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from: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

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to: Mr Javier SOLANA, Secretary-General/High Representative

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Subject: **Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the protection of consumers, in particular minors, in respect of the use of video games**

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Delegations will find attached Commission document COM(2008) 207 final.

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.4.2008  
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**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN  
ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE  
REGIONS**

**on the protection of consumers, in particular minors, in respect of the use of video games**

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**1. INTRODUCTION**

The 2002 Council Resolution on the protection of consumers through the labelling of certain video and computer games<sup>1</sup> stressed the need to provide clear information as regards the assessment of contents and rating by age group. Clear and simple rating systems must be promoted in all the Member States to ensure greater transparency and the free movement of video games. The Council also stressed the importance of cooperation between all interested parties.

The Resolution calls on the Commission to review the various methods for assessing the content of video and computer games, as well as their rating and labelling, and to report back to the Council.

Playing video games is one of the favourite leisure activities of Europeans of different ages and social categories<sup>2</sup>. Although purchased for entertainment value, the best games bring other positive benefits, not least promoting analytical and strategy skills and making young people accustomed to interaction with information technology. There are also promising opportunities for a strong interactive games industry in Europe, with a specific European character, and which can be the bearer of cultural diversity. The increasing popularity of on-line video games is also a key driver for the uptake of broadband telecommunications networks and third generation cellular phones.

In 2006 the European market for video games, which includes console and handheld games, PC games and online games including wireless games, had a total revenue of more than € 6.3 bn, and this is expected to rise to €7.3 bn by 2008. Its value is half that of the entire music market in Europe<sup>3</sup> and already exceeds the cinema box office. It is the fastest growing and most dynamic sector in the European content industry, with a higher growth rate than in the US<sup>4</sup>. There is an emerging trend to provide for free online version of popular video games that are essentially supported by advertising.

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<sup>1</sup> Council Resolution on the protection of consumers, in particular young people, through the labelling of certain video games and computer games according to age group, 1 March 2002 (OJ C 65, 14.3.2002, p. 2).

<sup>2</sup> Nielsen report on "Video Games in Europe – 2007", p. 12-15 (<http://www.isfe-eu.org/index.php?PHPSESSID=1f6urj9ke66pqp2preebf0rb13&oidit=T001:662b16536388a7260921599321365911>)

<sup>3</sup> Interactive content and convergence: Implications for the information society. A Study for the European Commission (DG Information Society and Media) by Screen Digest Ltd, CMS Hasche Sigle, Goldmedia GmbH, Rightscom Ltd, p. 34, 45, 96

<sup>4</sup> [http://ec.europa.eu/information\\_society/europe/i2010/docs/studies/interactive\\_content\\_ec2006.pdf](http://ec.europa.eu/information_society/europe/i2010/docs/studies/interactive_content_ec2006.pdf)

<sup>4</sup> PricewaterhouseCoopers, Global Entertainment and Media Outlook: 2007 – 2011, p. 38

As with other media, freedom of expression both for creators and gamers must be a paramount concern for policy makers. This must take into account changes in the market. Indeed, video games are increasingly a cross-generation phenomenon, played by children and parents alike and moving from the children's room to the living room<sup>5</sup>. The average age of European gamers has increased, and more adults are now playing video games with adult themes. At the same time policy makers have responsibility for the health of gamers and there is a need for high protection standards for minors. Owing to the strong psychological effects of video games on minors, it is important to ensure that gameplaying by minors is safe. This requires in particular graduated levels of access to video games for minors and adults.

In April 2003, the self-regulatory Pan European Games Information age rating system (PEGI)<sup>6</sup> was adopted after very close consultation with industry, civil society, such as parental and consumer associations, and religious groups. PEGI is a voluntary, self-regulatory system, designed to ensure that minors are not exposed to games that are unsuitable for their particular age group. PEGI replaced a large number of existing national age-rating systems with a single European system.

