

Comments from ISFE, the Interactive Software Federation of Europe and SELL, the professional association representing video game publishers in France, on the French draft Decree implementing Law No 2022-300 of 2 March 2022 aimed at strengthening parental control over the means of access to the Internet.

(Notification TRIS 2022/0694/F)

T A B L E O F C O N T E N T S

I.	Background	1
II.	Detail of the measures provided by Article 3 of the Draft decree	3
III.	Issues related to the compatibility with EU law and the principles of the free movement of goods	5
IV.	Issues related to the consistency with personal data protection EU law	8

I . B A C K G R O U N D

The French government is currently preparing the adoption of an implementing decree (hereinafter referred to as the “**Draft Decree**”) for the so-called “Studer law” (law n° 2022-300¹ of March 2nd, 2022, aimed at reinforcing parental control on Internet access means) (the “**Law**”) and in particular, of those provisions aimed at **imposing on video game console manufacturers and/or importers the offering of a parental control device**. The Draft Decree is issued for the application of Article 1 of the Law, which states that terminal equipment intended for the use of online public communication services giving access to services and content likely to harm the physical, mental or moral development of minors **shall be equipped with an easily accessible and understandable device enabling their users to restrict or control access by such persons to these services and content**. The activation of such device must be offered to the user **when the equipment is first put into service**.

According to the Law², the Draft Decree is set to determine the minimum functionalities and technical characteristics of the parental control device as well as the conditions under which the competent authority may restrict or prohibit the placing on the market of the terminal equipment mentioned which presents a risk of non-conformity and those under which the competent authority may recall or withdraw such equipment.

According to the explanatory memorandum of the Law³, the need for such a mandatory requirement would result from the fact that parental control tools are supposedly not within everyone's reach and would sometimes require computer manipulation that can be complex or even discouraging. Although no impact study has been made available by the French legislator, the explanatory memorandum asserts that the development of new equipment allowing access to the Internet - smartphones,

¹ <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045287677>

² See article 1 of the Law

³ Accessible here in French: https://www.assemblee-nationale.fr/dyn/15/textes/l15b4646_proposition-loi

tablets, consoles and connected objects - only makes the task of parents more difficult, by making it necessary to multiply parental control software and applications. It should be noted that in the absence of an impact study, equipment as diverse as smartphones, tablets, consoles and connected objects are lumped together without taking into account the specific efforts of the various industries concerned.

Based on these assumptions, the objective of the Law and of the Draft Decree is thus to ensure that equipment or services allowing access to the Internet are subject to reinforced obligations in order to make the use of control devices by parents more **systematic, simple and user-friendly**. As stated by the French government⁴, the objective of the Draft Decree is to **ensure a minimum standard common to all manufacturers**, to encourage the use of parental controls by as many parents as possible. Beyond the principle stated in the law, the Draft Decree sets out a series of mandatory minimum features and characteristics, amounting to **technical specifications** within the meaning of Directive 2015/1535⁵.

In accordance with Directive (UE) 2015/1535 laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services, the European Commission was notified of the Draft Decree on October 14th, 2022, (Notification number: 2022/694/F). From this date started a three-month standstill period, during which the European Commission and the other Member States can examine the notified Bill. It should also be noted that the Draft Decree must still be submitted to the French data protection authority (*Commission Nationale de l'Informatique et des Libertés*) for its opinion.

The *Syndicat des éditeurs de logiciels de loisirs* ("SELL") and the Interactive Software Federation of Europe ("ISFE") and, more broadly, the video game industry have **a longstanding commitment to minor protection**. In 2003, in response to a call from the European Commission and the Council of the European Union for a harmonised age rating system, the industry created the PEGI system⁶, a hugely successful and best-in-class self- and co-regulatory system aimed at informing consumers and guiding the industry, used by 38 countries in Europe.

Given their longstanding involvement in minor protection issues, the SELL and the ISFE **share and welcome the safety by design approach of the Draft Decree**, which is an approach that has been integrated into industry practice for many years, with parental control tools at the centre. However, the SELL and ISFE would like to draw the attention of the Commission to the fact that **the Draft Decree, as it stands, would question the deployment of the most advanced and effective** in terms of the state-of-the-art **parental control systems** currently available. Also, within the European Union, France would be the first and only member state to impose on console manufacturers a regulation prescribing mandatory technical specifications which are likely to **create import restrictions on French territory and lead to fragmentation within the Internal market**. This results in particular from the powers of sanction of the National Frequency Agency, which would be entrusted with the control of the respect

⁴ See

<https://www.service-public.fr/particuliers/actualites/A15553#:~:text=Le%20d%C3%A9cret%20n%C2%B0%202022,application%20de%20l'article%204.>

⁵ Article 1. 1 c) "technical specification" means a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures."

