

# Common Approach towards Organised Crime: the Case of the European Union

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## 1. INTRODUCTION

1. International crime has become a threat to society. This threat does not stop at national borders. There are two developments that facilitate international crime:

. new technologies: criminals benefit from new –convenient– means for committing crimes. Drugs and even weapons are now being sold through the Internet. This is a world-wide phenomenon and an extremely serious matter;

. new legal environment: with the establishment of the Internal Market and the abolishment of systematic national border controls between an increasing number of countries, the free movement of goods, capital and people has become a reality. From a safety and security point of view, this development has brought about an urgent requirement for more effective cross-border and pan-European co-operation of law enforcement as well as judicial authorities.

2. Both the technological developments and the new legal environment should in principle be welcomed. Free movement and free communication are precious rights which must be protected. The Internet is a positive instrument offering universal access to ever richer sources of digital information. It is a tremendous educational potential. The right to free speech is constitutionally

protected. In June 1997, the United States Supreme Court struck down provisions of the Communications Decency Act which made it an offence to distribute indecent content within a minor might be able to access, since this would unduly interfere with the right of free speech. The Court upheld, however, the provisions relating to obscene contents<sup>1</sup>. But the Internet can as easily be abused for criminal purposes.

3. Consequently, a balance must be struck between, on the one hand, free information, free communication and free trade, and, on the other, the safeguarding of vital general interests, such as public policy, public security, public health and the protection of minors. In other words, the question is how to defeat illegal use without unduly impacting on Internet users and the industry as a whole. The question I will address is what has been done and what will be done on the level of the European Union, in particular by the European Commission..

4. A full overview of all the work already carried out and under way is attached in an annex to this paper. The source is a Commission document that is likely to be adopted in the very near future. It calls for some concrete actions to promote the safe use of the Internet. Community subsidies will be given for those purposes. I will pinpoint the main field of activities: (a) actions in the field of Justice and Home Affairs; (b) actions on the basis of the EC Treaty; and (c) participation in international activity.

## **2. ACTIONS IN THE FIELD OF JUSTICE AND HOME AFFAIRS**

5. The Treaty of the European Union, known as the Treaty of Maastricht, has introduced a new Title VI (Article K) on cooperation in the fields of Justice and Home Affairs. This cooperation forms the "third pillar" of the European Union<sup>2</sup>. Article K.1 defines a certain number of "matters of common interest". This list contains *inter alia* judicial co-operation in criminal matters; customs co-operation and police co-operation for the purposes of preventing and combating terrorism, unlawful drug-trafficking and other serious forms of international crime.

■<sup>1</sup> Supreme Court , 26 June 1994, *Reno v American Civil Liberties Union*, confirming the Judgement of the Pennsylvania Federal District Court.

■<sup>2</sup> The first pillar covers the three European Communities (Titles II, III and IV of the TEU), the second pillar co-operation in the field of foreign and security policy (Title V).

In these areas, the Council of Ministers may, on the initiative of Member States<sup>3</sup>, adopt joint positions, promote co-operation, adopt joint action (which is more frequent) and draw up conventions which are then recommended for adoption by the Member States. The co-operation takes place outside the traditional Community legal framework; it has essentially an intergovernmental character, requiring unanimity<sup>4</sup> and not amounting to texts that have a directly binding effect upon the Member States.

6. Although the Third Pillar has the reputation of being "slow" and "soft", the reality is that in recent times many documents were adopted in matters with a considerable interest for society. Indeed, the joint actions adopted on the basis of Article K3 TEU address a broad variety of subject matters: they range from the financing of specific projects in favour of asylum-seekers and refugees<sup>5</sup>, the fight against drugs<sup>6</sup>, combating trade in human beings and the sexual exploitation of children<sup>7</sup>, to a joint action on organised crime<sup>8</sup>. I will concentrate, however, on the initiatives with a view to combating organised crime.

7. The European Council of Dublin of 13 and 14 December 1996 (ie the meeting of heads of government and the French president) underlines its absolute determination to fight against organised crime and stressed the need for a coherent and coordinated approach by the European Union. Consequently, it extended the mandate of the European Drugs Unit, the forerunner of Europol.<sup>9</sup> This now covers the exchange and analysis of information and intelligence in the fields of

■<sup>3</sup> For 6 out of the 9 subject-matters covered by Article K1, the Commission can as well take the initiative (cf. Article K3, first indent). Pursuant to Article K4§2, the Commission shall be fully associated with the work in the areas referred to in Title VI.