An independent "Study on the rating practice used for audiovisual works in the European Union"<sup>7</sup> was carried out for the Commission in 2003. It identifies increasing technological and societal pressure towards homogeneity of ratings, which could be achieved by common rating criteria. Another conclusion refers to regular exchange of good practices between different media platforms as a first step towards greater uniformity of rating practice across different media.

The European Union has endeavoured to ensure the best possible protection for children through legislative proposals and other actions, while respecting the subsidiarity principle: the European Parliament and Council Recommendation on the Protection of Minors and Human Dignity and on the Right of Reply (2006/952/EC)<sup>8</sup> refers to action concerning illegal activities harmful to minors on the Internet and co-operation among bodies which deal with rating or classification. The INSAFE network, co-funded by the Safer Internet Programme<sup>9</sup> and managed by the Commission, deals with awareness-raising about the use of new media, including video games, by children.

The Internet offers new forms of media consumption and new opportunities for cultural diversity, including video games, but it can also be a means for spreading illegal and, particularly for minors, harmful content. This creates specific challenges in terms of protecting young people. PEGI On-line<sup>10</sup>, which was launched in June 2007 and co-funded by the Safer Internet Programme, is the logical development of the PEGI system, designed to better protect young people against unsuitable gaming content and to help parents understand the risks and potential for harm within this environment.

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<sup>5</sup> Frankfurter Allgemeine Sonntagszeitung, 13.5.2007, p. 28: "Computerspiele erobern das Wohnzimmer" (FAZ.NET):  
<http://www.faz.net/s/RubE2C6E0BCC2F04DD787CDC274993E94C1/Doc~EB0EA103E1BD44C65A4DB322974B1AC06~ATpl~Ecommon~Scontent.html>

<sup>6</sup> <http://www.pegi.info>.

<sup>7</sup> [http://ec.europa.eu/avpolicy/docs/library/studies/finalised/studpdf/rating\\_finalrep2.pdf](http://ec.europa.eu/avpolicy/docs/library/studies/finalised/studpdf/rating_finalrep2.pdf).

<sup>8</sup> OJ L 378, 27.12.2006, p. 72.

<sup>9</sup> [http://ec.europa.eu/information\\_society/activities/sip/programme](http://ec.europa.eu/information_society/activities/sip/programme)

<sup>10</sup> [www.pegionline.eu](http://www.pegionline.eu).

In December 2007, the Commission adopted a Communication<sup>11</sup> on a European approach to media literacy in the digital environment. Media literacy can be summed up as the ability to access, understand, evaluate and create media content. It relates to all types of media, including video games. The Communication highlights the importance of media literacy among the younger generations, especially regarding online content. Furthermore, video games are being used increasingly in school curricula<sup>12</sup>.

## 2. THE CONSULTATION AND ITS CONCLUSIONS

A questionnaire was sent to all Member States to gather information and input for reporting in depth on trends in the protection of consumers in respect of video and computer games since the adoption of the above Council Resolution. The questions covered age rating/content rating systems, the sale of video games in retail shops, video games bans, effectiveness of current measures for the protection of minors, on-line video games and a cross-platform and pan-European rating system. All 27 Member States replied.

### 2.1. Age rating/content rating systems

PEGI is supported by the major console manufacturers<sup>13</sup>. It applies in the vast majority of EU Member States<sup>14</sup>, even if not all of these countries have specific legislation in place.

Member States applying PEGI and having specific legislation<sup>15</sup> related to age classification in place or prepared are **Finland, Greece, Italy, Latvia, Netherlands, Poland, Portugal, Slovakia and United Kingdom**. The Netherlands and Poland also provide for criminal sanctions.

In the **United Kingdom**, the computer games industry uses PEGI for most video games. Video games with material of a sexual nature or portraying gross violence are subject to the approval of the British Board of Film Classification (BBFC), which then awards age-related classifications that differ from PEGI.

In **France**, PEGI is used to classify and label video games. Amendments to French Criminal Law in 2007<sup>16</sup> provide for age classification and labelling of video games according to age groups.

