Oireachtas Joint Committee on Children, Equality, Disability, Integration and Youth: Engagement with Stakeholders on 'Protection of Children in the Use of Artificial Intelligence'

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OPENING STATEMENT

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Good afternoon, Chair, Members of the Committee, and Committee staff. Thank you for extending this invitation to appear before you today, in my capacity as Special Rapporteur on Child Protection; and thank you for your consideration of this important topic.

As Special Rapporteur, a key focus of my role is ensuring that children's rights principles are embedded in legislative and policy frameworks in order to ensure that Ireland meets its obligations under the United Nations Convention on the Rights of the Child ("UNCRC") and Article 42A.1 of the Constitution with respect to child protection. On many other issues which fall within my mandate, there is an abundance of international material and guidance which can provide a ready yardstick or guide for Ireland in considering its approach. However, this topic is unusual: in the international policy debate, there is a clear gap at the intersection of children's rights and Artificial Intelligence ("AI"), resulting in children's rights often being overlooked or added as a belated afterthought in guidance and policy documents. All too often, children are simply entirely left out of conversations regarding AI, and the development of AI. Although the rights of children are recognised as needing *"acute attention in the digital age,"*[1] I agree with and adopt UNICEF's criticism that this is *"not being reflected in the global policy and implementation efforts to make AI systems serve society better."*[2]

Mindful of the specific and detailed expertise which other witnesses in this session bring, in my brief Opening Statement I focus upon (i) gaps in the policy discourse concerning AI and children's rights; (ii) key international materials which may assist the Committee in considering

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[1] UN Secretary General's High Level Panel on Digital Cooperation (2019), 'The Age of Digital Interdependence: Report of the UN Secretary General's High Level Panel on Digital Cooperation."

[2] UNICEF and the Ministry for Foreign Affairs, Finland, 'Policy Guidance on AI for Children,' Version 2.0, November 2021, p. 7.

the issues before it; and (iii) finally, I briefly note a number of specific issues arising in the Irish context which require careful consideration.

(i)   Gaps in the Policy Discourse

As I have indicated at the outset, in the international policy debate, there is a clear gap at the intersection of children's rights and AI. The UN Secretary-General's remarks to the Security Council on AI last July, for example, made no mention of the rights of the child or the threats posed thereto by the proliferation of artificial intelligence technologies – a stark example of children being left out of the AI conversation. In 2021 we saw the publication of the UN Committee on the Rights of the Child's 25th General Comment, which addresses 'children's rights in relation to the digital environment' but fails to comprehensively address the unique threats posed to children by AI. Whilst the UN Special Rapporteur on the Right to Privacy specifically addressed AI and children in his 2021 report,[3] it reflects the limits of his mandate, with the focus being upon privacy and data protection issues.

The gap I have referred to is also apparent in the most recent draft of the Council of Europe's Framework Convention on AI (December 2023), which includes a generic, catch-all reference to *"the rights of persons with disabilities and of children."* The Council of Europe has taken steps towards rectifying this gap, by adding a supplementary chapter on AI to its 2020 Handbook for Policy Makers on the Rights of the Child in the Digital Environment.

Following what is a clear international pattern, I note that in the Government of Ireland's 2021 AI Strategy, the section dedicated to 'risks and concerns' is brief, and there is no dedicated focus upon child protection issues or children's rights. The overall focus of the document is upon building public trust and engagement with AI. It appears to me that the absence of a child rights / child protection focus is also reflected in the list of organisations consulted, which does not contain child rights NGOs.

I recognise, of course, that this concern at domestic level has, to an extent, been rectified by the extensive consultation of young people at the National Youth Assembly on Artificial Intelligence in October 2022, which I welcome. The involvement of young people in AI policy, as literate yet vulnerable users of digital technologies, is crucial. I welcome further

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[3] See Section II, pp. 10-20, paragraphs 67-125.

consultation, with established pathways for the integration of young people's perspectives, as well as those of parents, guardians, educators and organisations tasked with their care. I also acknowledge and welcome the work of Coimisiún na Meán.

Whilst many relevant international guidance and policy documents concerning AI fail to deal with children's rights and AI's impact on them, those which do address children's rights often follow a rigid and restricted approach, considering only the potential threats which AI may play in relation to children's privacy, exposure to harmful content and the risk of online exploitation. These are of course vitally important issues, but they are far from the only issues arising. In order to ensure that the best interests of the child are at the heart of the development of policy, legislation and practice concerning AI, it is vital that the breadth of both the <u>risks</u> which AI poses and the <u>opportunities</u> which AI presents are considered through a children's rights lens.

Given the international gaps in the discourse concerning AI and children's rights, there are unique challenges for the Irish Government, the Irish legislature and Irish policymakers in ensuring that both the unique opportunities and risks which AI systems pose for children are considered in a child-centred way.

