

Apps for Children, Regulatory Issues

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Children are recognized as particularly vulnerable to online safety concerns including issues around privacy and misuse of personal data. Yet, the widespread use of digital technology, including use of the Internet and mobile apps, allows children and teens new, unprecedented opportunities for participation in societal conversations and debates. Government regulation of apps for children provides some protection for children's privacy, but its focus is considered by some to be limited in terms of media literacy value.

Apps and the mobile devices that run them have experienced rapid adoption rates since the release of Apple's iPad tablet in 2010, and not only by adults. Kids and teens have become avid users of the iPhone and iPad and also of the plethora of other smartphones and tablets that followed. Children in the United States under the age of 8 almost universally have access to mobile media such as smartphones or tablets in their homes (Rideout, 2017), and a growing number of young children have their own tablet. Similarly, the majority of American tweens and teens ages 8–18 have access to a mobile device within their family environment, but they are also more likely to own smartphones themselves (Lenhart, 2015). Children in Europe, Africa, Asia, and the Middle East are also adopting mobile technology quickly, including the use of smartphones. Kids, teens, and their families use these mobile devices and the apps downloaded on to them for communication, learning, and entertainment.

The term "apps" is short for applications and typically refers to the small, limited software programs that run on Apple, Android, and Windows mobile devices such as smartphones and tablets. They are designed to be easy to use and run on smaller screens. Apps are downloaded via the Internet and some share data online as part of the game, activity, or purpose. Some apps are free and some are paid for, but in general they are less expensive than their more robust relatives that run on desktop and laptop computers. Children and teens use apps to talk, text, watch television and movies, read, take pictures, make videos, blog, listen to and create music, and play video games. They do all of this using some of the more than 6.7 million apps that exist on the Apple, Google, Amazon, and Microsoft app stores.

The app market is vast and varied, with content designed specifically for kids, adults, or a general audience. The apps available vary in quality, purpose, cost, and appropriateness for the intended age group. Because of the wide variety of apps

The International Encyclopedia of Media Literacy. Renee Hobbs and Paul Mihailidis (Editors-in-Chief),

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DOI: 10.1002/9781118978238.ieml0011

available, and concerns about content and personal details being collected by the apps' developers, the US and other governments have implemented regulations designed to protect kids.

Government regulations pertaining to children's media actually began long before the introduction of the smartphone and tablet. Regulations currently in place include both amended versions of long-standing media legislation that dates back to a time when television for children was new and more recent rules drafted with the beginning of widespread Internet use. In both cases, the regulations are intended to anticipate and address the rapidly changing technology used by children and their families. These regulations are designed as preemptive measures to protect children's privacy and prevent their access to content deemed harmful to children. They were drafted in response to the massive amount of information shared on the Internet, including via mobile devices, and the unique vulnerability of children, especially those under 13 years of age, who may be less aware of their rights and the risks, consequences, and safeguards.

Major regulations: overview

Children's Online Privacy Protection Act

The US Children's Online Privacy Protection Act (COPPA), which aims to protect children's online privacy, first took effect in 2000 and was then updated in 2013. The regulation asserts that controlling online privacy helps children and adults prevent unwanted sharing of their personal information, whether that information is an embarrassing photo, a home address, a school name, or a credit card number.

COPPA, enforced by the Federal Trade Commission (FTC), compels operators and creators of websites, gaming platforms, apps, social networks, and voice-over-Internet services *directed at kids* to require verifiable consent from a parent or legal guardian before they may collect, record, use, or disclose personally identifiable information about users under the age of 13. In addition to requiring consent, the act requires easily findable disclosures of collected information, limits data that can be collected, and requires that parents or guardians can remove a child's personal information at any time. Content from third-party websites, ad networks, and app plug-ins that targets children is also included within the media regulated by COPPA.

Personal information as defined by COPPA includes: first and last name, home or other physical address, online contact information, screen or user name that acts as contact information, telephone number, social security number, photograph, video or audio file, persistent identifier, and geolocation information or information that can be used combined with an identifier (Federal Trade Commission, 2013). However, the FTC recently announced a decision not to consider apps and devices that record children's voices, convert that audio to text, and then immediately delete the audio file without seeking parents' consent, out of compliance with COPPA (FTC, 2017). This decision is in response to the type of activity that might occur when a child uses the popular "connected" toys or devices that allow pre-readers to search content with

an audio command instead of the child typing text which requires a high level of proficiency in reading and writing.

