

COMMON POSITION (EC) No 56/98

adopted by the Council on 24 September 1998

with a view to adopting Decision No . . . /98/EC of the European Parliament and of the Council adopting a multiannual Community action plan on promoting safer use of the Internet by combating illegal and harmful content on global networks

(98/C 360/03)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 129a(2),

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Having regard to the opinion of the Committee of the Regions⁽³⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty⁽⁴⁾,

(1) Whereas the Internet offers positive benefits in particular in education, by empowering consumers, lowering the barriers to the creation and distribution of content and offering wide access to even richer sources of digital information, as recognised by the Council and the representatives of the Governments of the Member States, meeting within the Council on 17 February 1997 in their resolution on illegal and harmful content on the Internet⁽⁵⁾;

(2) Whereas, however, the amount of harmful and illegal content carried over the Internet, while limited, could adversely affect the establishment of the necessary favourable environment for initiatives and undertakings to flourish;

(3) Whereas it is essential, in order to ensure that consumers make full use of the Internet, that a

safer environment for its use is created by combating illegal use of the technical possibilities of the Internet in particular for offences against children and trafficking in human beings or for the dissemination of racist and xenophobic ideas;

(4) Whereas consumers should be afforded a high level of protection; whereas the Community should contribute thereto by specific action which supports and supplements the policy pursued by the Member States regarding information for consumers on the safer use of the Internet;

(5) Whereas promotion of industry self-regulation and content-monitoring schemes, development of filtering tools and rating systems provided by the industry and increased awareness of industry services as well as fostering international cooperation between all parties concerned will play a crucial role in consolidating that safer environment and contribute to removing obstacles to the development and competitiveness of the industry concerned;

(6) Whereas on 24 April 1996 the Council requested the Commission to produce a summary of problems posed by the rapid development of the Internet and to assess, in particular, the desirability of Community or international regulation;

(7) Whereas on 23 October 1996 the Commission transmitted a communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on illegal and harmful content on the Internet and a Green Paper on the protection of minors and human dignity in audiovisual and information services;

(8) Whereas the Council and the representatives of the Governments of the Member States, meeting within the Council, in their abovementioned Resolution of 17 February 1997 welcomed the report of the

⁽¹⁾ OJ C 48, 13.2.1998, p. 8.

⁽²⁾ Opinion delivered on 29 April 1998 (OJ C 214, 10.7.1998, p. 29).

⁽³⁾ Not yet published in the Official Journal.

⁽⁴⁾ Opinion of the European Parliament of 2 July 1998 (OJ C 226, 20.7.1998, p. 33), Council Common Position of 24 September 1998 and Decision of the European Parliament of . . . (not yet published in the Official Journal).

⁽⁵⁾ OJ C 70, 6.3.1997, p. 1.

Commission working party on illegal and harmful content on the Internet and requested Member States and the Commission to undertake a number of actions;

