

All providers of online products or services are required to present ‘Terms and Conditions’ in an age appropriate way, meaning that instead of children having to skim through the entirety of a service’s published terms, sometimes spanning multiple documents, to find out what they contain and what they are trying to say, services must publish terms with clearer words and have them be more concise and presented to children in a way that aids their comprehension and facilitates meaningful consent so that they will have adequate knowledge of what data services will collect from them in order for their data to be shared with third parties for the purposes of behavioural advertising. All providers of online products or services may not obfuscate their data collection practices, community guidelines, and opportunities for children to seek redress for the sake of shorter published terms, and providers must ensure terms are not presented as a binary choice in order for children have an active choice for their preferences before they

Tick to Agree

**Age appropriate presentation of
published terms**
September 2021

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.

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.

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Background

5Rights Foundation is working with the Institute of Electrical and Electronics Engineers Standards Association (IEEE SA) to develop standards for Age Appropriate Digital Services specifically aimed at promoting the rights and wellbeing of children in the digital world. Standard P2089 has been developed by an international expert working group with a broad range of skills from academia, law enforcement, engineering, childhood development and public policy, and support from external expert contributors. It covers a broad set of issues: fair terms, children's rights, recognising children, platform liability and commercial drivers, each of which has been considered by members of the working group over a period of two years.

This short paper on the presentation of age appropriate published terms focuses on just one aspect of the expert group's work, but behind the issue of how terms are presented sits the much thornier question of what is being asked of the child user and what is being offered in return. That bigger question is tackled in the scope of the 2089 standard framework. This paper gives a glimpse into our thinking, captures the response of young people to our work, and begins to offer a vision of what good looks like for those who wish to present their terms in an age appropriate way.

Foreword

Technologies and systems are used to design and build digital platforms that engage billions of people around the world. At the same time, they serve business models and power structures that are invasive, pervasive and deeply manipulative. We see this in the incessant collection of personal data, the creation of detailed individual profiles that are used to modulate and manipulate future desires and choices of individuals. The only line of defense for such practices has been obtaining consent through arcane “published terms of use”. While this practice can somehow be defended if the user and consentor is an adult, one can easily understand that this is unacceptable if the user is a child. In many cases, this practice has proven to be illegal, and platform owners try to escape their responsibility by putting the burden on the shoulders of parents and guardians. Some legislators and regulators are now taking concrete steps to address this tension.

Experts and technical communities are involved in the design, deployment and operation of systems that in effect, treat children as adults, partly because of overriding business interests or because there are allegedly no ways to “code for this.” Following increasing evidence to the contrary, the question is whether we continue to pretend to be passive spectators or choose to join forces with legislators, regulators and others in an effort to foster safe and empowering digital environments for the wellbeing of children. The cooperation between the 5Rights Foundation and IEEE that resulted in the standard for Age-Appropriate Digital Services Framework is the response to this question.

And this is just the beginning. When formally approved by IEEE, this standard will build the foundation for a family of IEEE standards that will help guide and support system designers and entrepreneurs to do their work while respecting existing laws and regulations, and thus honoring the rights of children and fostering their wellbeing. IEEE supports the members of the P2089 Working Group and its leadership as they help to advance technology for “the future of humanity”.

Dr. Konstantinos Karachalios - Managing Director, IEEE Standards Association

Preface

There are over one billion young people online.¹ Each day, another 170,000 go online for the first time.² More than ever, technology mediates almost every aspect of a young person's life. Published terms, such as privacy policies, community standards and terms and conditions, are the basis on which digital products and services set out their conditions for use. Yet, in setting out those terms, most product and service providers do not consider their responsibility to meet the particular needs of children.

Children are not only in places and spaces directed at and designed for them but seamlessly access mixed-audience spaces. They are also impacted by digital services that they may not be conscious of, such as facial recognition in public spaces. It is vital therefore that services recognise their different needs and evolving capacities.³ Lawmakers are starting to demand tailored, age appropriate experiences for young people. This means companies will have to consider what is age appropriate and where necessary, services will need to be redesigned. The way published terms are constructed and presented must be reconceived to reflect this changing picture.

It is important to recognise that age appropriate published terms alone will not deliver age appropriate experiences for young people in the digital world. They are just one component among many needed for the development of products and services that better serve the needs of young people. It is not acceptable to use published terms to hide or bury the fact that a product or service is intrinsically inappropriate for the children and young people that engage with it. Nor does transparency in and of itself make a service age appropriate.

5Rights would like to thank all members of the working group for their extraordinary expertise and commitment, and particularly the group Chair, Professor Katina Michael and our colleagues at IEEE who have so ardently supported this work. We would also like to thank Ephraim Luwemba of the Horizon Center for Doctoral Training, Nottingham University, for his help in preparing this paper and give special thanks to the young people who contributed to the report and tested the expert group's work.

This paper is independent of and complementary to standard P2089 and focuses on age appropriate presentation of published terms. It is not a substitute for the standard itself, but its contents are consistent with those parts of the standard that relate to published terms. We look forward to the standard being published later in 2021.

Baroness Kidron – Chair of 5Rights Foundation

¹ [One in Three: Internet Governance and Children's Rights](#), S. Livingstone, et al, UNICEF, January 2016.

² [Kids Digital Media Report](#), PWC for SuperAwesome, May 2019.

³ Ofcom's [Children and parents: media use and attitudes 2020/2021 report](#) says: "Just over half of 5-15s used social media sites or apps, rising to 87% of 12-15s. The range of sites and apps used remain diverse; around a third of 5-15s used Instagram, Snapchat and Facebook."

Consulting with young people

Children have a right to be heard in all matters that affect them.⁴

The conclusions of the P2089 working group were taken to a group of young people to canvas their views on the contents of this paper and the broader conclusions of the group. Their views can be found throughout this report.

The workshop

The workshop took place virtually in England with a group of young people between the ages of 12 and 16. The participants were asked a series of questions about their engagement with published terms.

They were shown specific examples of privacy policies and cookie notices and were invited to say how they thought platforms and organisations could design them better. Alternative formats were shared, such as videos and cartoons, and the participants were asked to ‘sense-check’ our findings and recommendations.

Participants were invited to record their views and recommendations for the designers of published terms, which were presented as part of a panel at the IEEE International Symposium on Technology and Society conference on Public Interest Technologies in November 2020.

⁴ UNCRC, Article 12.

What are published terms?

Every digital service has its own published terms consisting of several documents that together set out the agreement between user and service. Most often they will include:

- **Privacy Policies** set out how a user's data and personal information will be collected, stored, used and shared, and may include options users have to change these processes. The information included in privacy policies will vary according to data protection laws in different jurisdictions,⁵ but many states now use the European General Data Protection Regulation (GDPR) or GDPR-like provisions.⁶ In some jurisdictions, children may have additional specific data protections, such as in the UK with the Age Appropriate Design Code.⁷
- **Community Standards** outline the rules for users and constitute a statement of tolerance of any particular service.⁸ They set out the kinds of behaviour or content that are allowed (or not allowed) and may include references to what is and is not permissible by law. Community standards often include examples of conduct or content that are considered a breach of the rules, how to report such breaches, and what will happen when users break these agreements. For example, a user's uploaded content may be removed, or their account may be suspended.
- **Terms of Service** (or terms and conditions) outline what the user is agreeing to when they use the site. This includes issues of liability and guarantees, and outlines the legal rights and responsibilities of both parties to constitute an agreement between them.⁹ Disclaimers on the part of the service provider are also included, such as asserting the limited liability of service providers for issues arising from user generated content, and items related to third-party websites, copyrights and intellectual property, information relating to any payments or purchases, and any other additional information that requires clarification (usually to avoid legal problems arising).
- **Cookie Policies** explain how a service uses data files (cookies) to track a user's visits and activity on the service. Cookie policies are required by law¹⁰ and must describe the cookies that are active on the website, what they are used for and must obtain consent from the user. Usually, the consent option is provided as part of a cookie dialogue that appears the first time a user visits a website, but may be included as part of the privacy policy. The information contained in a cookie notice can be very detailed. For example, if third party cookies are used, the cookie notice may contain multiple links to a service's partners and their policies.
- **Other important published documents may include, but are not limited to**
 - Key terms or definitions
 - Company's Privacy Principles
 - Security information

⁵ [What's Data Privacy Law In Your Country?](#), Privacy Policies.com, last updated September 2019.

⁶ [General Data Protection Regulation](#), Office Journal of the European Union, April 2016.

⁷ [Age Appropriate Design Code](#), ICO, September 2020.

⁸ As an example, see [Community standards](#), The Conversation, date accessed June 3 2021.

⁹ More information and useful examples of how to explore these issues with children can be found via the TES Digital Citizenship teaching packs, in partnership with Schillings and the Children's Commissioner. See: [Teaching packs, including simplified T&Cs](#).

¹⁰ See the Information Commissioner's Office [guidelines](#) for what to information to place in cookie policies.

- Children's privacy policy (for parents)
- Accessibility
- Commercial agreements
- Company policies (e.g. environmental policy, commitments to preventing modern slavery etc.)