Children's Internet Protection Act

The US Children's Internet Protection Act (CIPA) was enacted in the United States in 2000 also, but this legislation, enforced by the Federal Communications Commission (FCC), focuses on content accessed by minors. Considering the vast amount of information available on the Internet, CIPA aims to protect children's safety in electronic communications, prevent unlawful online activities by minors, and block unauthorized use and dissemination of personal information (Federal Communications Commission, 2017a). As a result of legal challenges to CIPA which resulted in a Supreme Court clarification, minors are legally defined as anyone 16 years of age and younger (American Library Association, 2003).

Instead of targeting website operators or app creators, CIPA regulates schools and libraries that provide Internet access and receive E-rate discounts, valuable discounts on telecommunication services. CIPA requires that in order for schools and libraries to receive E-rate discounts, they must enact policies that restrict access to content that includes *visual depictions* of obscenity, child pornography, and material "harmful to minors." What is considered "harmful to minors" is not defined in the regulation language, but schools and libraries must make a "good faith" effort to filter the content in question. The FCC requires these entities to certify that CIPA-compliant policies are in place before receiving the discounts. Additionally, schools must include monitoring of minors' online activity in their CIPA compliance policies and must offer education about cyberbullying and appropriate online behavior: both required by the Protecting Children in the 21st Century Act. The FCC and FTC websites both include a link to the resource OnGuardOnline (Federal Trade Commission, n.d.), which includes information for educators and parents about children's privacy and online safety.

For compliance, schools and libraries often use server-based Internet filtering software and security software, provided by private companies, to determine inappropriate content and restrict children's access. However, there are no rules about what kind of software is used or what specifically is filtered beyond online content that is obscene, contains child pornography, or is considered "harmful to minors" (American Library Association, 2003).

Library Services and Technology Act

The US Libraries Library Services and Technology Act (LSTA) is a federal funding program administered by the Institute of Museum and Library Services (IMLS) exclusively for libraries. Grants are provided to each state through the appropriate state library and, along with a state match, projects are funded at public, school, academic, and research libraries for all ages. While LSTA grants do not specifically target children or Internet access, LSTA funds often provide access to important digital resources, and libraries that receive LSTA funds, many of which serve children, are subject to CIPA compliance (American Library Association, 2017).

Family Educational Rights and Privacy Act

The US Family Educational Rights and Privacy Act (FERPA) is a US law that gives parents certain rights to their child's educational records. In regards to FERPA, parental rights extend until a child reaches 18 years of age or enrolls in a school beyond high school. As part of FERPA, schools are not allowed to disclose personally identifiable information about a student beyond what is considered their directory record (name, phone number, email) without parental permission, including information to third-party, educational apps. There are exceptions that do allow schools to set up online educational services, such as apps, which use some personal information and metadata. If the apps require personal data, schools may need to require parental consent, often received on an annual basis, or use of the app must qualify as a FERPA exception. Exceptions cover services that are under the direct control of the school or district, perform a service that would normally be done by a school or district employee, or involve an app that uses records only for authorized purposes where the personal information is not disclosed beyond the authorized use (Department of Education, 2014).

General Data Protection Regulation

The European Union's General Data Protection Regulation (GDPR) took effect in May of 2018. It replaces the European Union's Data Protection Directive and is designed to protect people's data privacy and sync data protection laws across Europe. The regulation pertains to all personal data that is processed by automated means either in whole or in part. The regulation may apply to many US-based apps because it emphasizes where the user lives, not where the operator is based, and the Internet by design allows operators and users to connect across geographical and political boundaries.

While GDPR is designed to protect the privacy of both adults and children, its protection of children's data is similar to that of COPPA in the United States (Macenaite & Kosta, 2017). GDPR requires that consent to process personal data be obtained from the adult who is the holder of parental responsibilities when a child is using online services. While the GDPR's provisions to protect the personal data in general are robust, the regulation provides minimal specifics on how parental consent must be obtained and it leaves the responsibility of compliance primarily up to the operator. The GDPR considers children to be anyone under 16 years of age. European Union member states may reduce the age at which parental consent is required to 13 years, but not lower (European Union, 2016).

Net neutrality

While not targeting children's privacy or digital media use specifically, the broader issue of net neutrality, or network neutrality, also impacts children and teens. Net neutrality is the principle that all lawful data on the Internet be treated the same and that broadband providers and the government cannot treat or charge content differently. Net neutrality prevents broadband providers from "throttling" (the intentional speeding up or slowing

down of service), charging content providers for faster speeds and any kind of prioritization (Federal Communications Commission, 2017b).