(ii)   Key International Materials

I commend to the Committee two international policy documents in particular when considering this topic, as they buck the trend I have identified above:

a) UNICEF and the Ministry for Foreign Affairs, Finland, 'Policy Guidance on AI for Children,' Version 2.0 (November 2021)[4]; and

b) Council of Europe, Draft Framework Convention on AI, Human Rights, Democracy and the Rule of Law (2023)[5]

The UNICEF Policy Guidance takes as its basis the UNCRC, which sets out the rights that must be realised for every child to develop to his or her full potential. Importantly, this Guidance recognises that AI systems can uphold or undermine children's rights, depending on how they are used, and it addresses not only the risks to children posed by AI, but also the

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[4] See https://www.unicef.org/globalinsight/reports/policy-guidance-ai-children.
[5] See https://rm.coe.int/cai-2023-01-revised-zero-draft-framework-convention-public/1680aa193f.

opportunities – and how to minimise the risks and leverage the opportunities, respectively, in ways which recognise the unique position of children, and the different contexts for certain groups of children, particularly those from marginalised groups and communities. They use three child-specific lenses when considering how to develop child-centred AI: protection, provision and participation. The Guidance contains detailed case studies, and sets out nine requirements for child-centred AI. It is an important and helpful document.

The Council of Europe Draft Framework, similarly, addresses specific threats and opportunities in relation to AI for children. It both analyses existing policy initiatives, provides conclusions on the requirements, methods and knowledge gaps relevant to child-friendly AI policy, and outlines five requirements for AI policy supporting children's rights (which overlap to a large extent with the UNICEF nine requirements).

Both documents recognise the importance of protective measures – ensuring that children are safe – but also the importance of ensuring inclusion – non-discriminatory inclusion – for children in technology which already profoundly impacts upon their lives, and will have unknown and far-reaching ramifications for their futures, and respect for children's agency.

In terms of risks, both documents identify AI-specific issues in addition to risks to privacy and of online exploitation, namely:

- o Limitation of opportunities and absence of different perspectives in algorithm-driven online environments;
- o Loss of learning opportunities through reliance on AI assistance;
- o Loss of real-world socialisation (in younger children and/ or more extreme circumstances); and
- o Intensification of the digital divide.

(iii) Specific Issues to Address in the Irish Context

Finally, I note three issues in particular in the Irish context which merit careful consideration as this topic is being explored.

First, it is important that the full range of risks posed by AI are considered, within the framework set out by UNICEF and the Council of Europe. This must include the risks of

systemic and automated discrimination and exclusion through bias; and the limitation of children's opportunities and development from AI-based predictive analytics and profiling.

I note in particular UNICEF's warning that profiling and microtargeting, based upon past datasets, *"can reinforce, if not amplify, historical patterns of systemic bias and discrimination."* UNICEF gives the example of AI systems which may,

> *"reinforce stereotypes for children and limit the full set of possibilities which should be made available to every child, including for girls and LGBT children. This can result in, or reinforce, negative self-perceptions, which can lead to self-harm or missed opportunities."*[6]

Second, a specific issue of serious concern relates to 'recommender algorithms,' a topic on which I anticipate other witnesses will be addressing the Committee in more detail. This includes social media algorithmic recommender systems which may 'push' harmful content to children. For example, in 2022 the Center for Countering Digital Hate ("CCDH") conducted research into TikTok's recommendation algorithm, and concluded that it pushes self-harm and eating disorder content to teenagers within minutes of them expressing interest in the topics.[7] CCDH found that TikTok promoted content including dangerously restrictive diets, pro-self-harm content and content romanticising suicide to users showing a preference for the material, even if they were registered as under 18s. For the study, CCDH set up accounts registered as age 13 in the US, UK, Canada and Australia, with both 'standard' and 'vulnerable' accounts created (the latter contained the term "loseweight" in their usernames, as CCDH states that their research indicates users seeking out eating disorder content often choose usernames with related language). Over a 30 minute initial period when the accounts launched, the accounts "paused briefly" on videos about body image, eating disorders and mental health; and liked them. On the standard accounts, content about suicide followed within nearly three minutes and eating disorder material was shown within eight minutes. The research also found that accounts registered for 13-year-olds were proactively shown videos advertising weight loss drinks and 'tummy-tuck' surgery.

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[6] UNICEF and Finland AI Policy, above, at p. 23.
[7] See further https://www.theguardian.com/technology/2022/dec/15/tiktok-self-harm-study-results-every-parents-nightmare.

For the vulnerable accounts, the recommended content was more extreme, including detailed methods of self-harm and young people discussing plans to kill themselves. CCDH said that a mental health or body image related video was shown every 27 seconds to vulnerable user accounts.

In addition to accessing harmful content, experts have also raised concerns regarding algorithmic recommendations and joining extremist groups or taking extremist action. (I am conscious of the particular concerns in this regard raised regarding the recent riots in Dublin.)

I welcome Coimisiún na Meán's detailed focus on the issue of the use of recommender algorithms, as seen in its Draft Online Safety Code. I consider a particularly valuable and welcome function of the Code is to establish regulatory measures governing the use of algorithmic recommender systems by video-sharing platforms. I note that a recent report commissioned by the Irish Council for Civil Liberties found that 82% of the Irish public support the Coimisiún's proposals on recommender algorithms.

Finally, AI systems have great potential to safeguard children. Dedicated services and products using AI technologies have the potential to protect children: UNICEF highlight, for example, the ability to identify abducted children; detect known child sexual abuse material; and detect and block livestreamed abuse, and potentially identify the perpetrators, users and the affected children. When considering the issue of AI and child protection, it is important to consider AI's potential to proactively vindicate children's rights, and not only defensive concerns regarding how AI can threaten children's rights. This reflects the UNCRC's requirements, but also Article 42A.1: the State shall *"as far as practicable, by its laws protect and vindicate"* children's rights.