■<sup>4</sup> Article K3« § 2.

■<sup>5</sup> Joint Action of 22 July 1997, OJ L 205 of 31 July 1997, p. 5.

■<sup>6</sup> Joint Action of 10 March 1995 concerning the EUROPOL Drugs Unit (OJ L 62 of 20 March 1995, p. 5 and Joint Action of 16 June 1997 concerning the information exchange, risk assessment and the control of synthetic drugs (OJ L 167 of 25 June 1997, p. 1).

■<sup>7</sup> STOP Programme - OJ L 322 of 12 December 1996, p. 7.

■<sup>8</sup> Joint action of 29 November 1996, OJ L 342 of 31 December 1996, p. 2.

■<sup>9</sup> OJEC, L 342, p. of 31.12.1996).

illicit trafficking in drugs, radioactive and nuclear substances and vehicles, as well as traffic in human beings and crimes involving clandestine immigration networks. In order to examine the issue of organised crime more closely, a High Level Group of national officials was created. This group tabled a comprehensive Action Plan containing specific recommendations on the operational level, as well as recommendations to changes in the Treaty in view of the Amsterdam summit of June. The European Council in Amsterdam effectively endorsed the political guidelines of the High Level Group. In addition, it underlined the importance of EUROPOL in the fight against organised crime.<sup>10</sup>

8. The Action Plan contains a recommendation to combat the criminal use of new technologies and means of communication and another one inviting the Commission and the Council to address the issue of fraud and counterfeiting relating to all payment instruments including electronic payment. The Commission is currently preparing a proposal for a specific multi-annual programme against organised crime with a view to implementing the 11th recommendation made in the Action Plan. In that framework, training for key players responsible for preventive policies, information exchange, research and other actions designed to improve skills and operational methods will be addressed. This programme is currently being prepared under the provisional working title "FALCONE", after the late judge who became a victim of a Mafia assault.

9. Also in the context of the Third Pillar, working groups of national experts are looking into the question of the lawful interception of Internet telecommunications. Hence, work is being carried on with a view to investigating any measures which comprise both the police and mutual judicial assistance in criminal matters involved in the use of the Internet. One should also mention the P8 Senior Level group on transitional organised crime (the so-called Lyon group), which has started work to develop legal and technical devices allowing for timely international law enforcement response to computer-related crimes. More concretely, that group develops instruments in order to enhance the abilities to locate, identify and prosecute criminals; to co-operate with and assist one another in the collection of evidence; and to commit resources to training law enforcement personnel to fight high-tech and computer-related crime.

10. When the Treaty of Amsterdam will enter into force, the fight against organised crime will become one of the areas of common interest mentioned in

■<sup>10</sup> See Presidency conclusions, DOC. CONF./4001/97.

the new Article K1 The Treaty of Amsterdam also provides a legal basis for approximating and harmonising the laws of the Member States. For these purposes, the Council may adopt "framework decisions"; they resemble what is known as a directive under the EC Treaty, but they cannot have direct effect. The Treaty of Amsterdam provides furthermore for possibilities of speeding up procedures as well as for some degree of judicial supervision by the Court of Justice (Luxembourg).

### **3. FIRST PILLAR ACTIVITIES: COMBATING HARMFUL AND ILLEGAL CONTENT**

11. The Commission is active in two ever more related fields: telecommunications and audio-visual policy. As a result of digital technology, the distinction between these two sectors becomes more and more blurred. This phenomenon is known as "convergence". So far, both the Telecom Council of Ministers and the Culture/Audio-visual Council of Ministers have approved a number of initiatives in this field. Details are set out in the annex to this paper. I should in particular mention the excellent work done by the Working party on illegal and harmful content on Internet. Key issues are:

- . Encourage and facilitate self-regulatory systems including representative bodies for Internet Service providers and users, effective codes of conduct and possibly hot-line reporting mechanisms available to the public;

- . Encourage the provisions to users of filtering mechanisms and the setting up of rating systems for instance the PICS (Platform for Internet Content Selection) standard launched by the international WWW consortium;

- . Exchange of information and experience under the aegis of the Commission.

12. As regards illegal and harmful content, the matter most emphasised so far is that of protection of minors and of human dignity. This week, on Wednesday, the Commission adopted a Proposal for a Recommendation of the Council to the Member States, the Interested parties and the Commission in which some concrete suggestions are made.