These published terms set out the agreement between those who use online services and those who provide them, yet they most often remain unread. They have become a 'click-through' exercise with over 90% of users failing to engage with them.¹¹

For published terms to be age appropriate, they need to be designed so that the information they contain is comprehensible, of an appropriate length, clearly presented, easy to find, introduced at the right moments, and understandable to all young people, no matter who they are, how old they are, or where they come from. Above all, they have to be designed to be understood. The collective outcome of the recommendations below is that published terms are reconceived as a communication tool between service and child, not a barrier to accessing the service that children simply 'tick to agree'.

¹¹ [You're not alone, no one reads the terms of service agreements](#). Insider, November 2017.

Age appropriate presentation

Language

Published terms should use simple language

The language used in published terms is often very complex, making it difficult and time-consuming for young people to read and understand them.

“Instead of having to skim through all the legal terms to find out what they’re actually trying to tell you about, they should have it in clearer words so you can understand what you’re doing.”¹²

“We actually don’t know what’s in them [terms and conditions]. There could just be completely bad stuff that says ‘we’re going to give your email away’.”¹³

Many young people do not understand common terminology found in published terms, and often key terms are not defined. For example, some of the young people we spoke with did not understand what the term ‘cookie’ referred to. When one young person explained to their peers that cookies act as repositories for personal information, like ‘cookie jars’ filled with data, it was met with shock.

“If you say cookies, it sounds so sweet, I always thought cookies were just like... I don't even know. It's just a cute word, so I was just like, yes, that's fine.”

“I'm not going to lie. I used to think it was like points, and then they'd get added up... Oh, of course I'd love these cookies. Then it all adds up, and then you'd get a reward or something.”

Young people are also largely unaware that tracking technologies (‘pixels’) are used to monitor their engagement on other sites, even after a session on the service they used originally has ended. Candied terms for tracking and surveillance technologies like ‘cookie’ and ‘pixel’ are commonplace, but these terms obscure uncomfortable truths about how companies process data.

¹² Youth Juries participants, 5Rights Foundation, April 2015.

¹³ 5Rights Published terms workshop, November 2020.

Increasingly regulators are insisting on language that is accessible to child users:

The Age Appropriate Design Code (AADC) states “if you believe that you need to draft your terms and conditions in a certain way in order to make them legally robust, then you can provide child-friendly explanations to sit alongside the legal drafting.”¹⁴ The AADC also makes clear that simplification must not be used to obscure or in any way minimise the impact of the terms that the child or parent is agreeing to.¹⁵

Similarly, Ofcom’s draft guidance for video-sharing platforms states “platforms who have a typically younger user profile should consider providing child-friendly explanations. We note that studies involving such simplified terms and conditions have demonstrated increased engagement from younger users.”¹⁶

To present published terms in an age appropriate way, language used must be simple, straightforward and pitched at a level that the youngest likely user can understand. Younger children require simpler terms and benefit from the use of synonyms, analogies, or examples.

Published terms should aid comprehension

Even if the language used in published terms is simple, it is also necessary to ensure that the underlying message and terms of agreement have been understood. It is a frequent complaint from young people that they are agreeing to things that they simply do not know are there, or that they do not understand the implications of.

“Make it as easy to learn and understand as it is to tick...”¹⁷

“They must know that no one reads the terms and conditions. But if they made it more easy then people would actually read them and think twice about the app. They write it like this so you can’t understand it.”¹⁸

BBC ‘Own It’

Young people can test their understanding of the terms and conditions of popular social media sites in a quiz developed by the BBC on the ‘Own It’ service.¹⁹

¹⁴ [Transparency](#), Age Appropriate Design Code.

¹⁵ [Transparency](#), Age Appropriate Design Code.

¹⁶ [Video-sharing platform guidance](#), Guidance for providers on measures to protect users from harmful material, Ofcom, March 2021.

¹⁷ Participant in Royal Foundation Task Force Group, 5Rights Foundation, September 2016.

¹⁸ [Growing up Digital: A report of the Growing up Digital Taskforce](#), Children’s Commissioner, January 2017.

¹⁹ [Quiz: Ts and Cs – True or False?](#), BBC Own It.

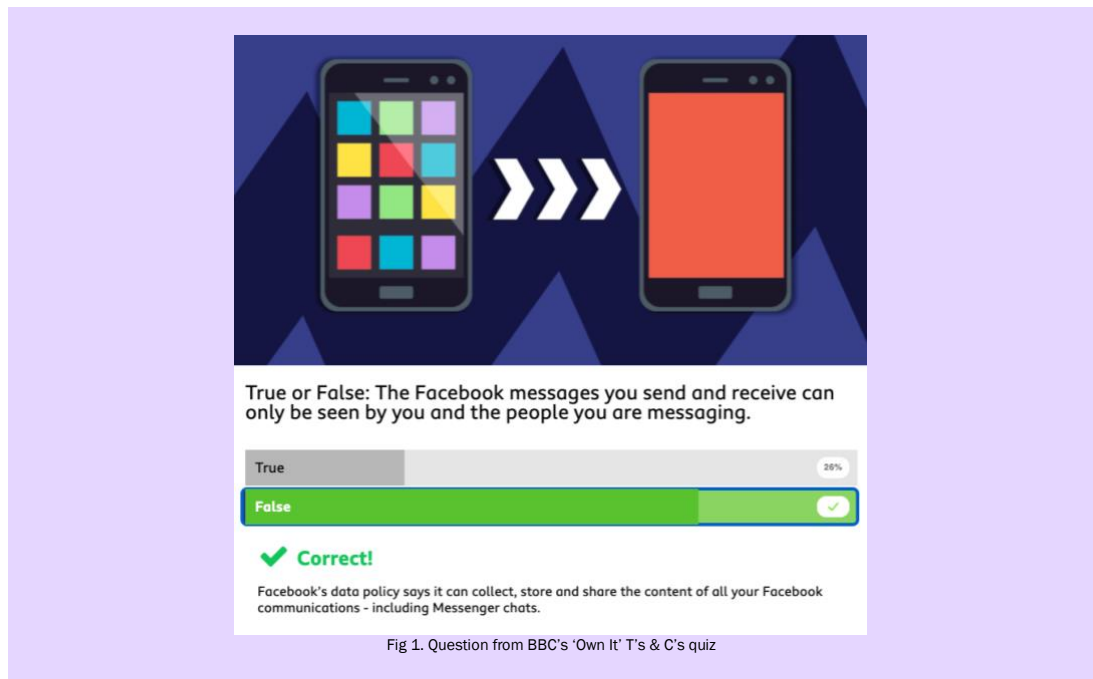


Fig 1. Question from BBC's 'Own It' T's & C's quiz

Approaches from other sectors can be adopted to ensure young people have the best opportunity to understand published terms. For example, Public Health England writes for an average reading age of nine for all public facing announcements and publications.²⁰ In other industries, the requirement to prove consumer understanding of terms relating to a product or service has been a driver for companies to align their practices with consumer expectations. The financial services sector for example, has come under increasing pressure to demonstrate that consumers understand terms of service, or face penalties if they cannot do so.²¹

Published terms must be presented in an age appropriate way so that children understand the implications of the agreement they are being asked to enter into. Services should not use given agreement or proof of understanding as an excuse to enter into an agreement with a child that is not age appropriate or in their best interests.

Length

Published terms should be concise

Published terms tend to be incredibly long, set out in endless, text-based documents. In a recent study, the BBC looked at the published terms of 15 of the most popular services among young people, including Spotify and YouTube and estimated that the combined estimated reading time for an adult of nine hours, without breaks.²² Similarly, Tik Tok's published terms include Terms of Service that alone total 27,520 words - that is 75 A4-pages, 329 paragraphs and 1,008 sentences, with 4,463 "difficult words".²³ For the average adult reader, this would take an hour and a half to read. Young people

²⁰ [PHE Screening publications production and review](#), Public Health England, updated December 2018.

²¹ [The consumer financial protection bureau and the quest for consumer comprehension](#), Lauren E. Willis, January 2017.

²² [Social site terms tougher than Dickens](#), BBC, July 2018.

²³ [Terms of Service](#), TikTok Legal.

are consistent in saying that if they could find the pertinent parts of the terms they would be more likely to take the time to understand them.

“I do think they should do the terms and policies in about four bullet points just stating the actual things we need to know rather than carry on going because they know we aren’t going to read it.”²⁴

“You should be given an option to have a short version and a longer version. Because a shorter version is for young people said in simple words so they can understand.”²⁵

Ofcom’s draft guidance for video-sharing platforms states “long and complex terms and conditions mean users are unlikely to engage with them and this is unlikely to lead to their effective implementation, particularly on platforms which are popular with under-18s.”²⁶

PopJam

PopJam is an online community designed for 7-12 year olds. Key information is positioned at the top of their homepage, with labels, icons and recognisable wording, such as “Safety” and “Rules”. The headings and titles are bold, large, and colourful, and use clear and simple language.²⁷ The community guidelines are easily accessible under the heading ‘PopJam Rules’ and are divided into short, easily digestible sections.