- (9) Whereas, in its resolution of 24 April 1997 on the Commission communication on illegal and harmful content on the Internet⁽¹⁾, the European Parliament called on the Member States to strengthen administrative cooperation on the basis of joint guidelines and on the Commission to propose, after consulting the European Parliament, a common framework for self-regulation at European Union level;
- (10) Whereas in the Ministerial declaration adopted during the International Ministerial Conference entitled 'Global information networks: realising the potential', held in Bonn on 6 to 8 July 1997 at the initiative of the German Government, Ministers stressed the role which the private sector can play in protecting the interests of consumers and in promoting and respecting ethical standards, through properly functioning systems of self-regulation in compliance with and supported by the legal system; whereas they encouraged industry to implement open, platform-independent content rating systems, and to propose rating services which meet the needs of different users and take account of Europe's cultural and linguistic diversity; whereas Ministers further recognised that it is crucial to build trust and confidence in global information networks by ensuring that basic human rights are respected and by safeguarding the interests of society in general, including producers and consumers;
- (11) Whereas on 24 September 1998 the Council adopted a recommendation 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⁽²⁾ hereinafter designated recommendation on the protection of minors and human dignity; whereas this action plan will be implemented in close coordination with the Council recommendation;
- (12) Whereas cooperation from the industry in setting up voluntary systems of self-regulation can efficiently help to limit the flow of illegal content on the Internet;
- (13) Whereas European coordination of representative and self-regulating bodies is essential for the Europe-wide effectiveness of such systems; whereas, to this effect, industry self-regulatory systems including representative bodies for Internet service providers, consumers and users, and effective codes of conduct should be encouraged within the regulatory framework in force; if necessary hot-line reporting mechanisms which allow users to report content which they consider illegal should be made available to the public;
- (14) Whereas any hot-line reporting mechanisms should support and promote measures taken by the Member States; whereas duplication of work should be avoided; whereas possible hot-line reporting mechanisms could be established in cooperation with the law-enforcement authorities of the Member States; whereas the responsibility for prosecuting and punishing those responsible for illegal content should remain with the national law-enforcement authorities;
- (15) Whereas it is necessary to promote on a European level the provision to consumers of filtering tools and the setting up of rating systems, for example the platform for Internet content selection (PICS) standard launched by the international worldwide web consortium with Community support;
- (16) Whereas awareness activities which are performed in the Member States and which should have an additional European value should be encouraged so that users understand not only the opportunities but also the drawbacks of the Internet, in order to increase use of services provided by industry; whereas parents, educators and consumers, in particular, should be sufficiently informed so as to be able to take full advantage of parental control software and rating systems; whereas there should be a multiannual action plan on promoting safer use of the Internet ('action plan');
- (17) Whereas it is essential to engage in cooperation activities with international organisations and third countries for the purpose of implementing this action plan and extending its reach beyond the European Union, given the global character of the problems encountered on the Internet, requiring global solutions;
- (18) Whereas any content policy actions should be complementary to ongoing national and

⁽¹⁾ OJ C 150, 19.5.1997, p. 38.

⁽²⁾ OJ L 270, 7.10.1998, p. 48.

Community initiatives, as outlined notably in the Commission's action plan 'Europe's way to the information society: an action plan', and should be performed in synergy with other Community activities in the field such as the INFO 2000 programme⁽¹⁾, with Community research programmes (programmes concerned with advanced technology, advanced communications services and telematics) and with Community education, training, cultural and SME actions and initiatives, and with the Structural Funds;

- (19) Whereas the activities under this action plan should take account of the work accomplished in the field of justice and home affairs;
- (20) Whereas the progress of this action plan should be continuously and systematically monitored with a view to adapting it, where appropriate, to developments in the audiovisual and multimedia content market; whereas in due course there should be an independent assessment of the progress of the action plan so as to provide the background information needed in order to determine the objectives for subsequent content policy actions; whereas at the end of this action plan there should be a final assessment of results obtained compared with the objectives set out in this Decision;
- (21) Whereas, in conformity with the principle of subsidiarity as expressed in Article 3b of the Treaty, the objectives of the proposed actions cannot be sufficiently achieved by the Member States owing to the transnational character of the issues at stake and can, therefore, by reason of the pan-European effects of the proposed action be better achieved by the Community;
- (22) Whereas this action plan should be of four years duration in order to allow sufficient time for actions to be implemented to achieve the objectives set;
- (23) Whereas this Decision lays down, for the entire duration of the action plan, a financial framework constituting the principal point of reference, within the meaning of point 1 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995⁽²⁾, for the budgetary authority during the annual budgetary procedure,

HAVE ADOPTED THIS DECISION:

Article 1

1. The multiannual Community action plan on promoting safer use of the Internet ('the action plan'), as described in Annex I, is hereby adopted.
2. The action plan shall cover a period of four years from 1 January 1998 to 31 December 2001.
3. The financial framework for the implementation of the action plan for the period from 1 January 1998 to 31 December 2001 is hereby set at ECU 25 million.

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

An indicative breakdown of expenditure is given in Annex II.

Article 2

The action plan has the objective of promoting safer use of the Internet and of encouraging, at European level, an environment favourable to the development of the Internet industry.