#### 4. INTERNATIONAL ACTIVITIES

13. The Commission furthermore takes part in international negotiations and exchange of information. It is participating in the Council of Europe Committee of Experts on Crime in Cyber Space. That Committee was assigned the task of examining problems of criminal procedural law connected with information technology and look into the possibilities of drawing up a binding legal instrument with particular emphasis on questions of international co-operation in the investigation of cyber-space offences<sup>11</sup>.

14. In the framework of the OECD (Paris) a study has been carried out aimed at reviewing the existing legislation and practices in member countries concerning the Internet and gathering the views of the different actors involved. The Report focuses on content issues related to Internet.

15. Finally, I should mention the International Ministerial Conference held in Bonn (July 1997) and entitled "Global Information Networks: realising the Potential". The conference was organised in co-operation with the Commission. The Conference was concluded by three Declarations: by European Ministers, by industry and by users. In the Ministerial declaration, ministers stressed the role which the private sector can play in protecting 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.

#### 5. CONCLUSIONS

16. This overview shows that a lot of work is under way and that there a widespread consensus on the objectives to be achieved. The major problem is that with technological developments going so fast law enforcers easily run the risk of lagging behind the facts. A typical European problem is that one has to struggle with battles on the division of competence between Member States and the European Union, with different legal traditions and cultures and among the Member States and with eleven official languages. Clearly, the Amsterdam Treaty will reinforce the institutional framework. It is equally clear, however, that with the

■<sup>11</sup> (So far, work on the level of the Council of Europe (Strasbourg) appears to be ahead of the work undertaken within the framework of the Third Pillar. See Fe. Recommendation n° R (95) 13 of 11 September 1995 on Problems of criminal procedural law connected with information technology.

Union enlarging towards the east, it will be faced with new important challenges, in particular in relation to police Cupertino.

Communication from the Commission to the European  
Parliament and the Council  
Action Plan on promoting safe use of the Internet  
*draft v 2. 1*

## SUMMARY

Driven by its meteoric growth, the Internet is currently revolutionising a number of economic sectors. Simultaneously, the Internet has also become a powerful element in social, educational and cultural fields - empowering citizens and educators, lowering the barriers to the creation and the distribution of content, offering universal access to ever richer sources of digital information.

Reflecting these opportunities, the vast majority of Internet content is for purposes of information for totally legitimate business or private usage. However, the Internet also carries a limited amount of potentially harmful or illegal content or can be used as a vehicle for criminal activities. While the benefits of the Internet far outweigh its potential drawbacks, these aspects can not be ignored. They are pressing issues of public, political, commercial and legal interest. Reflecting those concerns, recent political discussions in the European Union have stressed the need for action and concrete solutions.

Considerable work has been undertaken in the EU in the last two years on the initiative of the European Commission. The political direction given by the European Parliament and the developments in Member States show that Europe has in many respects been a pioneer in addressing the issues and proposing solutions.

The proposed Internet Action Plan is the result of the intensive consultations with all concerned carried out as part of this process. The Commission has identified areas where concrete measures are needed and where Community resources should be made available:

- . promotion of self-regulation and creation of content-monitoring schemes including an European network of hot-lines (especially dealing with content such as child pornography or racism)

- . application of effective filtering services and compatible rating systems, which take account of cultural and linguistic diversity



· promotion of awareness of users, in particular children, parents and teachers, to allow them to use Internet resources safely and with confidence

The Action Plan proposes a framework within which specific actions can be carried out.

## **WORK ALREADY CARRIED OUT AND UNDER WAY IN THE EU**

### **Illegal and harmful content on the Internet**

*Commission Communication on illegal and harmful content on the Internet*

*The Communication<sup>1</sup> (COM(96) 487 final) was adopted on 16 October 1996. It has been debated by the European Parliament and the Committee of the Regions, who have adopted reports. It sets out proposals from the Commission for immediate action to deal with harmful and illegal content.*

### **Working Party on illegal and harmful content on the Internet**

*The Telecommunications Council of 27 September 1996 agreed to extend the working party established previously to include representatives of the Ministers of Telecommunications as well as access and service providers, content industries and users. The Council requested the Working Party to present concrete proposals for possible measures to combat the illegal use of Internet or similar networks. The first report<sup>2</sup> was submitted to the Council held on 28 November 1996.*

*The report follows the proposals made in the Communication and elaborates on a number of issues such as self-regulation and liability.*

■<sup>1</sup> communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions COM(96) 487  
<http://www.echo.lu/legal/en/internet/communic.html>.