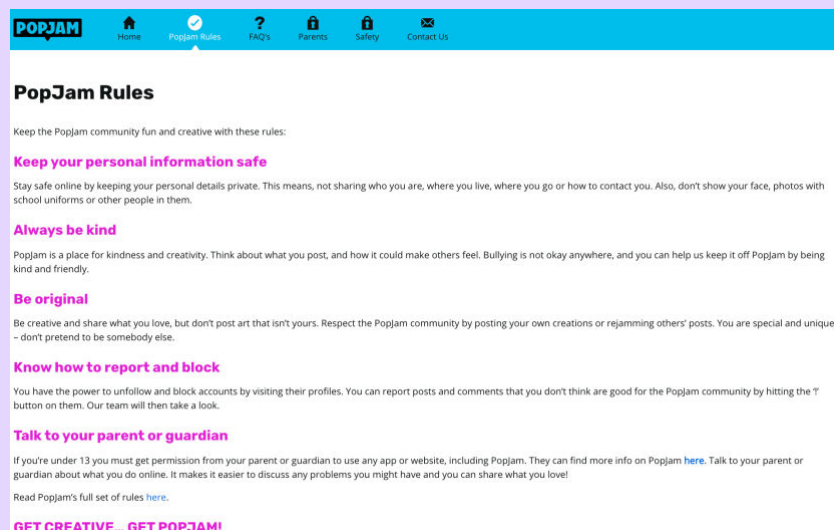


Fig 2. Popjam’s Rules as published on the PopJam website

²⁴ Data literacy workshops in London schools, 5Rights Foundation and Snook, 2019.

²⁵ 5Rights Published terms workshop, November 2020.

²⁶ [Ofcom draft guidance for providers of video-sharing platforms on measures to protect users from harmful material](#), March 2021.

²⁷ [PopJam Rules](#), PopJam.

Published terms should be short in length (word count),²⁸ divided into clear sections and/or made available in bite-sized pieces. They should highlight risks and functionality that might be challenging for children at different development stages. Shorter published terms should still include the most important information.

Format

Published terms should be presented in multiple formats for different age ranges

Published terms are usually presented in a single format that does not account for the varying abilities and capacities of children in different age groups. A single set of 'one-size-fits-all' published terms is unlikely to serve both older teenagers and younger children.

“If they’re written, they shouldn’t be one dry black text, [they should have a] background, outlined sections, photos to break up text. Even if language has to be formal, we can make it easier on the eye.”²⁹

“They need to have shorter sentences and shorter paragraphs, not masses and masses and masses of writing. It just gets confusing.”³⁰

The Age Appropriate Design Code states “the age range of your audience and the different needs of children at different ages and stages of development should be at the heart of how you design your service.”⁴³

Often terms are set out in large blocks of text which many young people struggle to read. They say they would prefer to see written terms presented in other formats that are easier to absorb, such as animations, audio, videos or graphics.

The Behavioural Insights Team’s ‘Best practice guide’ for improving consumer understanding of contractual terms and privacy policies describes how the use of illustrations increased understanding rates by 24% and information provided in a comic format improved comprehension by 19%.³¹

²⁸ Many readability checker websites offer an assessment of word length or number of sentences. Tools such as Microsoft Word can also perform this function. (E.g. <http://readabilityscore.com/> and <https://www.webfx.com/tools/read-able/>)

²⁹ 5Rights Published terms workshop, November 2020.

³⁰ *Ibid.*

³¹ Best practice guide, [Improving consumer understanding of contractual terms and privacy policies: evidence-based actions for businesses](#), The Behavioural Insights Team, August 2019.

The Age Appropriate Design Code suggests services “include diagrams, cartoons, graphics, video and audio content, and gamified or interactive content that will attract and interest children, rather than relying solely on written [text] communications.”³² The ICO’s guidance on children and GDPR also encourages the use of “child friendly ways of presenting privacy information, such as diagrams, cartoons, graphics and videos, dashboard, layered and just-in time notices, icons and symbols.”³³

Yubo

The social networking service aimed at 13-25 year olds has created a ‘Guide for teens’ which includes information about the service’s community rules, presented with bright graphics and easily digestible chunks of information.

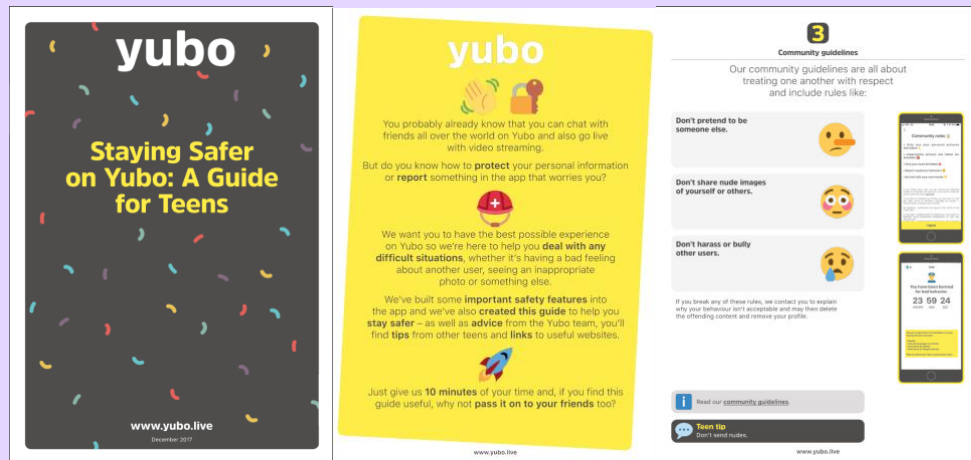


Fig 3. Popjam's Rules as published on the PopJam website

Services should present their terms in multiple formats to aid comprehension. Consulting and co-creating published terms with children will determine the most appropriate methods of presentation that will cater to a broad range of young people.

Navigability

Published terms should be prominent and easy to find

Terms are often hard to find, located at the bottom of a page in very small text or under ‘legal’ or ‘policy’ headings, or buried underneath layers of menu options alongside other legal documents.

“When you have a small bit at the bottom that’s oversimplified, you don’t know exactly what you’re signing up to, but if it covers half the screen, it becomes an inconvenience.”³⁴

³² *Ibid.*

³³ *Children and the GDPR*, ICO, 2018.

³⁴ 5Rights Published terms workshop, November 2020.

Users also often have to comb through multiple documents to find the parts that are relevant to them, piece together different bits of information and understand the implications for their use of the service. For example, Twitch, a livestreaming and gaming platform, has 22 different agreements comprising their published terms, including a 14-page Terms of Service, 9-page Privacy Notice, 3-page Cookie Policy and 24-page Community Guidelines.³⁵

Many published terms are not searchable, and the key terms, headings and organisation of information differs across different products and services, making it hard for a young person to build up an understanding of where the information they seek is likely to be found.

Published terms should also be easily navigable, searchable and clearly structured to provide the information a young person needs or wants to know. They should be clearly visible and given prominence within the service. Information should be divided into short sections with relevant headings in plain, age sensitive language and key terms should be presented in bold text or with eye catching graphics and icons.

Timing

Published terms should be presented at the right moments in a user journey

The timing of when terms appear in a young person's user journey is critical. Many young people say that timing is one of the main reasons they 'tick to agree', without understanding what they are agreeing to, so they can start using the service as quickly as possible.³⁶

Published terms usually appear as a tick box request at the point of downloading, registering with or first using a service, giving users little or no opportunity to review them before the point of engagement. Terms are less likely to be read when presented at the moment a user is trying to access a service, with users often ticking to agree simply to get onto the service, often with minimal understanding of the agreement they are entering into.

“We don't really look at the little writing in terms and policies. We just want to get to the actual app.”³⁷

Research from the Behavioural Insights Team, Doteveryone and the Centre for Data Ethics and Innovation shows that when users are given the option to change privacy or advertising preferences at the point of access, the urge to use the service overrides engagement with settings.³⁸ Similarly the Competition and Markets Authority (CMA) found that less than 5% of people who joined Facebook in February 2020 engaged with advertising or privacy controls within 30 days of registering.³⁹

Additionally, terms are generally more difficult to find after a user has given their agreement and consent, and many services place the responsibility on their users to

³⁵ [Legal](#), Twitch.

³⁶ [Written evidence submitted by the Horizon Digital Economy Research Institute](#), The University of Nottingham (SMH0131), April 2018.

³⁷ Data literacy workshops in London schools, 5Rights Foundation and Snook, 2019.

³⁸ [Active Online Choices: Designing to Empower Users](#), The Behavioural Insights Team, doteveryone, Centre for Data Ethics and Innovation, November 2020.

³⁹ [Online platforms and digital advertising](#), Competition & Markets Authority, July 2020.

periodically refer back to published terms to find out if the service has made any updates to their policies. This is all the more challenging when published terms are difficult to locate.