Article 3

In order to attain the objective referred to in Article 2, the following actions supporting and promoting measures to be taken in the Member States shall be undertaken under the guidance of the Commission, in accordance with the action lines set out in Annex I and the means for implementing the action plan set out in Annex III:

- promotion of industry self-regulation and content-monitoring schemes (for example, dealing with content such as child pornography or content which incites hatred on grounds of race, sex, religion, nationality or ethnic origin),
- encouraging industry to provide filtering tools and rating systems, which allow parents or teachers to select content appropriate for children in their care while allowing adults to decide what legal content they wish to access, and which take account of linguistic and cultural diversity,

⁽¹⁾ Council Decision 96/339/EC of 20 May 1996 adopting a multiannual Community programme to stimulate the development of a European multimedia content industry and to encourage the use of multimedia content in the emerging information society (INFO 2000) (OJ L 129, 30.5.1996, p. 24).

⁽²⁾ OJ C 102, 4.4.1996, p. 4.

- increasing awareness of services provided by industry among users, in particular parents, teachers and children, so that they can better understand and take advantage of the opportunities of the Internet,
- support actions such as assessment of legal implications,
- activities fostering international cooperation in the areas enumerated above,
- other actions furthering the objective set out in Article 2.

Article 4

1. The Commission shall be responsible for the implementation of the action plan.

2. The procedure laid down in Article 5 shall apply to:

- the work programme including any expenditure on activities described in Annex III, point 9,
- the breakdown of the budgetary expenditure,
- the criteria and content of calls for proposals,
- the assessment of the projects proposed under calls for proposals for Community funding and the estimated amount of the Community contribution for each project where this is equal to or more than ECU 300 000,
- the measures for programme evaluation,
- any departure from the rules set out in Annex III,
- participation in any project by legal entities from third countries and international organisations referred to in Article 7(3),
- other actions which could be undertaken under the terms of the last indent of Article 3.

3. Where, pursuant to the fourth indent of paragraph 2, the amount of the Community contribution is less than ECU 300 000, the Commission shall inform the committee referred to in Article 5 of the projects and of the outcome of their assessment.

4. The Commission shall regularly inform the committee referred to in Article 5 of progress with the implementation of the programme as a whole.

Article 5

The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 6

1. In order to ensure that Community aid is used efficiently, the Commission shall ensure that actions under this Decision are subject to effective prior appraisal, monitoring and subsequent evaluation.

2. During implementation of projects and after their completion the Commission shall evaluate the manner in which they have been carried out and the impact of their implementation in order to assess whether the original objectives have been achieved.

3. The selected beneficiaries shall submit an annual report to the Commission.

4. At the end of two years and at the end of the action plan, the Commission shall submit to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, once the committee referred to in Article 5 has examined it, an

evaluation report on the results obtained in implementing the action lines set out in Annex I. Reference shall also be made to general findings applicable to all categories of illegal content. The Commission may present, on the basis of those results, proposals for adjusting the orientation of the action plan.

Article 7

1. Participation in this action plan may be opened to legal entities established in EFTA States which are members of the European Economic Area (EEA) in accordance with the provisions of the Agreement on the EEA.

2. Participation may be opened to legal entities established in associated Central and Eastern European countries in accordance with the conditions, including financial arrangements, agreed to in the additional protocols to the association Agreements, including participation in Community programmes.

Participation may be opened to legal entities established in Cyprus on the basis of additional appropriations in

accordance with the same rules as those applied to the EFTA States that are members of the EEA, in accordance with procedures to be agreed on with that country.

3. Participation may be opened, in accordance with the procedure laid down in Article 5, without financial support by the Community under this action plan, to legal entities established in other third countries and to international organisations, where such participation contributes effectively to the implementation of the action plan and taking into account the principle of mutual benefit.

Article 8

This Decision is addressed to the Member States.

Done at . . . , . . .

For the European Parliament
The President

For the Council
The President

ANNEX I

MULTIANNUAL COMMUNITY ACTION PLAN ON PROMOTING SAFER USE OF
THE INTERNET**Action lines**

The action lines, in conjunction with the recommendation on protection of minors and human dignity, are a means of implementing a European approach to safer use of the Internet, based on industry self-regulation, filtering and rating and awareness. Strong support has been expressed for this approach at the level of the European Parliament and of the Council and Member States, as well as in the wider European context of the Bonn Declaration agreed to by Ministers from 29 European States.