⁶ The Pan European Game Information, see <https://pegi.info/>

of the decree, and which could go as far as ordering the withdrawal of equipment from the French market.

II. DETAIL OF THE MEASURES PROVIDED BY ARTICLE 3 OF THE DRAFT DECREE

Article 3 of the Draft Decree introduces a series of new articles in *Subsection 9 of Section 5* of the French Code of posts and electronics communications which is dedicated to electronic communications terminal equipment and radio equipment (“radio and terminal equipment” Chapter II, Title I, Book II⁷). The purpose of Article 3 is to **establish new requirements that terminal equipment must meet in order to be placed on the market**, with a system of declaration of conformity and monitoring by the National Frequency Agency, the French authority in charge of monitoring radio frequencies⁸. The authority also monitors compliance with the provisions relating to the placing on the market of the radioelectric equipment⁹ mentioned in article L. 34-9 of the same code relating to the essential requirements with which they must comply.

These new obligations shall **apply to manufacturers** for the integration of the mandatory parental control device in “*terminal equipments*”, defined in the French Code of posts and electronics communications as any equipment that is connected directly or indirectly to the interface of a public electronic communications network to transmit, process or receive information¹⁰. Other operators are also impacted by these new obligations, namely **importers, distributors and fulfilment service providers** defined by the Draft Decree as “*economic operators*” that may only place on the market terminal equipment that complies with the new requirements.

Manufacturers will have to integrate the conformity requirements set out in **Article R. 20-29-10-1** introduced by Article 3 of the Draft Decree that address both mandatory minimum parental control features and those that may be implemented on a voluntary basis.

Article R. 20-29-10-1¹¹ provides that, subject to technical feasibility, the parental control device whose activation must be proposed when the terminal equipment is first put into service, must include **at least** (i) the possibility of **blocking the downloading of content** made available by software application stores, and (ii) the possibility of blocking **access to pre-installed content** where such content is prohibited to minors¹¹.

⁷ See

https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006070987/LEGISCTA000006165904/#LEGISCTA000006165904, these provisions are a transposition of Directive 2014/53/UE on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0053&from=FR>

⁸ Article R20-44-11 French Code of posts and electronics communications, https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000041614705#:~:text=Le%20dossier%20de%20demande%20d,avis%20ou%20de%20l'accord.

⁹ Article L. 43 French Code of posts and electronics communications, https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000045292698

¹⁰ Article L32 10° French Code of posts and electronics communications – transposed from Directive 2008/63/EC of 20 June 2008 <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32008L0063&from=FR>

¹¹ (i) for which access is legally prohibited for those under 18 years of age;

(ii) or for which access is governed by Article 32 of Law No 98-468 of 17 June 1998 on the prevention and suppression of sexual offences, as well as the protection of minors: “When a document fixed by a process decipherable by electronic means in analog or digital mode presents a danger for the youth because of its **pornographic character**, the support and each unit of its conditioning must comprise in a visible, legible

Article R. 20-29-10-1 **II**^o provides that the functionalities and technical characteristics described above:

- a) are **implemented locally** without causing the personal data of the minor user to be sent to servers and without the need for creating an account on a server to set up parental control, except in case of express consent of the adult user or where this is technically impossible;
- b) **do not give rise to the processing of personal data of the minor** user except in case of express consent of the adult user or where this is technically impossible.

Article R. 20-29-10-1 **III**^o specifies that **other functionalities may be put in place on a voluntary basis** but that they should not:

- c) give rise to the **processing of personal data of the minor** user except in case of express consent of the adult user or where this is technically impossible;
- d) give rise to the collection of data on the minor user **for commercial purposes**, such as direct marketing, profiling or behaviourally targeted advertising.

After ensuring that terminal equipment incorporate the functionalities and technical characteristics referred to in Article R. 20-29-10-1 detailed above, **manufacturers must draw up technical documentation and a declaration of conformity**.