**Belgium, Bulgaria, Denmark, Estonia, Hungary, Ireland, Spain and Sweden** apply PEGI, but have no specific legislation. Although no specific system is officially in place in the **Czech Republic**, PEGI is used by all large publishers, but not for all video games distributed.

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<sup>11</sup> COM(2007) 833.

<sup>12</sup> The Interactive Software Federation of Europe is for instance working with the European Schoolnet to assess the use of educationally-oriented games in school and to help exchanging best practice  
<sup>13</sup> E.g. Nintendo, PlayStation, Xbox.

<sup>14</sup> Austria (partly), Belgium, Bulgaria, Czech republic, Denmark, Estonia, Spain, Finland, France, Greece, Hungary, Italy, Ireland, Latvia (legislation based on PEGI), The Netherlands, Poland, Portugal (legislation based on PEGI), Slovakia, Sweden, UK.

<sup>15</sup> Such as Act on the Classification of Audiovisual Programmes, Video Recording Act, Law on Consumer Protection, Law on Public Information.

<sup>16</sup> Loi no 98-468 amended by Loi no 2007-297.

**Germany** and **Lithuania** have specific binding legislation. In Germany, the self-regulatory PEGI system is not used. **German** law on the protection of young people<sup>17</sup> includes specific measures for age rating and labelling of video games, for which the 16 *Bundesländer* are competent. Together with the industry's USK ("Unterhaltungssoftware Selbstkontrolle"/"Organisation for the Voluntary Monitoring of Entertainment Software"), they have established a rating system aiming at common age classifications in all *Bundesländer*. For this purpose the *Bundesländer* have a common representative, whose labelling decision is binding.

In Austria, protection of minors falls under the competence of each *Bundesland*. Thus, there are big differences in the legislation on the protection of young people and in how it is implemented.

In **Malta**, where PEGI does not apply, video games fall under general legislation.

**Cyprus, Luxembourg, Romania** and **Slovenia** have reported they have no age or content rating system in place and no related legislation.

In conclusion, the Commission considers that there remains considerable room for improvement as regards the take-up of the PEGI system of classification in EU Member States and the compatibility of applicable national provisions with PEGI.

## 2.2. Sale of video games in retail shops

The Commission is concerned about the increasing number of violent video games used by minors. It is important to analyse access to such games. Half of the Member States<sup>18</sup> have specific legal provisions, in civil and criminal law, concerning the physical sale of video games with content harmful to minors, and there are various penalties to enforce these provisions<sup>19</sup>.

Member States aiming at or already using a classification for distribution, circulation and advertising based on an age/content rating are **Italy** (a law is in the process of approval), the **United Kingdom, Germany, Estonia, Greece, Latvia, Lithuania<sup>20</sup> and Slovakia**.

**France, Sweden and the Netherlands** prohibit certain violent video games under criminal law (in Sweden also under the constitutional law). For lawful games, Swedish retailers have agreed to follow the PEGI age rating system for sale. They are entitled to make the sale subject to parental permission.

**In Belgium and Malta**, there are a number of legal provisions covering the sale of video games, such as laws on racism and xenophobia, on commerce and consumer protection and public order.

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<sup>17</sup> Jugendschutzgesetz; published on 23 July 2002 (BGBl I Nr. 51, S. 2730), as last amended by law of 20 July 2007 (BGBl. I S. 1595).

<sup>18</sup> Austria, Belgium, Spain, Estonia, Finland, France, Germany, Greece, Italy, Latvia, Lithuania, the Netherlands, Slovakia, Sweden, UK.

<sup>19</sup> In Legal acts such as Children's Protection Act, Act of Classification of Audiovisual Programmes, Law on Consumer Protection, Regulation on Distribution of Computer Games, Youth protection law, Criminal Law.

<sup>20</sup> Lithuania and Slovakia have rules for the sale of video games which are intended exclusively for adults.

**Bulgaria**<sup>21</sup>, **the Czech Republic**<sup>22</sup>, **Cyprus**, **Denmark**<sup>23</sup>, **Hungary**, **Luxembourg**, **Poland** and **Romania** have no specific legislation governing the sale of video games.