The action lines have the following objectives:

- to incite the actors (industry, users) to develop and implement adequate systems of self regulation,
- to pump prime developments by supporting demonstrations and stimulating application of technical solutions,
- to alert and inform parents and teachers, in particular through their relevant associations,
- to foster cooperation and exchange of experiences and best practices at European and international levels,
- to promote coordination across Europe and between actors concerned,
- to ensure compatibility between the approach taken in Europe and elsewhere.

1. *Action line 1: Creating a safer environment*

Cooperation from the industry and a fully functioning system of self-regulation are essential elements in limiting the flow of illegal content on the Internet.

1.1. *Creating a European network of hotlines*

An effective way to restrict circulation of illegal material is to set up a European network of centres (known as hotlines) which allow users to report content which they come across in the course of their use of the Internet and which they consider to be illegal. Responsibility for prosecuting and punishing those responsible for illegal content remains with the national law-enforcement authorities, while the hotline aims at revealing the existence of illegal material with a view to restricting its circulation. Differences in national legal systems and culture must also be respected.

So far, hotlines exist only in a limited number of Member States. Their creation needs to be stimulated so that there are hotlines operating covering the Union both geographically and linguistically. Mechanisms for exchange of information between the national hotlines, and between the European network and hotlines in third countries need to be put in place.

In order for this network to develop its full potential, it is necessary to improve cooperation between industry and law-enforcement authorities, ensure Europe-wide coverage and cooperation, and increase effectiveness through exchange of information and experience.

This action will take the form of a call for proposals for participating organisations (20 to 25) to establish a European network of hotlines, and links between this network and hotlines in third countries, develop common approaches and stimulate transfer of know-how and best practice.

The participating organisations will be supported by a cross-section of industry actors (access and service providers, telecoms operators, national hotline operators) and users. They will have to demonstrate a forward-looking and innovative approach, in particular in their relationship with national law-enforcement authorities.

1.2. Encouraging self-regulation and codes of conduct

For the industry to contribute effectively to restricting the flow of illegal and harmful content, it is also important to encourage enterprises to develop a self-regulatory framework through cooperation between them and the other parties concerned. The self-regulatory mechanism should provide a high level of protection and address questions of traceability.

In view of the transnational nature of communications networks, the effectiveness of self-regulation measures will be strengthened, at European Union level, by coordination of national initiatives between the bodies responsible for their implementation.

Under this action line, guidelines at European level will be developed for codes of conduct, to build consensus for their application and support their implementation. This action will be carried out through a call for tender to select organisations that can assist self-regulatory bodies in developing and implementing codes of conduct. Measures will be taken carefully to monitor progress. This will be done in close coordination with the promotion of common guidelines for the implementation, at national level, of a self-regulation framework as advocated by the Council recommendation on protection of minors and human dignity.

2. *Action line 2: Developing filtering and rating systems*

To promote safer use of the Internet, it is important to make content easier to identify. This can be done through a rating system which describes the content in accordance with a generally recognised scheme (for instance, where items such as sex or violence are rated on a scale) and by filtering systems which empower the user to select the content he/she wishes to receive. Ratings may be attached by the content provider or provided by a third-party rating service. There are a number of possible filtering and rating systems. However, their level of sophistication is still low and none has yet reached the 'critical mass' where users can be sure that content in which they are interested and content which they wish to avoid will be rated appropriately and that perfectly innocuous content will not be blocked. Uptake of rating systems by European content providers and users remains low.

The measures under this action line will focus on demonstrating the potential and the limitations of filtering and rating systems in a real world environment, with the objective of encouraging the establishment of European systems and familiarising users with their use. Filtering and rating systems must be internationally compatible and interoperable and developed with the full cooperation of representatives of industry, consumers and users.

2.1. Demonstrating the benefits of filtering and rating

Rating systems will be stimulated which should be internationally compatible and are relevant to European requirements and which ensure that filtering and rating is implemented in a way which provides workable options in practice for users, parents and teachers. In order to build critical mass, a wide coverage of sites should be obtained. Action will therefore be taken to stimulate use of rating by content providers. Rating carried out by independent third parties ensures a standard approach to content rating and deals with cases where the content provider fails to rate properly. There is a need to meet specific requirements of business, institutional or educational users as well as those of end users not met by the content provider's rating system.