A lengthy page or document setting out published terms is often a barrier to access and understanding, whereas ongoing, meaningful engagement at regular intervals and at crucial moments, including every instance where consent is sought, can support a young person to comprehend any terms of agreement they are entering into.

For a lower risk platform, a basic overview of terms at the initial point of download or access, with an 'edit details later' option, may be appropriate. This would allow young people quick access to a service, with options to change settings or take in further detail at a more convenient stage when they are not just wanting to 'get online', such as via email, during app setup, or through notifications/red flags at later stages of the user journey. Through this approach, young people can engage with terms in smaller, more understandable sections, but still be given all the required information over the course of their interaction with a service.

The ICO's Children's Code design guidance describes the process of mapping points of data collection to help services find the best moments to engage children with privacy information:

"You should understand how you collect data in the context of your user journey to identify when and how to communicate privacy information. Look out for moments where you track geolocation, use personalisation or share data with other users or third parties."

It explains that there are important 'moments' in a user journey in which privacy information should be communicated, such as onboarding, adding or removing features, reviewing or changing settings, releasing product updates and deleting user accounts.⁴⁰

Meaningful engagement at regular intervals and at crucial moments, including when consent is sought, should be used to support a young person to engage with and understand published terms. While young people could be usefully given different pieces of information at different times in their user journey, this should not be used to undermine their understanding or offer them a service that is not age appropriate or in their best interests.

Consent and permissions should be time limited

The assumption of many companies is that users give their agreement/consent to terms indefinitely. Facebook, for example continues to track data from its users, even when a user does not have the Facebook app open, or when a user has deactivated their account.⁴¹

Published terms are not always re-presented to users when they are changed or updated. Many services assert (as part of their published terms) that it is the user's responsibility to check for any changes made after they've signed up. A user's continuing use of a service means automatic acceptance of any changes to terms,

⁴⁰ [ICO Children's Code design guidance.](#)

⁴¹ [Facebook still tracks you after you deactivate your account](#), CNET, April 2019.

without them ever having been aware of them. For example, both Tik Tok⁴² and Apple⁴³ reserve the right to change, modify, add or remove portions of their Terms of Use, stating that it is the user's responsibility to check periodically for changes, and that their continued use of the site following changes being made means the user accepts and agrees to them.

My Gem Inside

An app designed to support the cognitive, emotional and behavioural development of children with autism, 'My Gem Inside', was examined as part of series of case studies into children's data governance conducted by the IEEE Standards Association. The app's Privacy Policy explains what data is being gathered for the basic operation of the app. For any additional data collection through a child's engagement with the app, consent is sought via pop-ups. For example, in a module that teaches about recognising emotions, the app asks for consent to process facial analysis data via a pop-up. This pop-up informs parents or the person responsible for the child that facial analysis technology is being used and asks for their permission to proceed. They are able to withdraw consent at any time in the app's settings.⁴⁴

Platforms and services should develop timelines or include features that allow young users to give their consent on an ongoing basis. Features such as nudges can remind users to withdraw from agreements that cover parts of the service they are no longer using or to indicate that the terms of service have changed and require further consideration.

Inclusivity

Published terms should consider the diverse needs of young people

To be inclusive, accessible and increase usability, published terms should be written and presented in a way that shows a commitment to accommodating different groups of children.

Published terms cater primarily towards English speaking users which can exacerbate inequalities. In countries that have multiple national languages, such as Canada, it may be a legal requirement to provide published terms in different languages.⁴⁵ Such an approach could be extended to significant minority languages. Similarly, published terms should use vocabulary that is not specialised so that children from all backgrounds can understand them. The onus should not be on a young user to translate (or decrypt) published terms.⁴⁶

⁴² [Legal - Terms of Service](#), TikTok (3. Changes to the Terms) states: "We will use commercially reasonable efforts to provide reasonable notice to all users of any material changes to these Terms, such as through a notice on our Platform, however, you should look at the Terms regularly to check for such changes. We will also update the "Last Updated" date at the top of these Terms, which reflect the effective date of such Terms. Your continued access or use of the Services after the date of the new Terms constitutes your acceptance of the new Terms. If you do not agree to the new Terms, you must stop accessing or using the Services."

⁴³ [Ownership of Site; Agreement to Terms of Use](#), Apple Website Terms of Use.

⁴⁴ [Applied Studies for Children's Data Governance](#), Nguyen S., IEEE-SA, 2021.

⁴⁵ In Canada, it is a requirement by law that essential information must be provided to consumers in both English and French. More information about translation/language options and advice for sites producing legal agreements can be found here: <https://www.termsfeed.com/blog/translating-legal-agreements/>.

⁴⁶ [Towards an Internet Safety Strategy](#), 5Rights Foundation, 2019.

Inclusivity can often be improved through the involvement of young people. Very often they have concerns and ideas that adults may not have thought of. User testing with a diverse range of children can help to ensure terms are inclusive and address the issues that young people are concerned about when engaging with services.

Published terms should not assume adult involvement

There is often a presumption that an ‘engaged adult’ is present in a young person’s digital life, which for many children is simply not the case. It is common to read terms of service or privacy policies that request a child discuss their use of a website with their guardian, or instruct them to stop using the website entirely in the absence of an adult.

For example, Bulbagarden, an online Pokémon wiki and forum, states in its privacy policy, “if you are a parent or guardian and you are aware that your child has provided us with personal data without your consent, please contact us. If we become aware that we have collected personal data from children without parental consent, we take steps to remove that information from our servers”. Whilst putting this responsibility on parents, Bulbagarden does not take any further steps to stop children from using their site or sharing information about themselves. It is not clear in their terms what age a user must be to post on their site and there is no tailored information provided to young people directly.

In the course of preparing this paper, we looked at 123 privacy policies for websites likely to be accessed by children, only 9 of which (7%) had a specific policy targeted at children, although several sites had a “children’s privacy policy” aimed at parents of under-13s.⁴⁷

Services must account for the needs of children who may not have actively engaged parents or carers in the presentation of their published terms.

Published terms must cater for children with accessibility needs

‘Universal Accessibility’, as set out in the UNCRC’s General comment No. 25 (2021) on children’s rights in relation to the digital environment⁴⁸, states that children with disabilities should be able to use a service without the need for adaptation.

“[I’m] dyslexic and find it hard to read. I like diagrams and pictures.”⁴⁹

“They should have a button where you can do like, ‘do you want someone to read it for you?’ Then you press the button, and they read it out for you.”⁵⁰

“They should use really bright colours. I don't like it when they use blue and light colours that you can't really read against.”

⁴⁷ Figures obtained with thanks to Ephraim Luwemba, University of Nottingham.

⁴⁸ [General comment No. 25 \(2021\) on children’s rights in relation to the digital environment](#).

⁴⁹ Girl, aged 11, East Lothian, UNCRC Young Writers Workshop, 5Rights Foundation, November 2020.

⁵⁰ 5Rights Published terms workshop, November 2020.

Services provided by public sector organisations are already required by law to meet accessibility standards,⁵¹ and very many organisations make their services accessible voluntarily.

The Web Content Accessibility Guidelines (WCAG) have been developed by W3C to provide a universal standard for web content accessibility. To adhere to this standard, services must ensure content is *perceivable*, *operable*, *understandable* and *robust*.⁵² Below are some examples of best practice for accessibility that can be adopted in the presentation of published terms. To design for overall accessibility, it is important that organisations familiarise themselves with the full W3C guidelines:⁵³

- **Alternatives are given for content that is not text, and for time-based media.** When information is presented in visual, audio, or video format, alternative text should be given. For example, images should include alt-text providing a relevant description of what they contain, icons or buttons labelled with their function and brief descriptions given for audio and video files.⁵⁴ For pre-recorded or live audio/visual content that the user cannot access on the site in another format, it is important that alternative provisions are made, such as captions, subtitles, audio descriptions or sign-language.⁵⁵
- **The content can be adapted for different devices.** Published terms should be presentable in different formats without losing information or structure. For those who use assistive technologies, it is important that information is structured in a way that allows those technologies to 'read aloud' the information available and create summaries or outlines of pages. It is also important that pages are designed for multiple device types, including phones and tablets.
- **The content can be interpreted by assistive technology.** Beyond the readability of content, it is important that users who use assistive technology have the means to understand what they are reading. This means that it should be possible for software to identify the language being used so that assistive technologies and web tools can provide help to people in the correct language. This also means that the words used should be searchable using a dictionary, and when they are not, help is provided. For example, when phrases are used in an unusual way, or there are abbreviations, idioms and jargon, links to definitions, description lists or glossaries should be provided.
- **The content is easy to distinguish.** Content should be presented in a way that allows users to customise it by colour, text size and other styling features. Colour should never be the only design feature used to distinguish the meaning of the content and the colour contrast used for text and other information must be high to make it easier to see. For people who are using audio to help them navigate the site, it is important that background sounds (such as audio from auto-play videos) are kept at a minimum and can be paused.

⁵¹ Depending on jurisdiction and services provided, legislation such as [the Equality Act 2010](#) may apply – see discrimination arising from disability.

