

# Toy Safety Directive Review

July 2021

The EU is expected in 2022 to update the 2009 [Toy Safety Directive](#). This review should take into account the [updates proposed](#) to the General Product Safety Directive. In addition, 5Rights Foundation calls on the European Commission to ensure the rights of the child as codified in the EU Charter, the [UN Convention on the Rights of the Child](#) and [UNCRC General comment No. 25 on children's rights in relation to the digital environment](#) are fully taken into account in its new proposal. In particular, the review should:

- Aim to ensure the safety, security, wellbeing and full exercise of the rights of the child, giving primary consideration to their best interests (UNCRC 1989, Article 3).
- Define 'child' or 'minor' as any person under the age of 18 (UNCRC 1989, Article 1).
- Define 'toy' as any product or service [likely to be accessed](#)<sup>1</sup> by children for play.
- Define 'play' as any behaviour, activity or process initiated, controlled and structured by children themselves (UNCRC General Comment 17, Article 31(c)).<sup>2</sup>
- Define 'health' as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. (World Health Organisation Constitution, 1948)
- Be explicit that digital toys, including connected toys and standalone software (games, social media and other apps) are in scope.
- Be based on the precautionary principle, including as regards what falls into scope and risk mitigation measures required of manufacturers and distributors.
- Take into account the evolving capacities of children, requiring manufacturers to ensure products and services are age-appropriate and age-ratings and labelling are appropriate and consistent between manufacturers and distributors.
- Require manufacturers and distributors of digital toys to adhere to the highest European or international standards for age assurance (as necessary); child-centred design (incorporating safety and security/privacy by design and default); age-appropriate terms and conditions; age-appropriate labelling; child-friendly notification, complaint and redress systems. Assess compliance against *i.a.*:

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<sup>1</sup> See Age Appropriate Design Code, Annex A "Services covered by this code": <https://ico.org.uk/for-organisations/guide-to-data-protection/key-data-protection-themes/age-appropriate-design-a-code-of-practice-for-online-services/annex-a-services-covered-by-the-code-flowchart/>

<sup>2</sup> United Nations Convention on the Rights of the Child, General comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts.

- Standard for an Age-Appropriate Digital Services Framework Based on the 5Rights Principles for Children: IEEE P2089
  - Privacy and security by design and default: ETSI EN 303 645, ISO/IET 27701, ISO/IEC 27002, BS EN 17529
  - Children’s data protection: Age-Appropriate Design Code<sup>3</sup>
  - Consumer product safety standard: ISO 10377: 2013<sup>4</sup>
  - Child impact assessment: 5Rights CIA under development
  - Minimum standards for age assurance (see proposals for an International Standard for Age Assurance Systems submitted to ISO JTC1/WG13 and UK Private Members Bill calling for Minimum Standards for Age Assurance<sup>5</sup>.)
- Require manufacturers and distributors of digital toys to undertake a child impact assessment, considering content, contact, conduct, and contract risks to children, and demonstrate respect for children’s rights before putting on the market any new or updated product or service; and to publish the assessment in language that is accessible to children. Reviews of compliance should take place every 5 years at most, and with each product update.
  - Prohibit in-app and in-game purchases, including random reward features, that present risks to children.
  - Include provisions to ensure in-product advertising/recommendations respect children’s rights and the ban on the commercial exploitation of childhood. This should include a ban on targeted advertising and direct exhortations to children and a ban on ‘design abuses’ (or negative exploitation of persuasive design).
  - Be future proof, i.e. flexible/adaptable and reviewed on a regular basis in order to ensure the legislation keeps pace with technological developments.

### About 5Rights Foundation

5Rights develops new policy, creates innovative frameworks, develops technical standards, publishes research, challenges received narratives and ensures that children's rights and needs are recognised and prioritised in the digital world. While 5Rights works exclusively on behalf of and with children and young people under 18, our solutions and strategies are relevant to many other communities.

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<sup>3</sup> <https://ico.org.uk/for-organisations/guide-to-data-protection/key-data-protection-themes/age-appropriate-design-a-code-of-practice-for-online-services/>

<sup>4</sup> There is an effort led by The Committee on Consumer Policy (COPOLCO) to extend the existing product safety standard to cover privacy by design for consumer goods and services (see: [https://iapp.org/media/pdf/resource\\_center/ISO%20NWIP%20\(Privacy%20by%20design%20for%20consumer%20goods%20and%20services\).pdf](https://iapp.org/media/pdf/resource_center/ISO%20NWIP%20(Privacy%20by%20design%20for%20consumer%20goods%20and%20services).pdf))

<sup>5</sup> Age Assurance (Minimum Standards) Bill. See: <https://bills.parliament.uk/bills/2879>

Our focus is on implementable change and our work is cited and used widely around the world. We work with governments, inter-governmental institutions, professional associations, academics, businesses, and children, so that digital products and services can impact positively on the lived experiences of young people.