In such circumstances, a code of conduct for video games retailers is the next logical step. In the United States, the "Entertainment Software Rating Board" (ESRB) and national retailers - under the umbrella of the "ESRB Retail Council" (ERC) - advise parents and other consumers on rating matters. The aim of their "Ratings Education and Enforcement Code"<sup>24</sup> is to inform retailers and to ensure that they enforce the ratings, e.g. by awareness-raising and training of shop staff. Consumers can report infringements to retailers and to the ESRB website. ESRB forwards the complaint to the responsible ERC member for prompt handling and can exclude offending members from ERC.

### 2.3. Bans on video games

Only four Member States, **United Kingdom**, **Ireland**, **Germany** and **Italy**, have so far banned certain video games, either by a formal ban or by measures equivalent to a ban, such as confiscation, refusal to issue a rating or trade restrictions.

In **Ireland**, video games deemed to be unfit for viewing because of their violent character can be made the subject of a prohibition order by the Irish Film Censor's Office (IFCO). This was the case with the video game "Manhunt 2" in June 2007<sup>25</sup>.

The first video game that was refused BBFC classification in the **United Kingdom** was "Carmageddon" in 1997. However, a modified version was later awarded a classification certificate.

In June 2007, the BBFC rejected "Manhunt 2". This decision was overturned by the Video Appeals Committee in December 2007. The BBFC challenged this decision by judicial review before the High Court who referred the case back to the Video Appeals Committee that in March 2008 upheld its decision. The BBFC accordingly issued a "18" certificate<sup>26</sup>. However, the version passed is not the original version, but a modified one. Supplying an unclassified video game is punishable by up to two years' imprisonment and/or an unlimited fine.

In **Italy**, dissemination of "Manhunt 2" was blocked in June 2007 by the Minister of Communications<sup>27</sup>.

In **Germany**, the County Court in Munich decided to confiscate<sup>28</sup> all versions of "Manhunt" in July 2004 because of violation of a penal provision prohibiting the depiction and

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<sup>21</sup> Retailers are obliged to label a product and provide information such as about the producer, the nature and characteristics of the product according to general provisions by the Consumer Protection Act, State gazette no 99 of 9 December 2005.

<sup>22</sup> Video games must meet general restrictions which apply to advertisement at the point of sale.

<sup>23</sup> Denmark mentions that "Dissemination of violent video games to children can be punished according to the Criminal Code" in its reply to the Questionnaire

<sup>24</sup> ESRB: <http://www.esrb.org/retailers/index.jsp>; Code: [http://www.esrb.org/retailers/downloads/erc\\_code.pdf](http://www.esrb.org/retailers/downloads/erc_code.pdf)

<sup>25</sup> <http://www.ifco.ie/IFCO/ifcweb.nsf/web/news?opendocument&news=yes&type=graphic>.

<sup>26</sup> Decision by the Video Appeals Committee on 10<sup>th</sup> December 2007; BBFC applies for a Judicial Review at the High Court on 17<sup>th</sup> December 2007; High Court judgement on 24 January 2008 (Mr Justice Mittins' Judgement CO/11296/2007): incorrect application of the law, reference back to the Video Appeals Committee that upheld its decision (<http://www.bbfc.co.uk/news/pressnews.php>)

<sup>27</sup> <http://www.comunicazioni.it/news>.

glorification of violence. There were also other cases, such as "Dead Rising", which was put on the Index and confiscated by a Hamburg County Court decision of June 2007<sup>29</sup>.

The Commission is of the opinion that such bans should remain the exception, be proportionate and, therefore, be limited to serious breaches of human dignity.

#### 2.4. Effectiveness of current measures for the protection of minors

**Half of the Member States**<sup>30</sup> consider the current measures in place to be generally effective. **France, Germany, Greece, Italy, Latvia, Lithuania and Poland** have recently improved or are currently improving national legislation. Some consider these changes to be adequate if combined with self-regulation. For instance, the **French** Criminal Code was amended in 2007. Three principles were introduced: a self-regulatory system with responsibility given to the industry, new powers for the Interior Ministry and penal sanctions.

