**Position Paper – Framework Decision on Child Sexual Exploitation (Angelilli Report)**

From EDRi's perspective, the key problems with this proposal are the demand that ISPs "block" websites and the inadequacy of the associated impact assessment. Member States are once again unwilling to address the problem of glacially slow international police cooperation procedures for removing material at source. Instead, they choose to surrender two key powers in a way which poses serious risks for the rule of law and for human rights - the power to judge what should be blocked, which becomes the responsibility of the police and the power to execute the blocking, which becomes the responsibility of ISPs. The proposal also ignores the fact that, in the Angelilli Report of February 2009, the European Parliament rejected a text calling for blocking and suggested a more balanced approach, in particular:

> …measures to ensure that the Member States, in the <u>context of a comprehensive strategy of international diplomatic, administrative and law enforcement cooperation</u>, take appropriate steps to have illegal child abuse materials taken offline at source, thereby giving victims maximum protection, and work with Internet providers to disable websites which are used to commit, or to advertise the possibility of committing, offences established in accordance with the Framework Decision;

Unfortunately, there is little or no evidence of such a strategy being proposed, planned or implemented by the Council. As a result, there is a considerable risk of blocking (which only addresses a symptom) being used in an attempt to mask the real problem – leaving illegal content online, leaving victims unprotected and leaving access available to motivated users.

In order to adequately address this issue, it would be valuable for the European Parliament to:

1. Insist that the comprehensive strategy already demanded be implemented with the same level of vigour as the EU's efforts on, for example, IPR enforcement. The vast majority of this material is not hosted in some "rogue states" where the EU has no diplomatic contacts, but is hosted on the territories of the EU's major trading partners, making it eminently possible for such a strategy to be extremely effective.



Locations of sites blocked by ISPs in one EU Member State

- United States (1148)
- Germany (199)
- Netherlands (79)
- Canada (57)
- Russia (27)
- Japan (20)
- S. Korea (19)
- Czech Republic (15)
- Great Britain (14)

2. Demand clarity regarding the ultimate purpose of blocking (is it to prevent deliberate access, accidental access, to disrupt commercial traffic or some other purpose?) and evidence that blocking is likely to achieve this goal to a level proportionate to the associated risks and costs.
3. Demand evidence, particularly by comparing statistics from EU countries that block with those that do not, that there is a tangible benefit and that this benefit is proportionate to the cost to industry, the cost of collateral damage of innocent sites being blocked, the cost of "mission creep" resulting in other kinds of blocking and the cost of the security risk of having lists of illegal sites which can be "reverse engineered" and which have been and inevitably will again be leaked into the public domain.
4. Demand evidence that the whole exercise will not be rendered meaningless by users changing to other protocols and methods of exchanging the material (peer to peer, e-mail, file transfer protocol, shared webmail accounts, private forums, usenet, instant messaging, etc.)
5. Demand evidence that the whole exercise will not be rendered meaningless by the practice, (already the standard way of hosting fake bank websites (phishing)), of rapidly changing IP addresses and domain names, in order to keep "ahead" of the blocking system.
6. Demand evidence that this interference in a communication tool is legitimate under the specific criteria laid down in Articles 8 and 10 of the European Convention on Human Rights.
7. Ask why these questions were not addressed in the Commission's "impact assessment".