The child’s right to privacy and data protection in an IoT world: From robots to smart home assistants

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Ghent University, Special Research Fund
1. Children’s right to privacy and data protection
   - Legal standards & requirements

2. Analysis of privacy policies related to Internet of Things devices
   - Toys & devices present in the home
Meet Fribo, a robot built for lonely young people

Know your Baby is Okay
Track your infant’s heart rate and oxygen levels while they sleep.

Buy Now
International standards

- The right to the protection of private and family life and the secrecy of correspondence
- Universal Declaration of Human Rights (article 12)
- International Covenant on Civil and Political Rights (article 17)
article 8 of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms

1981 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data

2008 Declaration of the Committee of Ministers on protecting the dignity, security and privacy of children on the Internet

2014 Recommendation on a Guide to human rights for internet users

Recommendation CM/Rec(2018)7 on Guidelines to respect, protect and fulfil the rights of the child in the digital environment

2016-2021 Strategy for the Rights of the Child

“With respect to connected or smart devices, including those incorporated in toys and clothes, States should take particular care to ensure that data-protection principles, rules and rights are also respected when such products are directed principally at children or are likely to be regularly used by or in physical proximity to children.”
Europe

**article 8** of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms

**1981 Convention** for the Protection of Individuals with regard to Automatic Processing of Personal Data

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2016-2021 **Strategy for the Rights of the Child**

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**article 16 TFEU** – protection of personal data

**article 7** Charter of Fundamental Rights of the European Union (CFREU) (privacy)

**article 8** CFREU (data protection)

article 24 CFREU – best interest of the child

2016 **General Data Protection Regulation (GDPR)**

2002 e-Privacy Directive 2002/58/EC → Proposal for an **ePrivacy Regulation**
GDPR and the future ePrivacy Regulation

GDPR

• Recital 38 – specific protection
• Article 8 – child / parent consent
• 6 data processing “scenarios”
• Data subject rights to
• Privacy-by-design
• Data protection impact assessments

- Transparency
  - Access to personal data
  - Rectification of data
  - Restrict processing
  - Data portability
  - Object to processing
  - Related to automated decision making and profiling
  - To erasure

Draft ePrivacy Regulation

• Will particularise and complement the GDPR
• Personal data processing in the electronic communications sector
• Protection of metadata
• End to end encryption
• Will be applicable to “Over the Top” communication services, Internet of Things devices (smartwatches, connected toys and devices) and Machine to Machine transmissions
• Stricter requirements for device security

Article 6 “scenarios”:
1. Consent
2. Contract
3. Legal obligation
4. Vital Interests
5. Public Interest or Official Authority Task
6. Legitimate Interest

Does not mention children
Children’s Online Privacy Protection Act of the United States

Requirements for operators of websites or online services directed at children under 13 years

Requirements for operators that have actual knowledge that they are collecting personal information online from a child under 13 years

Younger than 13 years: verifiable parental consent needed
WowWee RoboMe Robot Kit

Application of legal standards: connected robots

- Voice command recognition
- Remote video control
- Gesture-based interactions
- Facial tracking
- Comes with an app

Privacy Policy:
- Very short
- Only refers to the use of the website, not the toy
- Does not sell, rent or trade information
- Does not accept registration from under 13-year-olds

WowWee - MiP the Toy Robot
Application of legal standards:
Smart home assistant Alexa
Amazon Alexa and children

Echo Dot Kids Edition, a smart speaker with Alexa for kids
by Amazon

$59.99 $79.99 prime
FREE Shipping on eligible orders

“Alexa, read me ‘Snow Queen.'”
“Alexa, open ‘This or That.'”
“Alexa, open ‘No Way That’s True.'”
“Alexa, play Kids Hits playlist.”

“Alexa, please play dance music.”
“Alexa, open ‘SpongeBob Challenge.'”
“Alexa, how long is a day on Mars?”

“Alexa, open ‘Disney Stories.'”
“Alexa, open ‘Ben 10.'”
“Alexa, open ‘Loud House Challenge.'”

Disney

CN Cartoon Network

nickelodeon
Conclusion

- Children’s privacy and data should be protected in the IoT environment
- Implementation and enforcement of the laws is challenging
- Privacy by design and default is key → data minimisation & de-responsibilisation of children & parents
- Compliance is necessary when services or products are directed principally at children or are likely to be regularly used by or in physical proximity to children
- Data Protection Authorities should enforce legal obligations with regard to children
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Recital 38. Children merit **specific protection**

Recital 58. Principle of **transparency** – plain and clear language for children

**Article 4 (11).** Consent – freely given, specific, **informed** and unambiguous

**Article 6.** Six grounds (scenarios) for lawful data processing

**Article 8.** Child’s consent

**Article 12.** **Transparent information**, specifically to children

“**concise, transparent, intelligible and easily accessible form**”

“using **clear** and **plain** language, in particular for any information addressed specifically to a **child**”

Article 6 “scenarios”:

1. Consent
2. Contract
3. Legal obligation
4. Vital Interests
5. Public Interest or Official Authority Task
6. Legitimate Interest
Conditions applicable to child’s consent in relation to information society services:

1. consent is the ground for processing
2. information society services are offered
3. the child is at least 16 years old

Where the child is below the age of 16 years, parental consent is required.

Member States may choose a lower age provided that such lower age is not below 13 years.

https://www.betterinternetforkids.eu/web/portal/practice/awareness/detail?articleId=2733703