

Privacy Rights of Children in the Social Media Sphere: The Benefits and Challenges Under the EU and US Legislative Framework

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Abstract : This study explores the safeguards and guarantees to children's personal data protection under the current EU and US legislative framework, namely the GDPR (2018) and COPPA (2000). Considering that children are online for the majority of their free time, one cannot overlook the negative side effects that may be associated with online participation, which may put children's wellbeing and their fundamental rights at risk. The question of whether the current relevant legislative framework in relation to the responsibilities of the internet service providers (ISPs) are adequate safeguards and guarantees to children's personal data protection has been an evolving debate both in the US and in the EU. From a children's rights perspective, processors of personal data have certain obligations that must meet the international human rights principles (e. g. the CRC, ECHR), which require taking into account the best interest of the child. Accordingly, the need to protect children's privacy online remains strong and relevant with the expansion of the number and importance of social media platforms to human life. At the same time, the landscape of the internet is rapidly evolving, and commercial interests are taking a more targeted approach in seeking children's data. Therefore, it is essential to constantly evaluate the ongoing and evolving newly adopted market policies of ISPs that may misuse the gap in the current letter of the law. Previous studies in the field have already pointed out that both GDPR and COPPA may theoretically not be sufficient in protecting children's personal data. With the focus on social media platforms, this study uses the doctrinal-descriptive method to identify the mechanisms enshrined in the GDPR and COPPA designed to protect children's personal data. In its second part, the study includes a data gathering phase by the national data protection authorities responsible for monitoring and supervision of the GDPR in relation to children's personal data protection who monitor the enforcement of the data protection rules throughout the European Union and contribute to their consistent application. These gathered primary source of data will later be used to outline the series of benefits and challenges to children's personal data protection faced by these institutes and the analysis that aims to suggest if and/or how to hold ISPs accountable while striking a fair balance between the commercial rights and the right to protection of the personal data of children. The preliminary results can be divided into two categories. First, conclusions in the doctrinal-descriptive part of the study. Second, specific cases and situations from the practice of national data protection authorities. While for the first part, concrete conclusions can already be presented, the second part is currently still in the data gathering phase. The result of this research is a comprehensive analysis on the safeguards and guarantees to children's personal data protection under the current EU and US legislative framework, based on doctrinal-descriptive approach and original empirical data.

Keywords : personal data of children, personal data protection, GDPR, COPPA, ISPs, social media

Conference Title : ICPDPPL 2022 : International Conference on Personal Data Protection and Privacy Law

Conference Location : London, United Kingdom

Conference Dates : November 18-19, 2022