Panel
Towards a Rights-based Self-Regulatory Framework: Assessing the Responsibility of Social Media Companies against Bullying and Privacy Violations

Corporate Social Responsibility for Social Network Site Providers:
Advancing Children's Rights by Creating and Implementing a Corporate Social Agenda
<u>Talking points</u>
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- CSR & children's rights = Integrating child rights considerations into all appropriate corporate policies and management processes
  ('beyond the law'; EC: "actions by companies over and above their legal obligations towards society and the environment")

- Incentives? Cf. Unicef Children and business participation: How business can create opportunities for children's participation (2015):
  o Goodwill, community and sustainability
  o Creating family-friendly environment (re employees)
  o Good reputation
  o Seeing children as stakeholders for business: "*As <u>consumers</u>, <u>prospective customers</u>, <u>users of products</u> and <u>potential employees</u>, children wield a significant influence on business. Considering children as consumers with purchasing power, discerning tastes and opinions, and a variety of abilities and skill sets, it is in the best interests of business to act in the best interests of children.*"

- CSR & human rights increasingly included in policy documents at various levels
  o UN: Protect, Respect, and Remedy framework (2008)
  o UN: Guiding principles on business & human rights (2011)
  o EU: A renewed EU strategy 2011-14 for Corporate Social Responsibility
    The Commission has defined CSR as <u>the responsibility of enterprises for their impact on society</u>. CSR should be company led. Public authorities can play a supporting role through a smart mix of voluntary policy measures and, where necessary, complementary regulation.
    Companies can become socially responsible by:
    - following the law;
    - integrating social, environmental, ethical, consumer, and human rights concerns into their business strategy and operations.
  o UN: Children's rights & business principles (2012)
  o UN: Committee on the Rights of the Child General comment on state obligations regarding the impact of the business sector on children's rights (2013)
  o Council of Europe: Recommendation on human rights and business (2016)

- Two important challenges
  o Documents are often formulated in a general manner
    ▪ Focus on children?
      - Children's rights & business principles (2012)
      - Committee on the Rights of the Child General comment on state obligations regarding the impact of the business sector on children's rights (2013)
      - Council of Europe Recommendation on human rights and business (2016): section on children
    ▪ Focus on ICT sector?

- EU ICT sector guide on implementing the UN guiding principles on business and human rights
  - **Focus on children and ICT sector?**
    - UNICEF/ITU Guidelines for Industry on Child Online Protection: http://www.unicef.org/csr/files/COP_Guidelines_English.pdf: checklist for specific actors, a.o. social media service providers
    - Unicef Child rights and the ICT sector: http://www.unicef.org/csr/files/Training_Module_1_Child_Rights_and_the_ICT_Sector.pdf

  - o Obligations remain (too) vague, resulting in low compliance, <u>but</u> more and more practical tools in order to ensure that CSR in this field does not remain dead letter: trend towards more concrete "due diligence" or "impact assessments"
    - Unicef's Child Online Safety Assessment Tool (http://www.unicef.org/csr/files/English_UNICEF_COSA.pdf:
      - valuable tool to create "Corporate Social Agenda" for social network site providers + training materials: http://www.unicef.org/csr/materials.htm
      - excel doc: visual output / data output, very detailed
    - Transparent reporting and monitoring is key: cf. COE Recommendation: "*Member States should encourage and, where appropriate, require business enterprises referred to in paragraph 20 to display greater **transparency** in order to enable them better to "know and show" their corporate responsibility to respect human rights. Member States should also encourage and, where appropriate, require such businesses to provide regularly, or as needed, **information** on their efforts on corporate responsibility to respect human rights*".

- Interplay CSR of <u>industry</u> to respect human rights and positive obligations of the <u>state</u> (state duty to respect, protect and fulfil human rights)

  - o Important to realise that talking about CSR & human rights does not mean that there are no obligations for the state
    - state duty to protect against human rights abuses by third parties
    - state action to enable business enterprises to respect human rights (cf. Expl. Mem. CoE Recommendation on business and human rights): encourage and support businesses
  - o COE Recommendation
    Development of national action plans
  - o Can states oblige companies to carry out (human rights) impact assessments?
    - E.g. GDPR: data protection impact assessment
    - COE Recommendation:
      - *Member States should apply such measures as may be necessary to encourage or, where appropriate, **require** that:*
        - o *business enterprises domiciled within their jurisdiction apply **human rights due diligence** throughout their operations;*
        - o *business enterprises conducting substantial activities within their jurisdiction carry out human rights due diligence in respect of such activities;*
        including project-specific human rights impact assessments, as appropriate to the size of the business enterprise and the nature and context of the operation.

- States versus globally operating companies: task of the European Commission: according to consultation on the Commission's strategy an important actor

- Participation by children in developing CSR practices is often overlooked
  - Cf. Unicef Child Online Safety Assessment Tool: *"Key external stakeholders, including children and experts, have been consulted on child online safety mechanisms to obtain ongoing feedback and guidance on company approaches to ensure they are effective"*
  - Also: Unicef Children and business participation: How business can create opportunities for children's participation (2015): http://childrenandbusiness.org/wp-content/uploads/2015/05/business-and-child-participation_hn.pdf