Following a call for proposals, projects will be selected to validate rating systems in relation to European content, to encourage integration of rating into the content creation process and to demonstrate benefits of these technical solutions. Emphasis will be placed on usefulness and practicality in 'real-world' situations involving a large cross-section of typical users. This could also include tests as to the secureness of filtering software against attempts to bypass or deactivate it.

A second call for proposals will particularly target the validation and demonstration of third-party rating systems.

In order to obtain maximum benefit from the demonstration projects, it is necessary to assess their impact and to ensure European-wide dissemination of their results. Evaluation of the demonstration projects and dissemination of their results will be the subject of a call for tenders.

The demonstration projects under this action line can make an important contribution to the awareness actions to be carried out under action line 3.

The demonstration projects will involve industry (self regulatory bodies, access and service providers, content providers, network operators, software houses), user, consumer and citizens rights groups and government bodies involved in industry regulation and law-enforcement.

2.2. Facilitating international agreement on rating systems

International cooperation between operators and other concerned parties in the European Union and their partners in other regions of the world is particularly necessary in the field of rating, in order to ensure interoperability.

Work is already under way in a number of bodies dealing with protocols and with the design of a rating system to deal with the various requirements. It is essential that Europe's voice be heard in international discussions and concertation meetings will be organised to ensure this.

3. *Action line 3: Encouraging awareness actions*

The public is increasingly engaging in Internet activity and reaping the benefits of the new services. At the same time, there is a degree of uncertainty as to how to deal with every aspect of network communication; parents, teachers and children need to be made aware of the potential of the Internet and its drawbacks and do not always have sufficient knowledge about the means to protect children from undesirable content. Awareness actions contribute to the trust and confidence of parents and teachers in safer use of the Internet by children.

Awareness is also the necessary complement of action lines 1 and 2, since the actions of industry to implement self-regulation and filtering and rating will bear fruit only if users and potential users are aware of them.

The European Parliament has called for the implementation of a European campaign and an information and awareness action programme, to be funded by the European Union budget, to inform parents and all people dealing with children (teachers, social workers, etc.) on the best way (including technical aspects) to protect minors against exposure to content that could be harmful to their development, so as to ensure their well-being.

European action, on the basis of actions undertaken by the Member States, will contribute to reinforcement of synergy, in particular through exchange of information and experience. The action plan will initiate awareness actions that will build on the dissemination of information from access providers to customers, and also develop material for use in the education sector.

Electronic distribution of material should be supplemented by more widespread traditional packages for use in the education sector and in libraries. The awareness initiatives will take advantage of the awareness actions carried out under other programmes, in particular the MIDAS-NET established under INFO 2000.

This action will be carried out in two stages. In the first stage the best means of achieving the objectives will be identified and in the second stage multiplier organisations in the Member States — such as consumer bodies and other relevant associations — will be assisted to implement actions nationally.

3.1. Preparing the ground for awareness actions

In the first phase a call for proposals will be launched for a preparatory action which will identify multiplier organisations and the most appropriate channels, media and content to reach the target audience, prepare basic material, adapt it for linguistic and cultural specificities and take account of the results of demonstration projects under action line 2, which will make an important contribution to the content of awareness actions. An implementation plan will be prepared.

The target audience is parents and teachers, and the action will involve industry (Internet service providers, content providers) and multipliers, e.g. consumer associations and the education sector.

3.2. Encouraging implementation of full-scale awareness actions

A second call for proposals will select initiatives for Community support for follow-up action in all Member States using the multiplier organisations and the channels, media and content identified in the preparatory action. The purpose of the action is to make adults (parents and teachers) aware of the potential and the drawbacks of the Internet, and of the means to identify useful content and how to block harmful content.

Actions will be appropriate for the needs of Member States and may differ according to their size, population, degree of Internet use, etc. Actions will be of two types: those focused on teachers and the education sector and those with a broader focus aimed at the general public (parents and children).

Actions aimed at teachers could include seminars and workshops and preparation of specific printed and multimedia material for distribution to a large cross-section of members of the profession. Special netdays (a series of special events aimed at increasing user awareness) can be organised in collaboration with the learning in the information society action plan, which has wide support from industry. Typical actions aimed at the general public would include: creation of web sites and distribution of information material in schools, through access providers and through shops and other outlets selling computers, distribution of CD-ROMs in computer magazines. More specific information would be given when targeting families already owning a computer. Traditional media (press, television) would also be used to stimulate awareness through publicity campaigns and information packs for journalists. Using the platform of the European Network of Schools, which is being set up with the support of the education ministries of Member States, special web pages will be created and maintained.

