commissioner for Justice (video address) • June Lowery-Kingston, Head of Unit, Accessibility, Multilingualism & Safer Internet, DG CONNECT, European Commission • Marie-Paule Benassi, Head of Unit, Consumer Enforcement & Redress, DG JUST, European Commission
09:45 – 10:15	**Setting the scene – what kind of consumer risks are children and young people exposed to and which regulatory responses are being put in place?** *Speaker:* • Prof Dr Eva Lievens, Associate Professor of Law & Technology, Ghent University, Belgium
10:15 – 10:45	**Key priorities moving forward – social media** *Moderator:* • Karl Hopwood, European Schoolnet/Better Internet for Kids *Panel:* • Prof Dr Simone van der Hof, Academic Director, Professor of Law & Digital Technologies, Leiden University, The Netherlands • David Martin, BEUC (the European Consumer Organisation) • Andrea Parola, ICT Coalition for Children Online
10:45 – 11:20	**Key priorities moving forward – gaming platforms** *Moderator:* • Dr Valerie Verdoodt, Postdoctoral Researcher, Law & Technology, Ghent University, Belgium *Panel:* • Celia Hodent, Game UX Consultant/PhD in Psychology (Freelance) • Abulic, game streamer (www.twitch.tv/abulic) • Finn Lützow-Holm Myrstad, Forbrukerrådet (Norwegian Consumer Council) • Catherine Garcia-van Hoogstraten, Microsoft

11:20 – 11:30	**Close of public meeting** • Dr Hans Martens, European Schoolnet/Better Internet for Kids
11:30 – 12:00	**Coffee break**
Part 2: Closed session for Safer Internet Centres and European Consumer Centre representatives	
12:00 – 12:15	**An overview of the Insafe Safer Internet Centre and European Consumer Centre networks** This session will provide a brief overview of the two networks and the work that they are doing respectively to protect children and young people online from unfair commercial practices. This will help to inform the discussions during the following interactive networking sessions.
12:15 – 12:45	**Interactive networking** Participants will meet in smaller (regional) groups and discuss possible synergies with a particular focus on areas of collaboration for Safer Internet Day (SID) 2023.
12:45 – 13:00	**Reporting back and next steps** Discussion on how to move forward and the role of partnership working, and defining follow-up actions.
13:00	**Close of meeting**