For the **Netherlands**, PEGI and the legislative provisions concerning the sale of video games seem to be sufficient. **Finland, Germany, Ireland and Spain** consider current rules to be effective and widely accepted, but are intensifying them through media literacy, parental awareness raising and judicial review. **Sweden** uses PEGI and believes that measures for awareness-raising amongst parents, to promote industry self-regulation and to enhance cooperation between the State and the industry, are working well.

**Germany**<sup>31</sup> and the **United Kingdom**<sup>32</sup> are carrying out studies on the effectiveness of legislation and on the risks for children. **Latvia, Poland and Slovakia** do not know whether PEGI is successful, as no evaluation has yet been carried out.

In **Austria**, the vast majority of competent regional authorities, whether using PEGI or not, consider the current system to be insufficient. The *Bundesland* Vienna plans to reform the law. Austria takes the view that a nationwide system would not be sufficient to deal with problems arising from the Internet or from the proximity to neighbouring countries; lack of awareness, of supervision by police and of certification to help retailers are also seen as problems.

In **Belgium** and **Hungary**, PEGI already applies, but is not legally binding, with the result that both countries see the protection of minors as inefficient. **Belgium** would favour legislation at European level. Although PEGI certification can be found on most video games, Hungary deems PEGI to be insufficient, owing to a lack of parental awareness.

In **Bulgaria**, child protection legislation<sup>33</sup> has been supplemented during the last two years by incentives for self-regulatory mechanisms.

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<sup>28</sup> Court Decision 19.07.2004 (AktENZEICHEN 853 Gs 261/04).

<sup>29</sup> Court Decision 11.06.2007 (AktENZEICHEN 167 Gs 551/07).

<sup>30</sup> Czech Republic, Denmark, Spain, Estonia, Finland, France, Germany, Greece, Italy, Ireland, Lithuania, The Netherlands, Portugal, Sweden.

<sup>31</sup> Study by the Federal Ministry of Family together with the Bundesländer

<http://www.hans-bredow-institut.de/forschung/recht/jugendmedienschutz.htm>

<sup>32</sup> The report of the independent Byron Review, "Safer Children in a Digital World" was published on 27 March 2008. See <http://www.dfes.gov.uk/byronreview>.

<sup>33</sup> Child protection Act (State Gazette No. 48 of 13 June 2000), Consumer protection Act (State Gazette no. 99 of 9 December 2005), .



## 2.5. On-line video games

On-line video games allow players to interact with each other through a network connection. The vast majority of Member States<sup>34</sup> do not have specific legislation on that. However, some<sup>35</sup> do use PEGI On-line and a number apply general legislation (including criminal law) and specific legislation concerning off-line video games by analogy.

In **Germany**, in addition to the self- and co-regulation procedure mentioned above, "jugendschutz.net", a specific common agency for youth protection on the Internet established by the *Bundesländer*, examines Internet offers and is involved in negotiations with producers and providers and in regulatory procedures.

In **Italy**, the law on the protection of minors with regard to the use of video games also applies to on-line games. The proposed self-regulation "Code of Media and Minors" requires on-line video games to display PEGI On-line ratings in a clear and visible manner, including filtering measures for parental control.

In **Ireland**, off-line and Internet video gaming activities are treated equally under the law. The Internet Service Providers agreed that material and services that are illegal under Irish law will not be carried on Irish servers or will be removed from them. A hotline has been set up to report any illegal or harmful material on the Internet, and cooperation with the police is in place.

**Latvia** applies specific provisions regarding the accessibility of computer games on the Internet. Their distribution can be prohibited if, for example, it is not possible to determine the circle of users or if the recipient has not been advised of the age limits. Internet providers are also obliged to inform users about the possibility of installing a content filter.

Overall, the Commission considers that additional efforts are needed with regard to on-line videogames, in order to take account of their specificities: a swift and effective mechanism for age verification is needed, and particular attention should be paid to chat rooms. A pan-European dialogue between all stakeholders would be useful in this respect.