Article 3 of the Draft Decree also introduces an Article R. 20-29-7, the purpose of which is to set the French National Frequency Agency (ANFR) as the **regulatory authority competent** to monitor and enforce compliance with the provisions of Article R. 20-29-10-1 detailed above and to specify the powers it is given to carry out this task. The ANFR is thus endowed with the monitoring of the conformity of terminal equipment with the powers **to prohibit or restrict the terminal equipment from being made available on the national market** as well as to **impose administrative fines** if the relevant operator does not take appropriate corrective action.

and inalterable way the mention "put at the disposal of the minors prohibited (article 227-24 of the penal code)". This mention implies prohibition to offer, give, rent or sell the product in question to minors.

*When a document fixed by an identical process can present **a risk for the youth because of the place made to the crime, the violence, the incitement to the use, to the possession or to the traffic of narcotics, to the incitement to the excessive consumption of alcohol as well as to the discrimination or to the hatred against a determined person or a group of persons**, the support and each unit of its conditioning must be the object of a sign intended to limit the provision of it to certain categories of minors, according to their age. When the document contains a software of leisure, within the meaning of the II of the article 220 terdecies of the general code of the taxes, each unit of its conditioning must be the subject of a sign specifying the risk contained in the document. The characteristics of the label affixed on these documents are approved by the administrative authority.*

The implementation of the obligation fixed in the two preceding paragraphs falls to the publisher or, failing that, to the distributor in charge of the diffusion in France of the document."

(iii) or which is included in a list drawn up by the publisher pursuant to Law No 2004-575 of 21 June 2004 on confidence in the digital economy;

III. ISSUES RELATED TO THE COMPATIBILITY WITH EU LAW AND THE PRINCIPLES OF THE FREE MOVEMENT OF GOODS

The Draft Decree sets out measures restricting the freedom to place terminal equipments on the market. Such measures can be taken only if the French authorities demonstrate that they are justified and proportional. Yet, no evidence that such conditions would be met is available.

As it stands, the Draft Decree **risks creating an unjustified barrier to the free movement of goods** insofar as it introduces conditions of conformity for the placing on the market of terminal equipment, the sanction for which can go as far as the **withdrawal of products from the market**, thus leading to **a ban on placing on the market products that do not comply with these specific provisions**.

Consequently, manufacturers will then be left with the choice either to adapt the product at potentially great expense, or not to market it in France at all. Their products, although lawful in other Member States, would be prohibited under French law.

According to Article 26(2) TFEU¹², the internal market is **an area ‘without internal frontiers’**. Where a Member State imposes a universal ban, it thereby erects **a frontier between itself and those Member States in which the product may still lawfully be marketed**¹³, and such a ban must therefore **be justified**. Article 36 of the TFEU¹⁴ allows Member States to take measures having an effect equivalent to quantitative restrictions only where these are **justified** by general, non-economic considerations¹⁵ or by a **mandatory requirement**¹⁶, and where such measures have a direct effect on the public interest to be protected without going beyond the necessary level, thus observing **a principle of proportionality**¹⁷. According to the case law of the Court of Justice of the European Union, the requirement of proportionality means that national measures must be “*appropriate*” to the extent that they must be capable of achieving whatever public interest which motivated their adoption. **Member States must not restrict the free movement of goods further than is necessary to this end**¹⁸.

¹² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12016E026>

¹³ See Enchelmaier, S., Contribution to growth: “Free movement of goods. Delivering improved rights to European citizens and businesses”, Study for the Committee on Internal Market and Consumer Protection (IMCO), Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, Luxembourg, 2019. [https://www.europarl.europa.eu/RegData/etudes/STUD/2019/638398/IPOL_STU\(2019\)638398_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2019/638398/IPOL_STU(2019)638398_EN.pdf)

¹⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12016E036>

¹⁵ e.g., public morality, public policy or public security

¹⁶ The ECJ in “Cassis de Dijon” coined the phrase ‘mandatory requirements’ for such grounds of justification beyond Article 36, and defined them in the same judgment as, “a purpose which is in the general interest and such as to take precedence over the requirements of the free movement of goods”. See Case 120/78 <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:61978CJ0120&from=FR>

¹⁷ See “Free movement of goods” <https://www.europarl.europa.eu/factsheets/en/sheet/38/libre-circulation-des-marchandises> “C. Exceptions to the prohibition of measures having an effect equivalent to that of quantitative restrictions: Article 36 of the TFEU allows Member States to take measures having an effect equivalent to quantitative restrictions when these are justified by general, non-economic considerations (e.g. public morality, public policy or public security). Such exceptions to the general principle must be interpreted strictly and national measures cannot constitute a means of arbitrary discrimination or disguised restriction on trade between Member States. Finally, the measures must have a direct effect on the public interest to be protected, and must not go beyond the necessary level (principle of proportionality).”

