



YOUNG, SAFE AND FREE

Protecting the online rights of children in the commercial sphere has become a pressing issue for policymakers, as UNICEF's **PATRICK GEARY** explains

Children are growing up in an ever-more connected world. They go online to learn, to interact, to share, to create, to play; indeed, it seems that the internet now permeates nearly every aspect of children's lives. Accordingly, the digital environment has increasingly widespread and profound implications for children's rights as enshrined in the UN Convention on the Rights of the Child (CRC). While the CRC predates the internet as we know it today, it has for more than 25 years recognised that children's unique situation gives rise to a specific and holistic set of rights, from health and education to protection and participation. The CRC applies equally in the digital world, which means that children have the same rights online as they do offline.

Digital technology offers a uniquely empowering way for children to exercise their rights. In particular, going online is an expansive means for children to engage with the communities and societies around them. Children have instantaneous access to vast quantities of information and extensive social networks, which together enable children to form and express their views, opinions and experiences at an unprecedented pace and scale. Freedom of expression is fundamental to civil life in a democracy, and to children's development as skilled, confident and responsible digital citizens.

At the same time, children face serious risks in the digital environment. These include not only well-documented threats of abuse, exploitation and violence, but also the pervasive ways in which children are tracked and targeted by commercial actors. Children's personal data is collected even as they develop in the womb, and the data trails of children born today will become wider and deeper. Although we don't know the full implications, it is reasonable to imagine that the data generated, collected and processed about children will have significant, long-lasting and life-changing impacts.

A PRINCIPLED APPROACH

Against this backdrop, it is critically important to consider how children's privacy and expression rights can be realised in a digital world. There is a shared responsibility to protect, respect and fulfil these rights across government, industry, parents, educators and children, all of whom must play essential and interlinked roles in line with their authority, capacity and influence. Efforts to meet this shared responsibility can be guided by UNICEF's recently articulated General Principles on Children's Online Privacy and Freedom of Expression, which present an overarching rights-based framework grounded in international law.¹

The CRC recognises that governments have the primary obligation to realise children's rights, including the rights to privacy and freedom of expression, and highlights the special contributions that families, schools and children themselves can make towards this. However, the role of industry is not explicitly referenced in the convention and for many years received comparatively little attention. This approach shifted fundamentally in 2012 with the adoption of the UN Guiding Principles on Business and Human Rights, which avow a corporate responsibility to respect human rights,² and the subsequent publication of official guidance on the role of the private sector with regard to children's rights.³ Given the fundamentally commercial nature of the internet, the role and responsibilities of business actors are especially pertinent to consider for children in the digital environment.

CHILDREN'S RIGHTS AND BUSINESS IN A DIGITAL WORLD

Companies have tremendous sway over children's experiences online. They create and operate the websites, platforms, products, services and applications that children use to access diverse sources of information, communicate with peers

REFERENCES

- 1 UNICEF (2018). Children's Online Privacy and Freedom of Expression: Industry Toolkit.
- 2 UN Human Rights (2011). Implementing the United Nations 'Protect, Respect and Remedy' Framework. bit.ly/18WbEUy
- 3 UN Committee on the Rights of the Child (CRC) (2013). State obligations regarding the impact of the business sector on children's rights. bit.ly/2GZ5HMx

← and family members, and express themselves in the wider world. As a gateway to the internet, businesses have both a responsibility to provide tools that respect children as rightsholders and an opportunity to empower children as well-informed, free-thinking digital citizens. On a practical level, this may impact how companies filter content, moderate discussions, and enforce their terms of service, seeking to provide a safe environment that allows children more room to grow and explore as they mature and develop.

In a data-driven economy, businesses also have a crucial responsibility to ensure children's privacy online. Children may have little conception of how their data is obtained or used, and often possess scant awareness of the potential consequences of providing personal information online. This vulnerability should shape how companies collect, process, retain and share children's personal information. In practice, this could mean that companies gather less data from children, take extra steps to anonymise and secure the data they do collect, and refrain from profiling children or otherwise monetising children's personal data.

UNICEF's Checklist for Companies on Children's Online Privacy and Freedom of Expression draws together the above concerns, noting that businesses may have many and various impacts on children's rights in a digital world depending on the nature and scope of their operations. The checklist offers a set of questions that prompt companies to consider how they affect children's privacy and expression rights, and invites a review of relevant corporate policies and practices. Potential impacts are grouped into four categories, as in the panel.

POLICY LEADS THE WAY

The European Union's new General Data Protection Regulation (GDPR) presents a clear imperative for policymakers and businesses to revisit children's privacy and freedom of expression online, offering greater protection for children's personal data without hindering meaningful access to online services. It affects children's rights in three ways:

- **Consent:** member states must set an age between 13 and 16 at which children can consent to the processing of their data online, below which parental consent will be required
- **Terms and conditions:** companies must make their terms and conditions accessible and understandable for all users, including children
- **Profiling:** businesses should give special protection to children's personal data for the purposes of marketing or creating personality or user profiles.

But the GDPR leaves many questions open, and it is not yet apparent how it will be applied and enforced at national level. Nevertheless, the spirit of the GDPR should encourage policymakers to introduce initiatives that promise greater respect for children's privacy and expression rights online. To ensure that businesses meet their responsibility, and to encourage companies to go beyond compliance, new policy measures could include supporting co-regulation or self-regulation

GENERAL PRINCIPLES ON CHILDREN'S ONLINE RIGHTS

1. Children have the right to privacy and the protection of their personal data.
2. Children have the right to freedom of expression and access to information from a diversity of sources.
3. Children have the right not to be subjected to attacks on their reputation.
4. Children's privacy and freedom of expression should be protected and respected in accordance with their evolving capacities.
5. Children have the right to access remedies for violations and abuses of their rights to privacy and free expression, and attacks on their reputation.

CHECKLIST OF POTENTIAL IMPACTS

Impact area	Considerations
1. Obtaining children's personal data	Consent, age verification, data minimisation, sensitive data, default settings, privacy by design, third-party data collection
2. Using and retaining children's personal data	Granularity, profiling, monetisation, behavioural advertising, security, law enforcement, anonymisation, deletion
3. Ensuring children's access to information	Accessibility/clarity of terms and conditions, filtering, parental controls, reporting, content removal
4. Educating/informing children online	Digital literacy resources, responsible behaviour, identifying commercial content

POINTS FOR POLICYMAKERS

To protect children's privacy and expression rights online, policymakers should consider how to:

- Provide for children's continued access to websites, platforms, products, services and applications that offer beneficial content
- Support and value children's contributions to society as responsible and engaged digital citizens
- Give children greater control over how their profiles, images and personal information can be searched, accessed and deleted
- Make terms and conditions simple, concise, visible, clear, accessible and appropriate to children's evolving capacities
- Ensure privacy settings are visible, child-friendly and provide greater protection for children's accounts by default
- Limit the ways in which children's personal data can be sold, shared, or otherwise monetised, and restrict the use of children's personal data for the sole purpose of marketing or advertising.

processes; developing industry codes of conduct; providing interpretive guidance; highlighting best practices; and launching awareness campaigns.

Whatever the approach that policymakers bring to the GDPR, and however industry responds, it is evident that children's rights to privacy and freedom of expression must be more fully incorporated into the decisions that shape the digital world. As technology continues to evolve, new risks to children's privacy will arise just as new opportunities for children to express themselves will emerge. While it is near impossible to direct policies and practices in a way that is detailed, prescriptive and also futureproof, it is hoped that the concepts, principles, ideas and recommendations discussed in this article will serve to promote and protect children's privacy and expression rights in a digital world.

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