⁵² [Introduction to Understanding WCAG 2.1](#), W3C.

⁵³ [W3C guidelines on accessibility, examples and case studies](#).

⁵⁴ In short, this means that for all non-text content relevant meta-data should be adopted so that it can be perceived by assistive technologies. [Principle A:2: Editing-views are perceivable](#), W3C.

⁵⁵ [Nudity & sexual content policies](#), YouTube Help.

- **The service can be navigated with a keyboard and other input devices.** It must be possible to interact with, and navigate, terms using a keyboard and other non-standard input devices, such as touch activation, voice recognition and low-dexterity gestures.
- **The content should be well structured.** Services should give users ways to navigate, find content, and determine where they are. Sections should be labelled and there should be more than one way to navigate content, for example, by including a search bar as well as a dropdown menu. For assistive technologies, it is also important that the purpose of links and other navigation elements are explained and that the user can tell where they are located on the site.⁵⁶

All organisations should ensure their sites do not exclude children with accessibility needs.

⁵⁶ [How to Meet WCAG \(Quick Reference\)](#), W3C.

Ensuring meaningful consent

The presentation of published terms is central to a young person’s understanding of and ability to interact with a service but unless they are given meaningful choices about how they wish to engage with a service and an age appropriate service, the presentation of those terms becomes irrelevant. Meaningful consent is something that young people are routinely denied in the digital world, but it is an integral part of upholding their rights.

Consent must be obtained and sought, not assumed

Meaningful consent means giving users free, fair and regular opportunities to participate on terms that they understand but also *not* to participate in elements of the terms that they are uncomfortable with.⁵⁷ It means users are able to consent to enabling specific aspects of a service without consenting to others, including non-essential elements.

“It made me realise how much of my personal data I am giving to a random company without realising...”⁵⁸

Consent should also be sought again if conditions change, for example, Roblox’s Terms of Use state that “[Roblox] reserves the right to update or modify the Terms at any time without prior notice.”⁵⁹ The terms also state “your use of the Service following any such change constitutes your agreement to be bound by the modified Terms”,⁶⁰ which allows Roblox to make changes that young people are unaware of.

Consent should be sought each time there is a change to published terms and it should be possible for children to withdraw consent, both after regular periods of time and at times of their own choosing.

Users should be given meaningful choices

In many cases, it is not possible to access a service at all without agreeing to all the terms. Binary terms (‘agree’ or ‘disagree’) force users to accept all conditions with no reasonable choice to refuse or opt out of non-essential elements.

This allows services to gather data at industrial scale, usually for commercial purposes that are largely unknown to users leaving children vulnerable to profiling and micro-targeting. For example, Snapchat provides a one-click path to accept all of the platform’s data collection practices, without the option to reject non-essential data collection. In order to control the forms of data Snapchat collects, users either have to individually delete data they do not wish to share, disable features entirely, or visit Snapchat’s support page to alert the service that they do not agree to the processing of certain data.⁶¹ At no point are there nudges that would help a child make a privacy

⁵⁷ For more discussion on participant consent and ethics, see the University of Oxford [guide for researchers](#) and related links for examples of key principles.

⁵⁸ Ben, 16-year-old. [Growing Up Digital: A Report of the Growing Up Digital Taskforce](#), January 2017.

⁵⁹ [Acceptance of Terms](#), Roblox.

⁶⁰ *Ibid.*

⁶¹ Under the heading ‘[Your Right to Object](#)’, Snapchat’s privacy policy contains the following information: You have the right to object to our use of your information. With many types of data, we’ve provided you with the ability to simply delete it if you don’t want us processing it anymore. For other types of data, we’ve given you the ability to stop the use of your

preserving decision when they agree to Snapchat’s published terms. Similarly, Steam, a digital video game distribution service, gives users the choice to “Accept all” cookie choices or “Reject all.”⁶² This binary choice is widespread and in most cases it is not clear how a user’s experience will be changed if they do not consent to all cookies.

The “inflexibility and non-negotiability of terms and conditions limits the extent to which consent can be considered meaningful”, and it follows that “children are unlikely to see the point in reading something they effectively have to accept anyway.”⁶³

“Social media shouldn’t make choices for you. We need to give people an option.”⁶⁴

Young people are frustrated when denied the opportunity to agree to published terms on a policy-by-policy basis, for example, preventing a child using a message service if they do not agree to make the contents of their phonebook available. Similarly, they do not expect to be locked out of a service entirely if they reject bundled terms.

“Tell us why you are asking permission in language that we understand. Don’t block us if we say no.”⁶⁵

BBC website

The BBC website’s cookie preference gives options for users to select only options that are necessary for the functioning of the service.

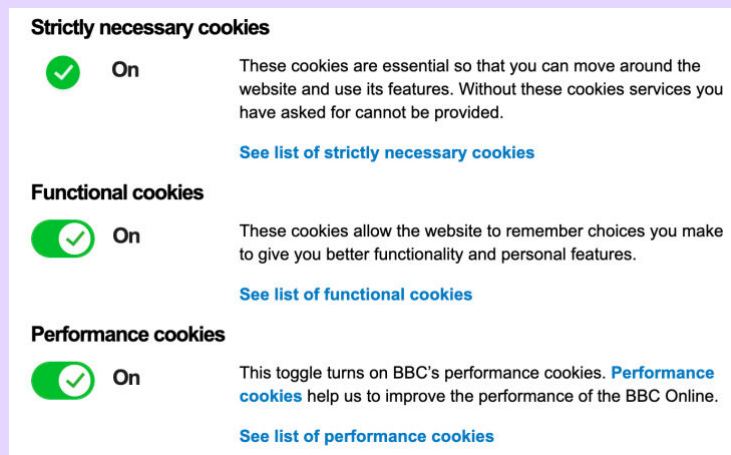


Fig.4: BBC's cookie preferences showing multiple options

Young people must be given the option to refuse individual terms without being precluded access to other parts of the service. It should be possible to opt-in or opt-out of particular aspects of a service, they should not be asked to give data that is not necessary for the function of the part of the service that the child is using.

data by disabling the feature altogether. You can do these things in the app. If there are other types of information you don't agree with us processing, you can contact us.

⁶² [Steam website.](#)

⁶³ [Barnardos - Submission to the call for evidence on the Age Appropriate Design Code](#), Sept 2018.

⁶⁴ Youth Commission Workshop 1 Participant, 5Rights Foundation, February 2019.

⁶⁵ Royal Foundation Taskforce Focus Groups, 5Rights Foundation, September 2016.

Services should use positive nudge techniques

It is common practice for services to generate friction at the level of design through the use of ‘dark patterns’. This kind of persuasive design borrows techniques from behavioural science and psychological theory to influence online behaviour.⁶⁶ These techniques are often used to optimise user behaviour in the best interests of companies and to direct users towards a certain course of action. For example, terms and conditions with choices that are ‘pre-ticked’ nudge users into consenting without reading or understanding what they are agreeing to. Or high privacy settings that are then immediately followed by nudges to lower them. Such techniques are violations of the special protections to children’s data as defined in GDPR⁶⁷ and the UK’s Age Appropriate Design Code,⁶⁸ and do not uphold children’s rights in the digital environment.⁶⁹

“There should be a reject button. You shouldn't have to click three times to be able to reject...”

“It shouldn't just be ‘agree’. There should be a disagree button in case you don't agree with what they're doing, and you don't agree to them collecting your data and tracking other apps and websites you go to.”

Conversely, positive nudge techniques can aid comprehension of published terms. For example, presenting terms as a ‘pop-up’, alongside a particular aspect or function of the service or as an interstitial* message, allows users to understand what they may need to know or agree to in relation to that specific function. Nudges can also help users to re-engage with terms after a certain period of use, or after certain patterns of behaviour.

LEGO Life

LEGO Life asks all users to sign the safety pledge before using the app. Their “Captain Safety” character delivers positive safety messages as just-in-time notices, reminding children not to overshare personal information or upload images to the app that could cause offense to others.⁷⁰

Positive nudges and bite size information help children understand and accept terms at different stages of their user journey. They must be able to choose to change their mind at a later point.

Terms of agreement should be proportionate to the value young people derive from the service

⁶⁶ [Disrupted Childhood. The Cost of Persuasive Design](#), 5Rights Foundation, 2018.

⁶⁷ [Recital 38](#), Special Protection of Children’s Personal Data. GDPR.

⁶⁸ [Age Appropriate Design Code](#), ICO.

⁶⁹ [The United Nations Convention on the Rights of the Child](#), 1990.

* An interstitial (something “in between”) is a page that is inserted in the normal flow of editorial content constructured on a Web site for the purpose of advertising or promotion.

⁷⁰ Lego Life, [Digital Safety](#) page.

One of the major themes to emerge from our research with young people is that they feel the length and contents of terms are disproportionate to the value they derive from interacting with services.