In 2015, the FCC passed the Open Internet Order and the Internet was reclassified as an essential public utility, similar to the telephone service. Prior to the order, Internet access via broadband (cable, digital subscriber line or DSL) was not regulated the same as voice telephony and dial-up access and left an opening for throttling and other disparities (American Library Association, 2017). The District of Columbia District Court of Appeals declared that this reclassification was necessary in order for the FCC to be able to require that broadband providers provide access to all lawful online content, like websites and apps, at equal speeds.

As more and more information and essential services are found online, access to the Internet for school, entertainment, civic engagement, and lifelong learning has become essential for all ages. The Internet has allowed people from diverse geographic locations and with a range of viewpoints, backgrounds, and ideas to communicate and share information.

While many larger content providers would be able to afford paid prioritization, ultimately passing on the cost to consumers, supporters of net neutrality fear that individuals and content creators with smaller budgets—libraries, for example—would be limited in their ability to connect with other Internet users. Internet users' access to information may be controlled by which operator's site is prioritized. For consumers, especially those who are the most vulnerable, net neutrality and the regulation of broadband providers as utility companies equates to equal access to content, freedom of expression, and the ability to participate in civic dialogue (Woodruff, Ploeg, Cooper, & Schwartz, 2017).

Industry self-regulation

Along with the variety of government regulations, the app industry has responded to public concern by instituting measures addressing child safety. Self-regulation programs like the Entertainment Software Rating Board (ESRB), which assigns age and content ratings to video games, are certified by the FTC as "safe harbor" provisions which allow developers to comply with program requirements and avoid FTC enforcement.

The most widely applied industry initiative is app store ratings. These ratings, or categories, organize apps according to audience age and, in theory, help parents find apps suitable for children. An app's audience is declared by the developer, but its placement in a "kids" or "families" category implies that it complies with appropriate regulations. However, ratings are sometimes inconsistent across platforms, and surveys have revealed that in some cases parents find the ratings "too lenient" (Jordan, 2008).

Additional features may also be required for apps to be placed into these categories. For example, children's apps in Apple's App Store must include a "parental gate," a tool that requires users to perform an "adult-level" task. Parental gates are used to prevent young children from accessing specific parts of an app intended for adults.

Regulation issues

While these regulations may reduce both the quantity of children's personal data which is shared online and access to content deemed "harmful," the regulations have recognized limits, both for the app developer and the families who use the apps.

Compliance

Each of the regulations focuses on a particular aspect of media use, and compliance can be difficult to navigate. Regulations intended for one type of children's media—television, for example—do not necessarily apply to newer forms of media and do not take into account new ways of using media. Regulations for new media require regular clarification and amendments. Even the most conscientious developers of apps for kids—high-quality educational resources, for example—can find the rules vague and out of touch with the rapidly changing technology. Compliance can be difficult as new features develop or innovations are introduced that support children's use of new technology.

Compliance with privacy regulations can be costly and the increased expense may drive developers away from the children's app market, reducing the diversity of content designed for kids. The most appealing, or trendy, apps may be instead designed for a general audience, minus the restrictive extras, pushing kids to access content not intended for them and defeating the purpose of the regulation.

Teens not included

While teens, ages 13–17, are not protected under regulations like COPPA, they are also not technically old enough to enter into legally binding contracts, including app privacy policies. Teens, also vulnerable to violent and obscene content and behavioral advertising, are typically accessing an even wider range of content than their younger counterparts, for both educational and entertainment purposes, yet these regulations do little to protect them online or help them understand how to control their online privacy and select high-quality content.

Definitions

Some regulations include vague definitions, making compliance difficult. In the case of CIPA, what is considered obscene is not clearly defined in the regulation language. Instead it relies on the Miller test, a standard often used to determine if a photo, video, or image is obscene.

Based on the 1973 US Supreme Court case of *Miller vs. California*, the three-part standard offers some guidelines for what is generally considered obscene, but in reality, teachers, administrators, and librarians are ultimately left to decide what is obscene in order to comply. Watching over children's shoulders can be time-consuming and nonproductive, so filtering content is often left up to private filtering companies and computer programs in order to meet CIPA rules.