■<sup>2</sup> <http://www.echo.lu/legal/en/internet/wpen.html>

*A second report<sup>3</sup>, submitted to the Council held on 27 June 1997, sets out the progress made in the Member States on measures to deal with illegal and harmful content and summarises activities since then in the EU institutions.*

*Council Resolution on illegal and harmful content on the Internet.*

*This resolution<sup>4</sup> was adopted on 17 February 1997. The Council welcomed the report of the Commission Working Party on illegal and harmful content on the Internet. They invited the Member States to commence with the following measures:*

*- Encourage and facilitate self-regulatory systems including representative bodies for Internet service providers and users, effective codes of conduct and possibly hot-line reporting mechanisms available to the public;*

*- Encourage the provision to users of filtering mechanisms and the setting up of rating systems for instance the PICS (Platform for Internet Content Selection) standard launched by the intentional World-Wide-Web consortium with EC support should be promoted;*

*- Participate actively in the International Ministerial Conference to be hosted by Germany and encourage attendance by representatives of the actors concerned;*

*They requested the Commission, as far as Community competencies are concerned, to:*

*- Ensure the follow-up and the coherence of work on the measures suggested in the above-mentioned report, taking into account other relevant work in this field and to reconvene the Working Party as necessary to monitor progress and take further initiatives if appropriate;*

*- Foster co-ordination at Community level of self-regulatory and representative bodies;*

*- Promote and facilitate the exchange of information on best practice in this area;*

■<sup>3</sup> Interim report on Initiatives in EU Member States with respect to Combating Illegal and Harmful Content on the Internet <http://www.echo.lu/legal/en/internet/wp2en-toc.html>

■<sup>4</sup> Resolution of the Council of the European Union and the Representatives of the Member States meeting within the Council OJ No. C70, 6.3. 1997, p. 1 <http://www.echo.lu/legal/en/internet/resol.html>

Foster research into technical issues, in particular filtering, rating, tracing and privacy-enhancing technologies, taking into account Europe's cultural and linguistic diversity;

- Consider further the question of legal liability for Internet content.

They recommended that the Commission, in the framework of Community competencies, and Member States take all necessary steps to enhance the effectiveness of the measures referred to in this Resolution through international co-operation building on the results of the International Ministerial Conference and in discussions in other international fora.<sup>5</sup>

*European Parliament resolution on illegal and harmful content on the Internet.*

On 24 April 1997, the European Parliament adopted a Resolution on the Commission Communication on illegal and harmful content on the Internet, based on a reports by Mr. Pierre Pradier. The Resolution contains a list of desiderata addressed to the Council, the Commission and the Member States.

With respect to illegal content, the Resolution inter alia calls on the Member States to define a minimum number of common rules in their criminal law and to strengthen administrative co-operation on the basis of joint guidelines and calls on the Commission to propose, after consulting the European Parliament, a common framework for self-regulation at EU level.

This framework should include:

objectives to be achieved in terms of the protection of minors and human dignity, principles governing the representation of the industries concerned at EU level and the decision-making procedures, measures to encourage the enterprises and industries involved in telematic networks to develop message protection and filtering software, which should be made available automatically to subscribers, and appropriate arrangements for ensuring that all instances of child pornography uncovered on computer networks are reported to the police and shared with Europol and Interpol.

■<sup>5</sup> <http://www.europarl.eu.int/dg1/a4/en/a4-97/a4-0098.htm>

Furthermore, the Resolution stresses the need for international co-operation between the EU and its main external partners, on the basis of conventions or via the application of new international legal instruments and it calls upon the Commission to submit proposals for a common regulation of liability for Internet content. Finally, it urges the Member States and Commission to promote co-operation among Internet access providers, in order to encourage self-regulation.

With respect to harmful content the Resolution calls on the Commission and the Member States to encourage the development of a common international rating system compatible with the PICS protocol, and sufficiently flexible to accommodate cultural differences, which will benefit both users and content publishers.

#### *Rolling Action Plan on the Information Society*

The Rolling Action Plan on the Information Society adopted in December 1996 included a reference to an Internet action plan.

“The Communication on illegal and harmful content ... indicates a number of policy options to combat this type of content on the Internet. The action plan ... will indicate the range of measures necessary to implement these policy options, the means to do this and the actors responsible. It will elaborate the measures necessary to ensure a coherent set of actions at the EU level and will especially address the question of liability for access and service providers.”

### **OTHER COMMISSION ACTIVITIES**

The Action Plan takes into account the following activities which are also relevant to the issue of illegal and harmful content.