“If a stranger on the street came up to you and said “Hi, can I have your phone number, your email address, your address, your full name and your date of birth”, you wouldn't give it to them. Why would you give it to some anonymous company online just to make an account to say hi to your friends?”⁷¹

As is being pointed out by the young person quoted above, entering a public space offline does not usually involve excessive disclosure or loss of privacy. In the digital world, children are asked to give up huge amounts of personal information to access the majority of spaces. Young people are aware of the power imbalance between users and service providers, but they do not feel empowered to change this. Since the majority of their peers use the same services, they often feel that without withdrawing their participation completely, they have no choice but to agree to published terms.

“If I accept, it's not like it's just going to be me, it's everyone else. It's normalised that you just press accept because everyone else probably will. Just accept, accept, accept.”⁷²

The terms that they are being asked to agree to should be proportionate to their use of and engagement with the service.

⁷¹ 5Rights Published terms workshop, November 2020.

⁷² *Ibid.*

Case study: a single set of personal terms

Children consistently ask for a single set of terms that reflect their individual expectations and tolerances, that can be used across all the services that they use. This reflects their desire to have a better digital world that prioritises their safety and wellbeing, without costing their access or good user experience.

“Because that way you only have to do it once and you’ve got everything covered. Then you know that you’ve done it and you’re protected against a lot of websites.”⁷³

Attempts have been made to develop technology that achieves this, such as browser extensions which communicate a user’s preferences to other sites.⁷⁴

The Platform for Privacy Preferences

In the mid-1990s, the Platform for Privacy Preferences Project (P3P) was set up by the Worldwide Web Consortium (WC3) as a way of presenting privacy policies to users and managing their privacy preferences (a ‘policy language’). The early champions of P3P “described web browsers that could read privacy policies, negotiate with websites, and take actions on their users’ behalf without interfering with the web browsing experience.”⁷⁵

The P3P had a set of rules that allowed websites to communicate information about their policies in a format that web browsers could understand. P3P was still available to users of Internet Explorer and Microsoft Edge until the emergence of Windows 10 in 2015, when Microsoft stopped supporting it.

P3P failed for a number of reasons, including a lack of clarity in the policy language itself and a complicated interface for users to set their preferences. However, as the privacy scholar Lorrie Cranor notes, arguably the biggest reason for P3P’s failure was that there were no incentives for businesses to adopt it, and that those that did often used it in a misleading way.

⁷³ 5Rights Published terms workshop, November 2020.

⁷⁴ See, for example, the EUs 2011 [PrimeLife project](#).

⁷⁵ [P3P: Making privacy policies more useful. Necessary but not sufficient: Standardized mechanisms for privacy notice and choice](#), anor, L. F. (2003), *Journal on Telecommunications and High Technology Law*, 10, 273–307.

Send Data?

Your data will be sent and used for the following purposes

Attributes	Purposes				
	Administration	Contact	Feedback	Marketing	Payment
Name - Certified By: Driver's License [Swedish] - ... Inga Vainstein	> Ex	>>	> Ex	> Ex >>	-
Credit Card - Certified By: Visa Credit Card [My private...] 1234 5678 9012 3456 Exp: 2012-01-12	-	-	-	-	> V
E-Mail: @	> Ex >>	>>	> Ex	> Ex >>	-

> Data will be sent to:
 Ex Example.com's checkout (store.example.com, contact@example.com) [Privacy Policy](#)
 V Visa (www.visa.com, customersupport@visa.com) [Privacy Policy](#)

>>> Data will be forwarded to others
 - Data will not be sent

Privacy policy matching
 Your [Privacy Settings](#) do not match with [Ex's Privacy Policy](#) because,
 your settings say that you want your:
 - E-Mail not to be used for Marketing purposes
 - E-Mail not to be retained for 10 days (settings: 7 days)

My current privacy settings:
 Medium Privacy Settings
 Accept mismatch
 for this transaction only

Cancel Send

Fig. 5: An example of a policy language like P3P from the EU's PrimeLife Project, mediating the privacy dialogue between a user and website.

With the requisite investment and resources, similar tools could be developed with young users in mind to give children more seamless, privacy-preserving and age appropriate experiences online. The success of such tools would depend on interoperability, and the commitment and collaboration of different platforms and services.

Active Online Choices Project

In a research project conducted throughout 2020 and 2021, the Behavioural Insights Team worked with the Centre for Data Ethics and Innovation (CDEI) to explore and demonstrate how to create 'active' choices, where individual users are empowered to better control and make more personal choices about how they use digital products and services.⁷⁶

They conducted three experiments to test how our alternative interfaces and choice bundles improve the ability of users to make informed choices about their privacy and personalisation settings.

The alternative interfaces included:

- A 'slider mode', allowing manual customisation along a spectrum. The slider signals to the user the options and that these sit on a range.
- A four-box grid design to customise personal priorities for browser experience.
- A 'private mode', bundling choices together into a simple binary.

⁷⁶ [Active Online Choices: Final Report](#), Behavioural Insights Team and the Centre for Data Ethics and Innovation, August 2021

- A ‘third party’ option where participants could ‘delegate choice’ over their settings to a trusted third party organisation, such as Which? or Mind.

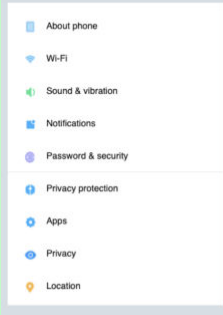
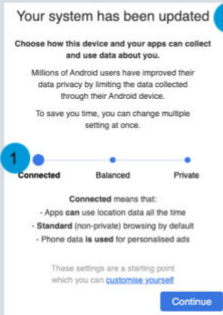
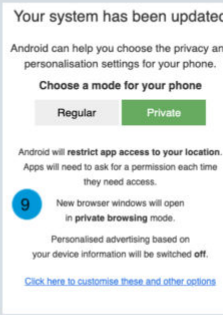
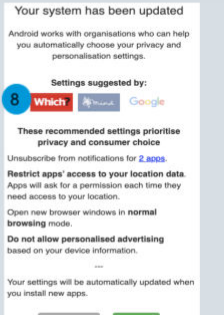
Control	1A: Slider	1B: Private mode	1C: Trusted third party ²³
<ul style="list-style-type: none"> • Settings not relevant to the task were removed/made inactive to make it more comparable to the intervention designs. • This design had preselected options. 	<ul style="list-style-type: none"> • Sliders have been effective in aiding consumer decision-making in other contexts, such as finance. 	<ul style="list-style-type: none"> • The concept of a ‘private mode’ should be familiar to ~50% users from private browsing modes on web browsers. 	<ul style="list-style-type: none"> • Users could delegate choice to a third party organisation.
<ul style="list-style-type: none"> • None of the options were preselected. • Explanations appeared when a user clicked on one of the options. 			
			

Fig 6. Examples of the alternative smartphone interfaces tested with users

The experiments conducted on smartphone and web browsers showed that simplified and bundled privacy settings better enabled users to make choices in line with their preferences. Detailed findings can be found in the [full report](#).

Upholding published terms

The presentation of published terms only goes so far in meeting the needs and rights of young people online. Published terms must be more than just a statement of intent - they must also be upheld. This means services must say what they do, and do what they say. The diagram below shows the relationship between published terms, meaningful consent, and enforcement of those terms.

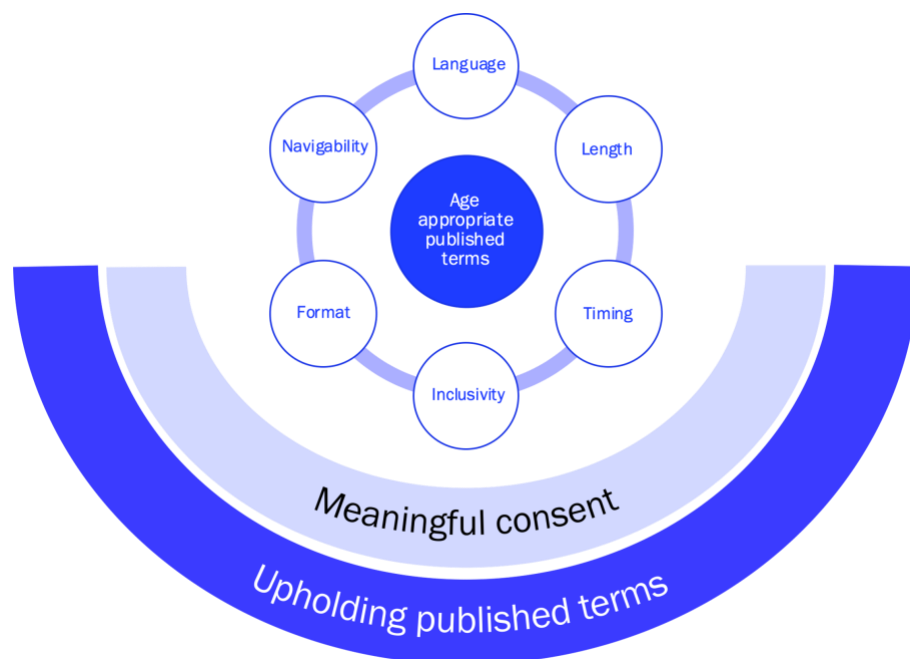


Fig. 6: Matrix for age appropriate published terms, meaningful consent and upholding terms

Terms of service must be consistently enforced

Research shows that millions of children use sites that they are too young to access.⁷⁷ The vast majority of these sites, however, wilfully ignore children below their stated minimum age of use. Similarly, exposure to banned material in online spaces popular with young people is common.⁷⁸ The figures that big companies publish of the content they 'take down' are enormous but they represents a miniscule amount of the material that does not meet the services' own community guidelines. For example, content on Facebook flagged by researchers from the Wall Street Journal, that promoted violence and/or spreading dangerous misinformation remained on the site, despite violating Facebook's own guidelines. Of the 276 posts, memes, and comments that were reported, only 32 were taken down, leaving visible "false posts about a left-wing arson conspiracy and jokes about the victims of the Kenosha violence...wishing death or lifelong disabilities for Los Angeles sheriff's deputies who survived an unprovoked shooting."⁷⁹

⁷⁷ Ofcom report that more than four in ten children use social media sites or apps before they reach the minimum age requirements. [Children and parents: Media use and attitudes report 2020/21](#), Ofcom, April 2021.