In this context, the EU policy to reinforce public-private cooperation against cyber crime, and in particular against illegal and harmful content on the Internet, may serve as a starting point.

## 2.6. A cross-platform, pan-European rating system

A majority of Member States<sup>36</sup> favour a cross-platform pan-European age classification which would contribute to ensuring the smooth operation of the internal market and prevent consumer confusion. PEGI is considered useful and feasible, and has the capacity to be developed further.

**Poland** and the **Czech Republic** are sceptical, but would support harmonisation and cooperation to a certain degree. Only **France**, **Hungary** and **Portugal** consider a cross-

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<sup>34</sup> Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, UK.

<sup>35</sup> Denmark, Finland, Italy, The Netherlands, Slovakia, Sweden, UK.

<sup>36</sup> Austria, Belgium, Bulgaria, Cyprus, Czech republic (to a certain degree), Denmark, Estonia, Finland, Greece, Italy, Ireland, Latvia, Lithuania, Malta, The Netherlands, Romania, Slovakia, Slovenia, Spain, Sweden.

platform classification system impossible. They argue that different types of media need different conditions for dissemination and access and involve a specific consumption which requires different classifications and regulations. Besides that, they regard different cultural and moral sensitivities as an obstacle to a single classification system. **Germany** considers its own system satisfactory. **Belgium** indicated that it would welcome an EU regulation to tackle the lack of control and sanctions concerning the correct application of labels. The majority of Member States favour the promotion of self-regulatory and co-regulatory systems. The situation in the **UK** is currently under review.

### 3. CONCLUSIONS

Today, most EU Member States apply PEGI, the self-regulatory rating system for off-line video games which was launched in 2003. The vast majority of these Member States have related legislation and quite a number have recently improved their legislation or are in the process of doing so. Some Member States have even based this legislation on PEGI.

The situation for on-line games is different. Internet creates new challenges because of its easy access and global character. The majority of Member States do not have specific legislation for on-line video games. However, some Member States consider that legislation for off-line video games applies by analogy and some Member States use PEGI On-line, which was launched in June 2007.

In conclusion PEGI appears to have achieved good results and PEGI On-line is also a promising initiative, making of PEGI a good example of self-regulation in line with the better regulation agenda. Consequently, further efforts should be made by Member States, the industry and other stakeholders, including parents, to increase trust in video games and improve the protection of minors.

Considering the above, and bearing in mind the value of video games in promoting cultural diversity, the Commission:

- Calls upon the Member States to recognise that video games have become a front-rank medium and to ensure that high standards of freedom of expression and effective, proportionate measures for the protection of minors should apply and mutually reinforce each other.
- Consequently, calls upon the Member States to integrate into their national systems the information and classification system put in place in the framework of the PEGI and PEGI On-line initiatives.
- Calls upon the video games and consoles industry to further improve the PEGI and PEGI On-line systems and in particular regularly to update the criteria for age rating and labelling, to advertise PEGI more actively and to increase the list of signatories.
- Recognises that on-line videogames bring new challenges, such as effective age verification systems and possible dangers for young consumers related to chat rooms associated with these games, and calls upon Member States and stakeholders to work together on innovative solutions.
- Calls upon Member States and stakeholders to evaluate the possible negative and positive effects of video games, notably on health.

- Calls upon all stakeholders involved in the sale of videogames in retail shops to agree within two years on a Pan-European Code of conduct on the sale of games to minors and on commitments to raise awareness of the PEGI system among parents and children, as well as to ensure adequate resources to implement the provisions of this Code.
- Encourages the Member States and all stakeholders to take initiatives to improve media literacy applied to video games, in line with the Commission Communication of 20 December 2007.
- Welcomes and supports further efforts to achieve a self-regulatory or co-regulatory cross-media, pan-European age-rating system. The Commission intends in particular to organise meetings of classification bodies to exchange best practices in this field.
- Intends to use existing networks of and platforms with Consumer organisations in order to raise public awareness on PEGI and on the recommendations in this Communication.