#### *Green Paper on the Protection of Minors*

The Green Paper on the Protection of Minors and Human Dignity in Audio-visual and Information Services<sup>6</sup> (COM(96) 483 final) was adopted by the European Commission on October 16th, 1996, together with the Communication on Illegal and Harmful Content on the Internet. The Green Paper has provided all

■<sup>6</sup> COM (96) 483 <http://europa.eu.int/en/record/grec/gp9610/protec.htm>

those involved in the audio-visual and information sectors of Europe and beyond with a springboard for reflection and debate. Its scope is the much needed adaptation of regulatory frameworks and attitudes in the context of the emergence of new audio-visual and information services across the spectrum from television to the Internet with a specific focus on "the protection of minors and human dignity". The Communication, on the other hand, whilst concentrating on the Internet has a broader scope in terms of tackling "illegal and harmful content". The two instruments thus complement each other in that they address a number of issues in different ways.

The Council of Ministers, on 16 December 1996, welcomed the Green Paper and requested the Commission to further its work and present its results at the forthcoming Audio-visual/Culture Council on 30 June 1997. The Green Paper is also currently being debated by the other Union institution (the European Parliament, the Economic and Social Committee, the Committee of the Regions). The report drafted by Mr Philip Whitehead was adopted by the Culture Committee on 19 June 1997.

When presenting the **results of the consultation**<sup>7</sup> on the Green Paper on 30 June 1997 to the Council which displayed a broad measure of agreement with the Commission's approach, the Commission announced its intention to present a Communication and draft Council Recommendation in autumn 1997. This could include a co-ordination of national initiatives through the adoption of common principles for conduct, orientations and objectives for action by Member States.

#### *International Ministerial conference, Bonn*

The International Ministerial Conference entitled "Global Information Networks: Realising the Potential" was held in Bonn on 6-8 July 1997. The Conference was hosted by the Federal Republic of Germany and organised in co-operation with the European Commission. Ministers from 29 European countries took part (European Union, EFTA, Central and Eastern European countries and Cyprus), as did government representatives from the USA, Canada, Japan and Russia as guests, businesses which are global players (content providers, access and service providers, network providers, equipment manufacturers), representatives of users and as observers, representatives from European Union institutions or organs and from other European and International organisations.

■<sup>7</sup> <http://www2.echo.lu/legal/cn/internet/gpconsult.html>

The Conference was concluded by three Declarations: by European Ministers, by industry and by users.<sup>8</sup>

In the Ministerial declaration, 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.

Ministers 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. They noted that the EU Council Resolution of 17 February 1997 on illegal and harmful content on the Internet strongly supports such an approach.

#### *Activities in the field of Justice and Home Affairs*

In the context of the structures of the Justice and Home Affairs Council a reflection exercise on the Internet issue is taking place. This aims at developing practical co-operation among the law enforcement authorities concerning Internet related activities. Specific working groups are in particular looking into the question of the lawful interception of Internet telecommunications. Hence, work is being carried on with a view to investigating any measures which can be considered in the context of co-operation in the field of Justice and Home Affairs comprising both the police and mutual judicial assistance in criminal matters involved in the use of the Internet.

The P8 Senior Level group on transnational organised crime (Lyon group) has started work to develop legal and technical mechanisms that allow for timely international law enforcement response to computer-related crimes i.e. to enhance abilities to locate, identify and prosecute criminals; co-operate with and assist one another in the collection of evidence; and commit resources to training law enforcement personnel to fight high-tech and computer related crime.

The Commission is involved in the implementation of the **Action Plan to combat organised crime** endorsed by the European Council in Amsterdam<sup>9</sup> and

■ <sup>8</sup> <http://www2.echo.lu/bonn/conferccc.html>

■ <sup>9</sup> <http://uc.eu.int/amsterdam/cn/conclusions/freedom/main.htm>

which includes a recommendation to combat the criminal use of new technologies and means of communication and another inviting the Commission and the Council to address the issue of fraud and counterfeiting relating to all payment instruments including electronic payment instruments.

The Commission is also participating in work under way in the Council of Europe Committee of Experts on Crime in Cyber-Space which was assigned the task of examining problems of criminal procedural law connected with information technology and look into the possibilities of drawing up a binding legal instrument with particular emphasis on questions of international co-operation in the investigation of cyber-space offences.

#### *Activities in the field of education*

The Commission adopted the action plan "Learning in the information society, 1996-1998" on October 2, 1996. The plan aims at reinforcing the impetus of the activities at national and local level to connect schools to communication networks, train instructors and develop products which meet pedagogical needs. It contributes to mobilise a large number of users more rapidly, reinforce the European dimension in education and create a genuine European educational multimedia market.