The purpose of the Community support is to pump prime large-scale awareness actions and to provide overall coordination and exchange of experience so that lessons can be drawn from the results of the action on an ongoing basis (for instance by adapting the material distributed). Community funding will in general not exceed one-third of eligible costs. The use of existing networks will permit cost saving, but additional financing is required to produce the relevant content.

4. *Action line 4: Support actions*

4.1. Assessing legal implications

The Internet operates on a global basis. The law operates on a territorial basis — national or, in the case of Community law, covering the European Union. It will contribute to the effectiveness of the other action lines by considering legal questions not dealt with by other Community initiatives, in particular including questions of applicable law and procedure.

If necessary, a call for tenders could be organised for an assessment of legal questions raised by the content or the use of Internet, in accordance with the procedure laid down in Article 5.

4.2. Coordination with similar international initiatives

The recommendation on protection of minors and human dignity calls on the Commission to promote international cooperation in the various fields covered by that recommendation, particularly through the sharing of experience and good practices between operators and other concerned parties in the European Union and their partners in other regions of the world. It is therefore necessary to ensure coherence between European action and similar initiatives in other parts of the world. Regular concertation meetings will help to achieve this.

An international conference, agreed in accordance with the procedure laid down in Article 5, might allow the experience gained through the action lines to be shared with actors concerned both in Europe and more widely. This could deal with all of the issues addressed by the action plan and bring together industry (self-regulatory bodies, access and service providers, content providers, network operators, software houses), user, consumer and citizens rights groups and government bodies

involved in industry regulation and law-enforcement. Such a conference could also be instrumental in disseminating the results of the action plan.

The conference would build on the results of other conferences on related themes and thus avoid duplication of efforts.

The Commission will consult the committee referred to in Article 5 before organising such a conference.

4.3. Evaluating the impact of Community measures

It is obviously important to make an in-depth evaluation of whether the objectives of the action plan and the recommendation have been achieved. Possible further measures which should be taken by industry, Community institutions, Member States or consumer representatives could also be identified in that way. The evaluation will be carried out in liaison with evaluating the measures taken to protect minors and human dignity foreseen by the recommendation on protection of minors and human dignity and will be launched through a call for tenders.

ANNEX II

INDICATIVE BREAKDOWN OF EXPENDITURE

1. Creating a safer environment	26 to 30 %
2. Developing filtering and rating systems	32 to 38 %
3. Encouraging awareness actions	30 to 36 %
4. Support actions	3 to 5 %
Total:	100 %

ANNEX III

THE MEANS FOR IMPLEMENTING THE ACTION PLAN

1. The Commission will implement the action plan in accordance with the technical content specified in Annex I.
 2. The action plan will be performed through indirect action and wherever possible on a shared-cost basis. The Community's financial contribution should not exceed the minimum considered necessary for a project and shall be granted, in principle, only if the project meets financial obstacles which cannot otherwise be overcome. In addition, the Community's financial contribution shall not normally exceed 50% of the cost of the project, except in duly justified cases.
 3. The selection of shared-cost projects will normally be based on the usual procedure of calls for proposals published in the *Official Journal of the European Communities*. The content of the calls for proposals will be defined in close consultation with the relevant experts and according to the procedures referred to in the Decision. The main criterion for supporting projects through calls for proposals will be their potential contribution to achieving the objectives of the action plan.
 4. Applications for Community support should provide, where appropriate, a financial plan listing all the components of the funding of the projects, including the financial support requested from the Community, and any other requests for or grants of support from other sources.
 5. The Commission may also implement a funding scheme more flexible than the call for proposals in order to provide incentives for the creation of partnerships, in particular involving SMEs and organisations in less-favoured regions, and for the establishment of long-term measures against illegal and harmful content on the Internet. This scheme might be operated on a permanent basis.
 6. The Commission will make provision for considering in exceptional cases unsolicited project proposals which involve a particularly urgent measure following technological changes that call for change of action.
 7. The detailed arrangements for the procedures referred to under points 5 and 6 will be implemented in accordance with Article 5 of this Decision and the Commission's financial regulations. They will be published in the *Official Journal of the European Communities*.
 8. Projects fully financed by the Commission within the framework of study and services contracts will be implemented through calls for tenders in accordance with the financial provisions. Transparency will be achieved by consulting external groups of experts (the Internet Working Party and the Legal Advisory Board) as well as actively using the information services of the Commission in connection with the awareness measures.
 9. In the course of the action plan, the Commission will also undertake preparatory, accompanying and support activities designed to achieve the general objectives of the action plan and the specific aims of each action line. This includes activities such as: studies in support of the general goals of the action plan; preliminary actions in preparation of future activities; measures aimed at facilitating participation in measures under the action plan as well as facilitating access to the results produced by action plan initiatives.
 10. All projects receiving financial support will be required to display an acknowledgement of the support received.
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COUNCIL'S EXPLANATORY MEMORANDUM