These filters have been criticized for blocking access to informative and educational content deemed obscene or otherwise inappropriate according to CIPA. The American Library Association (ALA) unsuccessfully argued against the effectiveness of Internet filtering and the constitutionality of CIPA in *United States vs. ALA* (2003). Opponents of CIPA complain that parents are not afforded the control or guidance to help children evaluate digital content. Instead visual content is blocked based on keywords or phrases that may or may not keep up with the rapidly changing nature of the Internet.

Consumer education

Online regulations are meant to be preemptive, protecting children and focusing on preconsumption measures. These regulations do little in the way of informing and educating families about issues related to privacy and harmful content. While multiple regulations mention educating children about online behavior, the focus of the actual regulations is enforcement. Few media literacy tools are available for children, parents, or educators within the information provided. For example, the FTC mentions the resource OnGuardOnline, but goes no further, leaving the education aspect of media use to nonregulatory organizations.

Politics

The political nature of legislation, even in regards to children's apps, does not depend solely on the most current research or the latest innovations, but also on the input of politicians, advocacy groups, academics, and lobbyists. And while organizations like the FCC and FTC are charged with oversight and enforcement, all three branches of government—judicial, executive, and legislative—are ultimately involved with writing regulations that effect children's media use (Jordan, 2008). Regulations may be drafted or amended based on the political platform of the party currently in power or at the whim of the lobbying group with the most influence, instead of based on what we know about children's media, its use, and child development.

Current app regulations may restrict children's rights of expression, including the right to access and create information, affirmed by the widely ratified United Nation's Convention on the Rights of the Child (United Nations, 1989). The United States is one of only three member countries that have not adopted (ratified) the Convention. While the US ambassador signed the Convention, the United States is not legally bound by the document.

Children's use of apps

Regulations in both the United States and the European Union specifically target digital media intended for children. However, children are increasingly accessing not only child-specific digital media but also apps with no specific audience or intended age group, social media platforms in particular. In these cases, compliance with the regulations previously discussed does not apply, and these sites do not necessarily authenticate age. These apps are required to make attempts to identify the age of users if an account

is created, but kids and teens often circumvent this process, or the apps make content available without an account or age declaration requirement. Children are creating accounts, accessing a wide range of content with limited or no filtering, and sharing their personal data with the media creators and other users, often unknowingly or with little knowledge of the repercussions, with or without parental permission.

Blocking access

Current regulations may inhibit kids' and teens' access to valuable apps and information. In some cases, apps and digital media that do not meet COPPA or GDPR guidelines, for example, may attract an audience with a wide age range because they offer the most current information available, for example in the case of rapidly evolving societal events such as natural disasters or political situations. Some apps not specifically designed for children under 13, and thus not necessarily regulation compliant, can provide information in a format that meets a specific learning or physical disability. Other apps may make accessible important information only available in a digital format, and their developers may not spend resources to be compliant.

Multiple issues have arisen around the implementation of these regulations and the access they restrict. Court decisions, like the United States vs. ALA (2003) Supreme Court case, have been necessary to clarify whether or not regulations pertaining to online information restrict children's constitutionally protected freedoms. Court challenges have also clarified important definitions on which the regulations are based.

Self-regulation

While industry-initiated standards and self-regulation attempt to offer additional measures to help parents choose apps for kids, some categories have vague definitions that have been considered confusing and inconsistent across platforms, and even within these categories, selecting an app for a child can be daunting for parents. For example, each of the app stores has also created "Education" categories, in addition to either a "Kids" or "Family" category. Educational apps, however, have minimal requirements to qualify as "educational" and are geared for a range of ages, not specifically children. What is deemed educational varies and is based on, sometimes unsubstantiated, claims by the developer. Finding educational apps for children may be difficult within the app store's interface. Parents and educators must evaluate each app to determine its educational value with limited resources from regulation text or industry support.

Evolving media landscape

Where and how children access apps can bring new questions to the current regulations. Apps and online media are being used in school for educational purposes, and some of these apps require parental permission to be compliant. While some districts seek parental permission with annual acknowledgments signed by parents, there may be circumstances that require a more agile approach to app use. In these cases, schools are

providing consent on behalf of parents as a practicality, yet this may not align with the regulations' intended outcomes: parental involvement in the app use (Herold, 2017).