¹⁸ See Enchelmaier, S., Contribution to growth: “Free movement of goods. Delivering improved rights to European citizens and businesses” previously cited.

It should also be noted that the products covered by the Draft Decree are **already subject to harmonisation measures at the European level** with Directive 2014/53/EU applicable to radio equipment stating that Member States shall not impede the making available on the market in their territory of radio equipment which complies with this Directive¹⁹ and may only introduce additional requirements for the putting into service and/or use of radio equipment for reasons limitatively set out in the Directive²⁰.

Yet, at this stage, no impact assessment of the measure is available or evidence showing that the above-mentioned conditions would be met. In fact, the European Commission had already pointed out that such a policy innovation may benefit from **external evaluation**²¹, here, the French government provides no justification for the mandatory technical features provided in the Draft Decree and for how they would be appropriate and necessary to achieve the goal of protecting minors compared to other measures. **In particular, as far as the video game industry is concerned, no assessment is provided as to why the existing parental control tools offered by console manufacturers, which are among the most innovative and accessible solutions, should be complemented by a mandatory framework imposing technical specifications, non-compliance with which is sanctioned by a market ban.**

Console manufacturers **have already been offering parental control tools for many years**, since 2003, with the aim of providing parents with **the most innovative and accessible tools and solutions**. In addition, as part of the video game sector's safety by design and minor protection commitment, the PEGI system is considered an example of European harmonisation in terms of child protection and a model of sectoral self-regulation. The PEGI system has been a full **part of the French regulatory framework** since 2015²², and is **the only approved label** designed to inform consumers about the content of video games. Most European countries have formally endorsed the PEGI system, many of those by providing specific legislative support. The system is also widely welcomed by professionals, administrations, parents and consumers. Console manufacturers rely on the PEGI age rating when controls are used to manage access to age-appropriate games.

In addition, the French government provides **no evidence as to the fact that all terminal equipment manufacturers targeted by the measures would actually prejudice the objective of protecting minors**. In fact, the European Commission had already pointed out that the compatibility of the measures of the Law with the single market was contingent with the specification of the Draft Decree and their compatibility with a universal application **given the diversity of device manufacturers** in terms of scale and sophistication²³. Again, console manufacturers already contribute greatly to the protection of minors with best-in-class standards for parental controls. The Draft Decree, which takes

¹⁹ Article 9 Directive 2014/53

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0053&from=FR#d1e1313-62-1>

²⁰ Article 7 Directive 2014/53 "reasons related to the effective and efficient use of the radio spectrum, to the avoidance of harmful interference, to the avoidance of electromagnetic disturbances **or to public health**."

²¹ See Commission Comments - DG GROW/E/3 - N105 04/63 2021/0739/F - V20T

²² See <https://mobile.interieur.gouv.fr/Archives/Archives-de-la-rubrique-Ma-securite/Jeux-video-et-DVD-protegez-vos-enfants/Modalites-de-demande-d-homologation-d-une-signalétique-applicable-aux-jeux-video>

²³ See Commission Comments - DG GROW/E/3 - N105 04/63 2021/0739/F - V20T

a one-size-fits-all approach, ignores this specificity of the video game industry and a mandatory restrictive approach will inhibit new innovation in parental control functionalities.

Unless the French authorities amend the draft regulation, this may lead to a situation where compliance with the rules of the other Member States (that do not impose technical mandates on console manufacturers related to parental control devices) would be just as effective in achieving the objective of the French authorities (i.e., the protection of minors) but less intrusive than the application of the rules provided for in the Draft Decree, which would at the very least require a costly adaptation.

In these circumstances, the objective of protecting minors through the offering of dedicated devices set by the law are in fact **already addressed by the video game sector**: through soft law measures such as the PEGI Code of Conduct and by the tools themselves. This approach has proved effective as video game play on consoles is one of the safest and most controlled digital activities that children can engage in. SELL and ISFE **question the proportionality and necessity of the measures** ambitioned by the French government because they are not supported by analysis of the appropriateness and necessity of the proposed rules nor by specific evidence related to video game consoles.