I. INTRODUCTION

1. On 28 November 1997 the Commission submitted the abovementioned proposal to the Council adopting a multiannual Community action plan on promoting the safe use of the Internet. That proposal for a Decision, based on Article 130(3) of the EC Treaty, was accompanied by a communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.
2. The European Parliament delivered its opinion on 2 July 1998.

The Economic and Social Committee delivered its opinion on 29 April 1998 and the Committee of the Regions delivered its opinion on 14 May 1998.
3. The Council, in view of the amendment made to the legal basis (see Part III, point 1), adopted on 24 September 1998 a common position in accordance with Article 189b of the Treaty.

II. OBJECTIVE

The Commission proposes a Community action plan lasting four years, favourable to the development of the Internet industry by promoting safe use of the Internet. It is specifically aimed at actions where financial support from the Community is necessary and comprises four action lines, namely creating a safe environment, developing of filtering and rating systems, encouraging awareness actions and taking support measures.

III. ANALYSIS OF THE COMMON POSITION

1. GENERAL OBSERVATIONS

The Council welcomed this Commission initiative and broadly endorsed the text submitted.

The Council considered, however, that the content of the proposal was intended largely to provide adequate information for consumers regarding the Internet, rather than to promote the development of Internet industry, the latter objective being in its view of secondary importance. The Council therefore considered that Article 129a(2) of the EC Treaty was the appropriate legal basis for the proposal and not Article 130(3) of the EC Treaty, proposed by the Commission. This would mean recourse to the co-decision procedure.

In the process of setting out its common position, the Council also found it necessary to make a few amendments to the Commission proposal. It was moved by the following concerns:

- to ensure that the text, in particular the preamble, was consistent with the new legal basis,
- to make certain provisions clearer or to improve the drafting quality of the text,
- to improve monitoring and assessment of the actions undertaken, especially as regards the effectiveness of Community aid.

Lastly, the text of the common position quotes, in full or in part, 10 of the amendments voted by the European Parliament.

2. SPECIFIC OBSERVATIONS

(Unless otherwise specified, references are to the text of the common position)

- (i) The Council inserted in its common position the following main amendments to the Commission proposal, to which the Commission could agree:

Title

In the context of the change of legal basis, the title of the Decision was made more specific, stating that the action plan was 'a safer use of the Internet by combating illegal and harmful content on global networks'.

Preamble

In line with the new legal basis, recitals 1, 2, 3, 22 and 28 were amended and recitals 4 and 23 were added.

Recitals 6 to 9, 15 and 25 of the Commission proposal were deleted in an effort to simplify the text. Those recitals in the main described in very great detail the history of the question or overlapped with other material. Recital 12 of the Commission proposal, whose scope exceeded that of the action plan, was also simplified.

Article 1

In view of the new legal basis, the Council inserted in a new paragraph 3 a financial provision in accordance with the Declaration by the European Parliament, the Council and the Commission of 6 March 1995. An explicit reference was also added to the indicative breakdown of expenditure in Annex II.

Article 2

The Council considered that this Article should be redrafted in a manner more in conformity with the content of the Decision, highlighting the main objective, i.e. promotion of a safer use of the Internet.