The Commission services are also participating in the expert group on "Misuse of International Data Networks" which was established by the Ministers and Advisors of Science of the G7 States and Russia (Carnegie Group) in 1996. The expert group's mandate is to suggest recommendations at international level, especially in the field of education and research, to combat illegal and harmful activities on the Internet.

#### *Study on Liability*

The European Commission has published a call for tenders for a study on legal liability systems in Member States regarding Information Society services. The study will draw up an inventory of laws, regulations, administrative practices and forms of self-regulation which are in existence or in preparation in the Member States, and which establish forms of legal liability applicable to operators and users of Information Society services, including copyright and neighbouring rights. Results are expected in July 1998.

### *Digital signatures and encryption*

On 8 October 1997, the Commission adopted a Communication "Ensuring security and trust in electronic communication-Towards a European Framework for Digital Signatures and Encryption".<sup>10</sup>

In order to make good use of the commercial opportunities offered by electronic communication via open networks, a more secure environment needs to be established. Cryptographic technologies are widely recognised as essential tools for security and trust on open networks. Two important applications of cryptography are digital signatures and encryption. The main objectives of this Communication are to develop a European policy in particular with a view to establishing a common framework for digital signatures, ensuring the functioning of the Internal Market for cryptographic services and products, stimulating a European industry for cryptographic services and products and stimulating and enabling users in all economical sectors to benefit from the opportunities of the global information society.

## **INTERNATIONAL ACTIVITY**

### **OECD**

At its 31st session on 27-28 February 1997 the ICCP Committee agreed to undertake study aimed at reviewing the existing legislation and practices in Member countries concerning the Internet and gathering the views of the different actors involved, based on proposals by the French and Belgian Delegations. The Secretariat Report presenting the result of the study will be submitted to the Committee at its 32nd session in October 1997. An Ad hoc Meeting was held on 1-2 July 1997 to discuss a first draft of the Report. A second ad hoc Meeting will be held on 22 October 1997. The Report will focus on content issues related to the Internet; it will be presented as a fact-finding study which includes an inventory of national approaches, private sector initiatives, and other international efforts in this field, with emphasis on defining and describing terminology and main concepts. A short supplementary paper on "issues and option for future

■<sup>10</sup> COM (97) 503 Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

<http://www.ispo.eec.be/eif/policy/97503exec.html>



work" will be presented to the ICCP Committee for discussion of follow-up work in this area.

## United States

In June 1997 the US Supreme Court struck down provisions of the Communications Decency Act which made it an offence to distribute indecent content which a minor might be able to access, since this would interfere with the constitutionally protected right of free speech, although it upheld the provisions relating to obscene content<sup>11</sup>. On 16 July, President Clinton and Vice President Gore announced a strategy for making the Internet "family friendly"<sup>12</sup>. This strategy is designed to give parents and teachers the tools they need to prevent children from getting access to inappropriate material on the Internet, and to guide them towards high-quality educational resources. Industry leaders and associations agreed to take steps to promote filtering and rating and awareness actions.

## THE NEED TO ACT

The work already achieved within the EU, based on the Commissions work within the Working Party and on the Green Paper, has led to a broad agreement between European Parliament, Council and Member States on the approach to be taken.

Illegal content must be distinguished from harmful content. The two categories require different measures to deal with them.

**Illegal content** must be dealt with at source by law-enforcement agencies, and their activities are covered by the rules of national law and agreements of judicial co-operation. The industry can however give important help in reducing circulation of illegal content (especially dealing with content such as child pornography) through properly-functioning systems of **self-regulation (such as codes of conduct and establishment of hot-lines)** in compliance with and supported by the legal system.

In tackling harmful content, the priority actions should be:

■<sup>11</sup> <http://www.aclu.org/court/renovcludec.html>

■<sup>12</sup> <http://www.whitehouse.gov/WH/New/Ratings/>

. enabling users to deal with harmful content through the development of technological solutions (**filtering and content rating systems**),

. to increase parental awareness

.developing self-regulation which can provide an adequate framework, in particular for the protection of minors The exchange of information between self-regulatory bodies and industry will also cover self-regulatory activities to deal with harmful content.

The practical steps taken recently by individual Member States in both areas are summarised in the second Working Party report. This report demonstrates clearly both that action is possible and that further action is still necessary, since some Member States have made considerable progress on the actions described, others are at a stage of discussions between those concerned and others have yet to begin.