⁷⁸ See 5Rights report [Pathways: How Digital Design puts children at risk](#).

⁷⁹ [Facebook Has Made Lots of New Rules This Year. It Doesn't Always Enforce Them..](#), Wall Street Journal, October 2020.

A common assertion from young people is that there are no consequences for abusive behaviour online.⁸⁰ This leads to a “nothing happens anyway” attitude that prevents young people from reporting complaints.

“Nothing happens on social media, no one gets into trouble. So many people say bad stuff.”⁸¹

The Age Appropriate Design Code states “you should provide information that is accurate and does not promise protections or standards that are not routinely upheld.”⁸²

When in doubt about standards, local or national law, published terms should reflect the best interests of the child, as set out in General comment No. 25 on children’s rights in relation to the digital environment.⁸³

Services likely to be accessed by children should provide terms and conditions and mechanisms for redress that are suitable for children.⁸⁴ Terms should also adhere to any relevant industry codes or guidance that offers protection and safeguards for children.

Rules must be harmonised and consistent with relevant regulation

The consistent enforcement of rules is necessary to create a culture of good governance and clarity for parents and young people. Many other sectors have codes of practice and industry guidelines that have long considered the needs of young people. For example, the Broadcasting code, produced by the UK’s broadcast media regulator Ofcom, includes age appropriate considerations for media content, such as restrictions on sexual or violent television content before 9pm and content warning messages preceding upsetting/disturbing footage.⁸⁵ Similarly, the British National Formulary (BNF), a guide for British pharmacists, has a counterpart which governs prescribing for children (BNFC). The BNFC includes age appropriate information such as the dosages suitable for children at different ages and how drugs may affect them in ways that they do not affect adults.

The IEEE Standard for Age-Appropriate Digital Services Framework (P2089) will be the first standard specifically aimed at promoting a rights and wellbeing framework in digital design. It will establish a set of processes by which organisations can make their published terms age appropriate and help them ask the right questions of their services, identify risks and opportunities to make their services age appropriate and take steps to mitigate risk and embed systems that support age-appropriate engagement.

⁸⁰ [How do young people interpret and construct risk in an online context?](#) Holly Powell-Jones, 2018.

⁸¹ *Year 8 focus group participant, 2016.* From [How do young people interpret and construct risk in an online context?](#) Holly Powell-Jones, 2018.

⁸² Transparency, [Age Appropriate Design Code.](#)

⁸³ [General comment No. 25 \(2021\) on children’s rights in relation to the digital environment.](#)

⁸⁴ UK [Draft Online Safety Bill](#), May 2021.

⁸⁵ [Ofcom: Broadcasting Code.](#)

As well as industry standards, common regulatory approaches will ensure consistency when setting ground rules for services that are used across the world, and establish a floor of protection beyond which services must not fall.

Minimum standards for terms should be set out in relevant domestic legislation and enshrined in international agreements. Regulators must be given enforcement powers to issue penalties and fines, request information, withdraw or suspend licences or certification, issue service or access restriction orders and business disruption measures in cases of non-compliance.

Terms must set out clear rules for what constitutes a breach of terms

Young people find some of the rules set out in community guidelines confusing or struggle to distinguish between what is illegal and what is legal but prohibited by a service.⁸⁶ They may not know if they themselves have breached a service's terms or what to do when something goes wrong, or how a service will respond when they have a problem that needs attention.⁸⁷ They may be hesitant to report problems if they are concerned that they will get into trouble.

"There is too much emphasis on what is illegal and not enough about what is unpleasant or distressing."⁸⁸

"If we have a problem, encourage us to say so and tell us exactly what you are going to do about it... and how quickly."⁸⁹

Issues that need reporting to a service can involve data breaches, image sharing, privacy issues, sexual exploitation, copyright and IP issues, threats and harassment, hate speech and abuse, impersonation, hacking, spam and adverts, suicide or self-harm behaviours and others. These are all complicated issues, children should be encouraged to report all concerns rather than have to triage issues for themselves.

"Remind us. Signpost. Make it really easy to do the things that keep us safe"⁹⁰

If young people cannot understand what constitutes a breach of terms, they cannot be expected to report such breaches. Clear boundaries and definitions of what is and isn't acceptable, when applied consistently, help to provide young people with a sense of security. They also set clear expectations for what will happen if or when rules are broken and provide transparency on reporting and removal processes.

⁸⁶ [Online abuse: teenagers might not report it because they often don't see it as a problem](#), LSE, May 2019.

⁸⁷ Royal Foundation Taskforce focus group participants, 5Rights Foundation, September 2016.

⁸⁸ The 5 Rights, by Young People, 5Rights Foundation.

⁸⁹ 5Rights Published terms workshop, November 2020.

⁹⁰ *Ibid.*

YouTube

YouTube's video guidelines on sexual content include 'yes' and 'no' examples of content which is permissible to help users understand the type of material that they can and can't upload, according to the service's community rules. The guidelines also include discussion of artwork featuring nude subjects vs. hacked photos of nude celebrities and 'true' or 'false' questions posed within the video, prompting reflection and self-assessment for users.⁹¹

Services must make clear in their published terms the difference between what is illegal, what is not legal but is against their community guidelines or other published terms. They should also clearly set out what content/practices are allowed but which users may find upsetting. In each case clearly identified routes for redress must be signposted.

Terms and conditions must clarify what happens when a user makes a complaint

During our consultation work with young people, redress (the ability to seek remedy or compensation for a grievance) consistently emerges as one of the most important aspects of presentation. This includes the amount of time it takes for a complaint to be processed and the lack of information the user receives after a report has been made.

Some companies simply provide an email address for reporting⁹² or include a link to instructions on how to report either an account, a video or a comment,⁹³ very often without any indication of what happens after a report is made. Most terms do not state if they will do anything after receiving a complaint or commit to a response time, and many companies do not provide information about how they moderate or triage complaints.

Published terms need to set out clearly and concisely what to do if something goes wrong. Information should include how complaints are moderated, what reporting tools are available, and what action a user can expect after a report has been made, including likely response times.

Expert advice and support should be made available for young people

A child, or an adult acting on a child's behalf, should have access to professional advice that is appropriate to the nature and seriousness of their problem. This may include expert advice to help young people understand their choices and rights. Often when services do link to sources of support and guidance, both young people and parents find an overwhelming amount of information.⁹⁴

⁹¹ [Nudity & sexual content policies](#), YouTube Help.

⁹² TikTok: Legal: "If you wish to complain about information and materials uploaded by other users, please contact us at reports@tiktok.com."

⁹³ TikTok: Legal: "If you come across content or accounts that you believe may violate our Community Guidelines, please [let us know](#) so we can review and take appropriate action". This page can be hard to find without the link, however. If seeking this from the homepage on desktop, users will need to select the Support menu at the bottom of the Homepage, then click the Help Center option, and then selecting the Privacy & Safety menu, and then clicking the Reporting Inappropriate Content section (all of which is not necessarily easy for children to navigate).

⁹⁴ Problems with adults (primarily teachers and parents) feeling overwhelmed and underinformed due to a lack of standardisation of child online safety advice have been discussed in many publications, including: Henderson-Martin, H. (2013) Experiences of e-safety within primary school education. In: ICERI2013 Proceedings. Seville, Spain: International Academy of Technology, Education and Development (IATED) and Hasebrink, U., Livingstone, S., Haddon, L. and Ólafsson, K. (2009) Comparing children's online opportunities and risks across Europe: Cross-national comparisons for EU Kids Online. LSE, London: EU Kids Online.

“I think charities like Childline and Samaritans need to have more presence online. If you can shove shoes and clothes in our face than you should be able to shove Childline and people to talk to. Those are the ads that people should see, stuff that can help you feel better.”⁹⁵

Expert advice should be proportionate to the nature and seriousness of the complaint or concern, bearing in mind that different children have different levels of tolerance, and that all complaints from children should be taken seriously.