Importantly, it should be noted that the measures to be introduced by the Draft Decree would inevitably have consequences for **the free movement of services**, since the goods targeted by the measures are goods connected to the Internet to access information services. In that sense, the measures provided in the Draft Decree precisely target the compliance of devices for *“controlling the access of minors to services or content”*²⁴. This raises the question of a possible interference with the coordinated field and the country-of-origin principle provided for in Directive 2000/31/EC, insofar as the coordinated field covers all requirements laid down in Member States' legal systems applicable to information society service providers or information society services, **regardless of whether they are of a general nature or specifically designed for them**²⁵. Even more so since the coordinated field concerns²⁶ requirements that apply at two stages in the *“life cycle”*²⁷ of information society activities: (i) the **starting of an information society service** and, (ii) the pursuit of the activity of an information society service. Therefore, imposing measures on terminal equipment before they are put into service to control access to information services poses the question of **the compatibility of such measures with the country-of-origin and the internal market clause of Directive 2000/31/EC**.

For all the above considerations, Article 3 of the Draft Decree, as it stands, would constitute a significant restriction to the freedom to provide goods, whilst France fails to justify the measure appropriately in the light of the relevant criteria.

²⁴ Article 3 Draft Decree

²⁵ See Article 2 (h) Directive 2000/31/EC

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32000L0031&from=FR>

²⁶ See for instance the Opinion of Advocate General Szpunar delivered on 30 April 2019 in Case C-390/18

²⁷ See Lodder, A. R. (2017). Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market. In A. R. Lodder, & A. D. Murray (Eds.), EU regulation of e-commerce: A Commentary (pp. 15-58). [2] (Elgar Commentaries). Edward Elgar Publishing, accessible here:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1009945

IV. ISSUES RELATED TO THE CONSISTENCY WITH PERSONAL DATA PROTECTION EU LAW

Article 3 of the Draft Decree provides for new obligations regarding the processing of personal data. On the one hand, as far as the minimum mandatory functionalities are concerned, they must be implemented locally without requiring the creation of an account and without giving rise to the collection of personal data, except in case of express consent of the adult user or where this is technically impossible. On the other hand, voluntary parental control functionalities should also not result in the collection of personal data except in case of express consent of the adult user or where this is technically impossible which, in any case, should not be collected for commercial purposes.

These measures raise legal uncertainty as to their compliance with the already existing European data protection framework.

As a preliminary remark, it should be stressed that **state-of-the-art parental control systems usually involve the creation of an account** controlled by an adult user, in particular to ease access and use by parents from their mobile phone device. In this respect, it should be noted that the creation of an account does not necessarily imply the collection of personal data **concerning minors** since parental control tools are intended to be used by adults. Yet, the Draft Decree takes no account of this state-of-the-art putting the most advanced devices at risk of non-compliance and a market ban, thus raising serious concerns that **the new provisions of the Draft Decree could undermine the effectiveness of existing tools**. This further increases the uncertainty as to whether these measures are necessary and proportionate and could justify the creation of an obstacle to the free movement of goods.

Then, the text introduces **unclear provisions whose compatibility with the existing regime applicable to personal data protection is questionable**. Such measures would all the more increase the risk of creating a barrier to the free movement of goods within the single market insofar as a game console equipped with parental control and **lawfully placed on the market in Member States** could however be considered non-compliant on the French market. As such, **game consoles equipped with parental control systems of proven effectiveness could be withdrawn from the market even though they are compatible with the rules in force at the European level on the protection of personal data of minors, namely Regulation 2016/79 (GDPR)**²⁸.

Firstly, the prohibition on processing personal data of minors for the purpose of parental control unless the consent of the adult is obtained leads to legal uncertainty vis-à-vis the GDPR. Indeed, one can understand from these provisions that the processing of such data would be prohibited except when relying on the legal basis of consent. Yet, with the exception of sensitive data as defined in Article 9 of the GDPR, **no hierarchy between the different legal bases** is established by the GDPR²⁹. The provisions of the Draft Decree could thus amount to considering the personal data of minors as **special categories of data** in contradiction with the GDPR which allows their processing on the basis

²⁸ Regulation 2016/679 of 27 April 2016 <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=FR>

²⁹ It should also be noted that the Article 29 Working Party considers that the notion of legitimate interest can include a wide variety of interests, whether they are trivial or indisputable, obvious or more controversial - See G29 - Opinion 06/2014 on the concept of legitimate interest pursued by the data controller within the meaning of Article 7 of Directive 95/46/EC, Page 27

of a legitimate interest including in situations where the data are processed for the purpose of protecting minors³⁰.

