

Children in Virtual Worlds

Legal Issues

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***“Technical Constraints, Legal constraints,
Moral constraints”***

Vint Cerf

Differentiated Regulatory Approaches

- Laws
- Regulatory Bodies / Agencies
- Labels and Classification
- Self-Regulation by Industry
- Technological intervention
- Delegation of Responsibility to Parents

Laws - The foundation

- Protection of Children Act 1978
- Sex Offences Act 2003
- Human Rights Act
- UN Convention on the Rights of the Child
- Protection from Harassment Act 1996
- Disability Discrimination Act 1995
- Obscene Publications Act 1959 & 1964
- Defamation Act 1996
- Copyright Designs and Patents Act 1988
- Serious Organised Crime and Police Act 2005
- Data Protection Act 1998
- Privacy and Electronic Communications Regulations 2003
- E-Commerce Regulations 2001 Case Law

Regulatory Bodies and Agencies

- Internet not officially within Ofcom's remit
- Internet Watch Foundation – Hotline
- CEOP (Child Exploitation and Online Protection)
 - Online safety programme – Hector
- Information Commissioner
- Becta - ICT Education Agency / ISP Accreditation
- Resources: Kidsmart Gridclub Thinkuknow.co.uk
Parents Online

Advertising

- Regulated by Advertising Standards Authority (ASA)
- Non-broadcast CAP Code – banner ads / paid for space
<http://www.cap.org.uk/cap/>
- General principle: Ads should not contain anything that might result in child's **physical, mental or moral harm**
- nothing that condones or is likely to provoke violence, anti-social behaviour or dangerous practice
- Not exploit Children's credulity, loyalty or vulnerability eg. Making them feel inferior for not buying
- Not encourage expensive products – where products are expensive, must include price. 7 to 11 can afford £6.30
- Promotions

Self-Regulatory Approach

- Parents and children through education
- In-world Regulation
eg CyberWorlds' failed Peacekeeper programme
- Home Office Internet Task Force and Other Guidance.

Byron Review

Calls for full education for the entire family

Self-regulatory mechanism for industry – independently monitored

Objective 1: Reduce Availability

Objective 2: Restrict Access

Objective 3: Increase Resilience

Home Office Good Practice Guidance December 2005

- Clear prominent and accessible safety messages should be present on front pages and in chat rooms and when completing profiles themselves.
- Links to online safety guides either on the site itself or on third party websites.
- Limit exposure of personal information
- Children should be encouraged not to post their phone/mobile numbers, addresses or email addresses.

- Give due prominence to tools such as ignore buttons, alert buttons, grab and print functions and reporting mechanisms
- Provide means at the user end to block private chat or Instant Messaging
- Establish systems of receiving and responding appropriately to reports of incidents
- Ensure moderators are properly screened and trained, and establish a means of reporting failure on the part of moderators

Audiovisual Content Good Practice Principles signed by leading content providers including BBC, Channel 4 and Bebo: <http://www.audiovisualcontent.org>

- Promote and enable media literacy
- Content information – including whether harmful or offensive or unsuitable for children
 - is easy to use and understand
 - gives adequate information to enable the user to make an informed choice about whether or not to access the content
 - uses plain and consistent language, practical for the medium in which it is made available.
- Editorial policies reflecting the context in which content is delivered.
- Allow users to make informed choices

Are Service Providers Liable?

Protecting your position

Terms of Use

- Set out usage rules clearly
- Terms function alongside clear safety instructions
- Ability to suspend / ban users who breach rules
- Protections for service provider
- Age Limits – Upper / Lower
- Parent confirms agreement to terms and to be bound on behalf of child
- Contracts with Minors

Data protection - compliance

- Register as a data controller - **failure to notify is a criminal offence** (www.ico.gov.uk)
- **Privacy policy**
 - **What Data collecting?**
 - **Why Collecting Data?**
 - **Use of cookies, web beacons; how to disable**
 - **data sharing with third parties – who, why**
 - **Consent from parents - UK under 16 (guidance); USA under 13.**

Data protection - risk of getting it wrong

- UK - general approach, weak enforcement powers
 - Fines (up to £5,000), compensation, rectification or destruction of data

Compared to

- US - sectoral approach, large penalties
 - **Xanga.com** - social networking site fined US \$1million for breaching Children's Online Privacy Protection Act (COPPA) by allowing children under 13 to sign up for the service without getting their parent's consent

User ID and age verification

- “No silver bullet” *Byron Review*
- Credit card - not failsafe.
- Cookies
- “Ensures that industry continue exploring good practice in age verification mechanisms” *Byron Review*
- www.netidme.com and www.uru.co.uk use procedures to comply with Know Your Customer Regulations to verify identity.

In Europe, Article 29 (Data Directive) Working Party – consultation on working document 147 on the protection of children's personal data (general guidelines and the special case of schools).

- Act in best interests of children and uphold their right to privacy taking into account their vulnerability.
- Onscreen information before collecting data from Children
- Consultation seeking comments by 30 June 2008:
http://ec.europa.eu/justice_home/fsj/privacy/workinggroup/consultations/index_en.htm

Service Provider Liability under E-Commerce Regulations – knowledge of unlawful activity

- The service provider shall not be liable for infringing content or unlawful activity ... where the service provider:
 - Does not have actual knowledge ... or is not aware of facts or circumstances from which it would have been apparent ... that the activity or information was unlawful; or
 - Upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the information
- Notice and Take-Down

Moderation

- Options:
 - No moderation
 - Pre-vet all material
 - Moderate after posting?
 - 24/7 or periodic?
 - Third party providers

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**Engage with Government, Regulatory bodies,
Parents and Children**

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