Services must respond quickly and proportionately to complaints

Reports relating to young people’s safety should take priority over other kinds of reports, for example those relating to copyright concerns. Children consistently complain that it takes too long to get a response.

“Reporting takes like a day before it is down, and by then people have shared it.”⁹⁶

“There needs to be a quicker reaction, as soon as something’s reported, to actually get it taken down straight away. Rather than ‘oh I reported this image three days ago and it’s still there.’”⁹⁷

In considering complaints from children, companies need to take into account the diversity of children’s experiences: what is acceptable to one child may be deeply upsetting to another. Children who appear to be in distress, even for minor infringements, should be responded to quickly and offered appropriate support. For example, the ThinkUKnow⁹⁸ education programme website and the Internet Watch Foundation⁹⁹ website both have large, bright red ‘report abuse’ and ‘report criminal content’ buttons, clearly signposted and easily located on their homepages,

Serious complaints that may result in violence, bullying or sexual contact should be easy to report and dealt with immediately. All other complaints from children should be subject to a transparent and understood timeline.

Services must not rely on user complaints in place of proactive moderation

A child should not be responsible for identifying and reporting content or activity that is against a service’s community guidelines, particularly when it is upsetting or age-inappropriate. This would put the responsibility for upholding published terms on the child rather than the service for failing to enforce its own rules. Proactive moderation

⁹⁵ Youth Juries participants, 5Rights Foundation, April 2015.

⁹⁶ 5Rights Published terms workshop, November 2020.

⁹⁷ *Ibid.*

⁹⁸ [Thinkuknow.com](https://www.thinkuknow.com).

⁹⁹ [Internet Watch Foundation](https://www.internetwatchfoundation.org).

lifts the burden off children to flag and report content and behaviour that violates a service's community guidelines. Moderation should be proportionate to the risk and activities associated with the product or service. For example, services directed at children should pre-moderate all user-generated content,

Lego Life

All content uploaded to the Lego Life app is pre-moderated using both AI and human moderation to ensure all content is age-appropriate and does not violate the service's community rules.

Services with mixed audiences should offer children a higher bar of moderation than other users. For example users that are registered or age assured as under 18 should not be recommended prohibited content or can be assigned warning labels or have its visibility restricted, before it is made visible to all users.

Services should give children priority in the moderation systems, and monitor their effectiveness.

Moderation must be fair, unbiased and consistent

Not all content is moderated in the same way, and not all users are subject to the same moderation guidelines. The inconsistency of moderation decisions taken by services – through both human and AI moderation – reduces the level of trust that young people have in them. Public or popular figures are often exempt from standard moderation procedures.¹⁰⁰ For example, users with high follower counts or celebrity status have been afforded different standards which results in the delayed removal of some YouTube channels that share disinformation.¹⁰¹

Moderation practices have also been found to exhibit biases that disadvantage certain users. For example, black women and plus-size creators have reported being disproportionately affected by Instagram's anti-nudity policies. Creators have spoken up about the service "deleting their photos or failing to promote them in the same way it did for its white users."¹⁰² Many of the inconsistencies in moderation can be attributed to AI and machine learning that has been trained with incomplete data sets.¹⁰³ This became more apparent during the coronavirus pandemic when services had to rely on automated moderation with fewer human moderators.¹⁰⁴

Ofcom's guidance for video-sharing platforms states "any moderation techniques used [by VSPs] to be subject to regular quality assurance processes, so that they remain effective at enforcing the terms and conditions of a platform and, ultimately, provide effective protection to users from harmful material. Ofcom would expect the accuracy of any machine-learning moderation techniques to be checked using human quality assurance processes."¹⁰⁵

¹⁰⁰ [Facebook guidelines allow users to call for death of public figures](#), The Guardian, March 2021.

¹⁰¹ [YouTube is Taking Down Conspiracy Theorist Channels and Popular Gun Videos](#), The Outline, February 2018.

¹⁰² [Instagram row over plus-size model forces change to nudity policy](#), The Guardian, October 2020.

¹⁰³ [Shadow bans, dopamine hits, and viral videos, all in the life of TikTok creators](#), The Next Web, April 2021.

¹⁰⁴ [Social media giants warn of AI moderation errors as coronavirus empties offices](#), Reuters, March 2020.

¹⁰⁵ [Video-sharing platform guidance](#), Guidance for providers on measures to protect users from harmful material, Ofcom, March 2021.

While human moderation is important, those employed by companies to review content, activity and behaviour on their services are often exposed to graphic, illegal, violent and disturbing acts on a daily basis. A lawsuit filed in 2018 claimed that moderators were developing PTSD when Facebook had failed to provide them with a safe work workspace.¹⁰⁶ Moderators require support not only to carry out their roles effectively, which involves understanding complex and changing guidelines, making difficult judgement calls and prioritising the most serious complaints and reports, but to deal with the impact on their wellbeing of consistent exposure to this kind of material and activity.

Industry should be held to agreed enforceable standards of moderation, including oversight of automated decisions and training and care for human moderators.

Young people should be heard and their views must be taken into account

All children have the right to be heard and have their views taken seriously. Children consistently demand shorter, clearer, more honest terms, which allow them to understand the rules and take action when something goes wrong. Their voices have yet to be heard. Even when services appear to welcome feedback and input from users, they often contain disclaimers about the action they take in response to feedback.¹⁰⁷ For example, TikTok states that it “has no obligation to review, consider, or implement your feedback, or to return to you all or part of any feedback for any reason.”¹⁰⁸

"It's imperative that young people are listened to before our lack of representation comes back to haunt us in the form of insufficient protection of our online rights."¹⁰⁹

Services should provide opportunities for a diverse range of young people to give feedback on their published terms. This will help ensure they are understood by the widest possible audience and young people's best interests are continually served.

Service providers can also proactively conduct their own research with young people, by running open days or testing labs to gather feedback. Youth organisations have developed consultation toolkits to help policymakers (who may not be experts on conducting research with young people directly) to ensure young people's voices are included, through clear, step-by-step processes.¹¹⁰

It is crucial when consulting young people that they can see and understand the ways in which their advice has or will impact the design of services. Services can also commission or collaborate with leading academic or legal/policy experts specialising in children's rights to inform and develop their presentation of terms.

¹⁰⁶ [Ex-Content Moderator Sues Facebook, Saying Violent Images Caused Her PTSD](#), New York Times, September 2018.

¹⁰⁷ See [What Happens to Digital Feedback?: Studying the Use of a Feedback Capture Platform by Care Organisations](#), Examples of further reading include: Dow, A., Vines, J., Lowe, T., Comber, R., Wilson, R., 2017.

¹⁰⁸ [Content](#), TikTok Terms of Service.

¹⁰⁹ 5Rights workshop participant, aged 18, Our Digital Rights, May 2017.

¹¹⁰ [Yerp](#) is a toolkit developed by the Youth Affairs Council in Victoria, Australia, with published guides on how to engage young people and conduct research with them. Yerp's guidelines cover important considerations such as power dynamics, ethics and consent, and being aware of the unique needs that young people may have.

Tick to improve

Age appropriate presentation is just one aspect of making published terms fit for young people and of realising their rights in a digital world. This paper has discussed the 'how to', and 'when to' of presenting published terms, but in order to address the asymmetry between young people and the services they are using, it will be necessary to ensure that the content of published terms is also age appropriate. As we have seen, for a young person, the presentation of terms is not a separate issue to what is being asked of them. Ultimately, a young person's trust in a service is earned only when it is deserved.

This means published terms must establish a contract that upholds children's rights (ensuring their informed consent, data privacy, and the primacy of their best interest over commercial considerations) and offer 'fair terms'. They must provide a defence against the worst excesses of commercial interests and create barriers to 'bad actors'. In sum, they must ensure, in their content as well as presentation, the best interest of young people.

We conclude this paper with a check list for age appropriate presentation of published terms and encourage all services to tick to improve.

- Do you use simple language?
- Do your published terms aid comprehension?
- Are they concise?
- Are they presented in multiple formats for different age ranges?
- Are they prominent and easy to find?
- Are they presented at the right moments in a user journey?
- Are consent and permissions time-limited?
- Do you consider the diverse needs of young people in how you present published terms?
- Can a child understand and agree to your terms without adult involvement?
- Do they cater for children with accessibility needs?
- Do you obtain and seek consent, rather than assume it?
- Do you give users meaningful choices?
- Do you use positive nudge techniques?
- Are your terms of agreement proportionate to the value young people derive from the service?
- Do you consistently enforce your terms of use and community rules?
- Are your published terms harmonised and consistent with relevant regulation?
- Do they set out clear rules for what constitutes a breach of terms?
- Do you clarify what happens when a user makes a complaint?
- Do you provide or signpost to expert advice and support for young people?

- Do you respond quickly and proportionately to complaints?
- Do you undertake proactive moderation?
- Is your moderation fair, unbiased and consistent?
- Do you listen to and take account of the view of young people?

Building the digital world that young people deserve



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