Secondly, as far as voluntary parental control functionalities are concerned, the Draft Decree prohibits the collection of minors' personal data for commercial purposes, increasing the difficulties of articulation with the existing regime resulting from the GDPR. **Indeed, the Draft Decree would add to an already strict regulatory framework that provides for robust specific protection for minors**, creating a risk of confusion that would undermine the effectiveness of the applicable regime. To date, the data processing resulting from the parental control device are already managed in accordance with the GDPR³¹ (transposed into French law by the Data Protection Act³²) which provides for specific safeguards applicable to minors. In this regard, it should be recalled that under the existing rules **there is no general prohibition to collect data from minors for commercial purposes**³³ as it is up to the data controller to implement appropriate additional protection. It should also be noted that, in any case, under the GDPR, personal data collected for the purpose of parental control could only be reused for another purpose, for example commercial purpose, in strict compliance with the principle of **purpose limitation and compatibility of subsequent processing which implies, among other guarantees, a specific information of the persons concerned and in this case of the adults**.

By adding a specific rule that could be interpreted as a general prohibition, the text thus goes against the GDPR principles of accountability and risk-appropriate measures. As a result, to say the least, a legitimate concern arises as to the compatibility of the conditions for processing minors' personal data resulting from Article 3 with the General Data Protection Regulation. To avoid this issue, the Draft Decree should refer to the GDPR refraining from adding additional limitations or requirements.

For all the above considerations, Article 3, as it stands, gives rise to uncertainty as to its consistency with European law.

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³⁰ Specifically for the protection of minors, it should be noted that according to the Article 29 Working Party a general interest or the interest of a third party may also be taken into account as a basis for data processing, in particular in situations where the data controller is combating the malicious seduction of minors or the illegal sharing of files online – See G29 - Opinion 06/2014 on the concept of legitimate interest pursued by the data controller within the meaning of Article 7 of Directive 95/46/EC, Page 32: *“General public interest or third party's interest. Finally, the legitimate interest of third parties may also be relevant in a different way. This is the case where a controller – sometimes encouraged by public authorities – is pursuing an interest that corresponds with a general public interest or a third party's interest. This may include situations where a controller goes beyond its specific legal obligations set in laws and regulations to assist law enforcement or private stakeholders in their efforts to combat illegal activities, such as money laundering, **child grooming**, or illegal file sharing online”*

³¹ Regulation 2016/679 “General Data Protection Regulation”

³² Law n° 78-17 “Informatique et Libertés”

³³ Under GDPR minors must be granted additional protection when it comes to the processing of their personal data, in particular when considering the use of such data **for marketing purposes** or the creation of personality or user profiles. See GDPR recital 38 *“Children merit specific protection with regard to their personal data, as they may be less aware of the risks, consequences and safeguards concerned and their rights in relation to the processing of personal data. Such specific protection should, in particular, apply to the use of personal data of children for the purposes of marketing or creating personality or user profiles and the collection of personal data with regard to children when using services offered directly to a child. The consent of the holder of parental responsibility should not be necessary in the context of preventive or counselling services offered directly to a child.”*



About ISFE

The Interactive Software Federation of Europe (ISFE) comprises national trade associations covering 18 countries throughout Europe which represent in turn hundreds of games companies at national level. ISFE also has as direct members the leading European and international video game companies, which publish and develop video games for use on personal computers, consoles, portable devices, mobile phones and the Internet. The video games industry represents one of Europe's most compelling economic success stories, relying on a strong IP framework, and is a rapidly growing segment of the creative industries. The European digital single market area is the third-largest market for video games globally. All in all, there are around 5,000 game developer studios and publishers in Europe, employing over 98,000 people. www.isfe.eu

About SELL – French Union of Video Game Publishers

SELL is the professional association representing video game publishers in France. SELL has twenty-four members. It promotes and defends the collective interests of video game publishers in their different fields, helps structure the market and supports its recognition by all professionals, public authorities and consumers. SELL represents the industry's commitment to responsibility through actions promoting diversity in video games. SELL supports and provides information about the PEGI European standard, a rating system for video game content that provides reliable information that is easy to understand in label format on all video games, whether they are sold physically or digitally. SELL is also the creator and organiser of Paris Games Week launched in 2010. SELL is a member of ISFE. www.sell.fr