Article 3

The text of the common position states that the Community actions plan were designed to support and promote the measures to be taken by the Member States.

Article 4

Cases in which the committee responsible for assisting the Commission should intervene were specified in the first and seventh indents. New tasks were also planned. In fact, a new fourth indent provides that the committee also intervenes to assess projects and the estimated amount of the Community contribution when that is equal to or exceeds ECU 300 000. A new last indent also provides for its intervention for 'the other actions' contemplated but not specified in Article 3.

The new paragraphs 3 and 4 were added to specify the obligations on the Commission to keep the committee informed.

Article 5

The Council considered that a committee operating according to a type IIIA procedure would be more appropriate for such a decision than a committee of a consultative nature, as provided for by the Commission.

Article 7

Regarding participation by third parties, the text of the common position distinguishes more clearly between the various categories of country concerned, i.e. the EFTA countries which are members of the European Economic Area, the associated countries of central and eastern Europe, Cyprus and third countries and the international organisations.

Annex I

The common position contains certain clarifications or minor amendments to the text proposed by the Commission, in particular as regards points 1.1 (network of hotlines), 2.1 (demonstrating benefits of filtering and rating), 3 (encouraging awareness actions), 4.1 (legal implications) and 4.2 (coordination with international initiatives).

Annex II

The Council wanted to strengthen the line of action on 'creating a safe environment'. For this purpose it increased to 26 to 30% the indicative share of expenditure to be allocated to this line (instead of 14 to 18% as planned by the Commission), cutting the other three lines accordingly.

Annex III

Paragraph 2 was developed so as to stress the complementary nature of the Community financial contribution and so as to specify its limits.

Paragraph 7 was amended in line with the committee procedure adopted by the Council.

- (ii) As for the amendments proposed by the European Parliament, the Council followed the Commission's position in 50% of cases:

— adopting in its common position the following Amendments, sometimes with certain minor drafting changes:

1, 2, 5, 6, (Part 1), 9, 10, (Part 1), 15, 16, 19 and 20,

— not adopting Amendments 7, 12 and 17.

- (iii) The Council, however, was not able to follow the Commission in respect of the following amendments proposed by the European Parliament:

Amendment 3 (recital 2)

As mentioned above, the Council fully shares the objective pursued by this amendment, which sets out to highlight the main objective of the action plan, i.e. consumer protection. The Council preferred, however, to adopt a simplified text on the basis of the Commission proposal so as to meet more closely the drafting quality standards for Community legislation.

Amendments 4 and 11 (preamble and Article 3, first indent)

The Council considered that these two amendments could raise doubts regarding the exact scope of the action.

Amendment 6, second part (recital 12)

The Council was not able to adopt the second part of the amendment, which did not appear to correspond to any of the Decision's provisions.

Amendments 8 and 14 (new recital and Article 5)

In connection with the committee procedure, Amendment 8 refers to an agreement to which the Council is not a party, and Amendment 14 is superfluous in the common position in that it does not provide for the consultative committee proposed by the Commission.

Amendment 10, second part (Article 2)

The Council did not adopt the second part of this amendment, on the grounds that it would make the purpose pursued less clear to the reader, whereas the concern underlying the addition was already adequately covered by recital 18.

Amendment 13 (Article 13)

The purpose of this amendment is to add extremely specific actions. However, they do not fit properly into the current structure of the Decision. Article 3 broadly covers the actions envisaged, which are detailed in Annex I.

Amendment 18 (Annex I, point 2, second paragraph)

The text of the Commission's proposal seemed more balanced to the Council, in that it referred to European systems in the first sentence, whereas the need for international compatibility is adequately set out in the second sentence. For the same reasons, the text of the common position is drawn from Amendment 19, which adds this last element which did not appear in the Commission proposal.

Amendment 21 (Annex I(3)(5))

The Council also preferred to maintain the Commission text as, without prejudice to the financial resources available, simultaneous recourse to traditional information media seemed more important in the current phase of development of the information society.

Amendment 22 (Annex I(3)(2)(2))

Subject to several minor adjustments, the Council here supported the more precise text proposed by the Commission.

Amendment 23 (Annex I(4)(1)(2a), new)

The Council considered that the additions suggested in this amendment went beyond the action plan.