Youths are increasingly selecting, creating, and producing content on devices they own, with or without the help of adults (Jordan, 2008). They are participating in important civic engagement that occurs either simultaneously or exclusively online. Regulations governing apps and other digital media may restrict kids' and teens' ability to contribute to the societal conversations happening across the globe. Some contend that regulations may even impact children's and teens' freedom of speech and freedom of expression. Rapidly changing technology, including the popularity of apps and mobile devices, has redefined how a child's right to freedom of expression (United Nations, 1989) is articulated. Using apps to voice stories, articulate ideas, and communicate opinions is part of "participatory culture" (Jenkins, 2006), in which users of mobile and digital technology create and produce content, and the participation of kids and teens is growing.

Regulations often distinguish between platforms or are drafted around specific media, but the rapidly changing nature of technology merges platforms. Shows on television may be held to different standards than shows in an app designed for general audiences, for example (Jordan, 2008, p. 248). TV stations face restrictions on content and advertising that do not translate to apps that stream shows, like Netflix or YouTube. The latter may be in compliance with regulations, and include industry-created age ratings for content, but children can still access content deemed "harmful" to some because the app is intended for a general audience.

Guidelines and recommendations

Several organizations have published guidelines and other materials to help families understand the important issues related to app use and recommendations for developers making apps for children. These guidelines, and the connected resources, play a significant role in educating families about not just app regulations but the impetus behind the regulations. Families and professionals who work with children can use these organizations' resources to learn what online privacy means, what children's rights are, and what high-quality, age-appropriate children's apps are and where to find them. Additionally, professional organizations are identifying and training individuals as media mentors to support and guide families using apps and other new media with children and teens.

Children and Adolescents and Digital Media

In 2016, the American Academy of Pediatrics (AAP) released their updated media use recommendations for children and adolescents, *Children and Adolescents and Digital Media*. The recommendations for digital media use rely on current research to identify practices that address safety, privacy, advertising, learning, entertainment, equitable access to information, and civic engagement in regards to digital media such as apps. The AAP committee also provides some recommendations for the children's digital

media industry in support of high-quality digital media for children. The report was published at the same time as the organization launched the Family Media Use Plan, a digital tool designed to inform families and help them navigate children's digital media use.

Technology and Interactive Media as Tools in Early Childhood Programs Serving Children from Birth through Age 8

In 2012, the National Association for the Education of Young Children (NAEYC) and the Fred Rogers Center for Early Learning and Children's Media at Saint Vincent College published a joint position statement on technology use with young children, *Technology and Interactive Media as Tools in Early Childhood Programs Serving Children from Birth through Age 8*. This statement, released early in the evolution of widespread app use by children, includes several key messages for professionals who work with young children. The recommendations address: intentional use of technology appropriate for children 8 and under; potential benefits of technology for dual language learners and of assistive technology for kids with special needs; age-appropriate content and use of technology; digital citizenship; equitable digital access; and the need for ongoing research. The NAEYC/Fred Rogers Position Statement continues to be referenced by educators and policymakers.

Guidelines for Industry on Child Online Protection

The United Nations International Children's Emergency Fund (UNICEF) defends children's rights around the world. In 2015, they published *Guidelines for Industry on Child Online Protection*, a document that applies internationally recognized rights for children to the Internet and digital media such as apps. The document is based on five principles that recommend integration of children's rights into corporate policies and practices, development of processes to handle content that deals with child sexual assault, creation of age-appropriate content, educating families about online safety and responsible use of digital media, and promotion of digital media as a tool for civic engagement. These guidelines emphasize family education about app use and online activity alongside the development of industry standards related to children's well-being.

Media Mentorship in Libraries Serving Youth

The ALA's Association for Library Service to Children (ALSC) adopted the white paper *Media Mentorship in Libraries Serving Youth* in 2015 to help guide library staff working with families. Children, teens, and adults use libraries to access a wide range of resources, including books, magazines, online databases, e-books, and apps. Not only do libraries provide free WiFi, public access to computers, and digital device lending, but librarians teach children and families how to use the equipment, find the information they need, and create content during one-on-one interactions in programs

like storytime and in afterschool homework help or maker clubs. Librarians share information about privacy, digital citizenship, online safety, and healthy digital media use in person and through publicity campaigns.

The authors of the ALSC white paper curated the latest research, examples of current practices, and other considerations that librarians acting as media mentors would need to support children and their families in their media decisions and use. Librarians have used the white paper as a starting point for educating themselves on the issues and skills they need to support families in the digital age.

SEE ALSO: CIPA/Internet Filtering; EU Kids Online; Network Neutrality

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