## CIPL's Children's Privacy Project

2022 Project Plan

### CONTEXT

Ensuring the protection of children's data and privacy as well as the continued ability of children to participate and benefit from the information society services has become a hot topic in global data privacy law, policy and practice. Many stakeholders are trying to address several legal, regulatory and operational concerns and challenges in relation to this topic—including governments, policy- and law-makers and companies that provide services and products to children, or whose products and services are accessible to them. While companies are often criticised for their children's data processing activities, they are also creating solutions that fill regulatory gaps.

The developments, debates and challenges cut across multiple jurisdictions, and some common topics include: determining the scope of application of special rules; age verification; age of children consent and parental consent; legal bases for processing; transparency; risk-based approach to regulation and compliance; protective mechanisms; exercise of children's rights; balancing the benefits of children's use of online services against the risks; online safety standards for processing children's data. They also cut across multiple regulatory areas, such as ePrivacy Regulation, AI and algorithmic training.

In addition, CIPL has been observing a number of legal and regulatory data protection developments around the world specific to children's data:

- **Data protection laws across the globe have included, or are going to include, special provisions concerning the protection of children's data**, such as the California CPRA, the EU GDPR, the US COPPA, the Brazilian LGPD, Thailand's and Korea's data protection laws, as well as data protection bills in India, China, Indonesia, Philippines and Australia (Review of the Online Privacy Bill) and Ontario;

- **Data protection authorities (DPAs) are increasingly focusing on children's data and issuing guidance, rules, binding codes and decisions**, including:

  o US FTC's public consultation on COPPA;

  o Irish DPC's publication of the final version of its guidance "Children Front and Centre: Fundamentals for a Child-Oriented Approach to Data Processing" (the Fundamentals).

  o UK ICO's statutory Age Appropriate Design Code and work on developing a risks and harms taxonomy and framework relating to the processing of children's data;

  o French CNIL's recommendations to enhance the protection of children online;

  o Italian *Garante's* enforcement order to a social media company to immediately stop collecting and using data of users without verified minimum age; and

  o EDPB's recommendations on children's consent and flagging children as a particular area of concern in the GDPR in their Guidelines 05/2020 on consent (EDPB is also expected to issue guidelines specific to children's privacy).

- **Law- and policy-makers are also working on new rules concerning children's data processing,** such as:

  o New federal legislative proposals in the US concerning children's data;

  o The UK cross-departmental Verification of Children Online (VoCO) project, aiming to bringing about an internet that actively recognises children and adapts the spaces they use to make them safer by design; and

  o The UK Draft Online Safety Bill;

  o The EU Digital Services Act and European Parliament's proposal to ban online ads that target children.

## CIPL PROJECT AND DELIVERABLES

**Taking into account the above developments and the increasing interest of CIPL members on the topic of children's data, CIPL launched in April 2021 a special global project on Children's Privacy.**

This project will build on the discussions on children's data CIPL has already been having in 2019/2020 in the context of the GDPR, UK and US laws, but will have a broader, global scope to encompass the developments and challenges in other parts of the globe.

The project activities will include virtual and live events (if possible), roundtables, working sessions and written papers and other deliverables.

The project objectives are to enable CIPL members to:

- Engage with peers, children experts and key DPAs around the globe;

- Understand the operational and legal challenges in delivering compliance with children's data protection provisions across multiple jurisdictions;

- Exchange information on best practices, solutions, and technologies to implement children's data protection requirements;

- Explore how to build and apply a risk-based approach to children's data protection compliance programs; and

- Shape the interpretation of data protection laws applicable to children in a way that drives global convergence.

## PROJECT ACTIVITIES AND TIMELINE

Note that the work plan below is subject to changes to adapt to key relevant external developments and to accommodate inputs of CIPL members.

| Key Project Activities completed in 2021 | Timeline |
|---|---|
| **Scoping call** with small group of key CIPL members to introduce the project and gather initial inputs on challenges to guide roundtable discussions. The main topics identified in this call were age verification, micro advertising, profiling, and the role of the parents, taxonomy. | 29 April 2021 |
| **Response to Irish DPC's consultation** on their guidance on fundamentals to children protection. | 31 March 2021 |
| **Support to ICO's work on risks** and harms taxonomy and risk assessment methodology related to children's data, including:<br><br>• Two workshops/roundtables<br>• Response ICO's possible public consultation on their upcoming children harms framework<br>• Possibly facilitating smaller meetings between ICO and other DPAs as well as data protection and children specialists | April-August 2021<br><br>8 April 2021 – Workshop 1<br>20 July 2021 – Workshop 2 |

| Key Project Activities 2022 | Timeline |
|---|---|
| **Follow up Scoping Call** with the same small group and other key CIPL members to:<br><br>• Identify specific key issues to address in a CIPL report on global children's privacy laws and regulations and associated challenges;<br>• Discuss whether there is scope for policy prototyping, along the lines of the FCB Open Loop Initiative, to be carried out involving TTC Labs et al. | March 7 or 14, 2022 |
| **Draft CIPL Report on key global children's privacy laws and key issues and challenges** and translate into other languages, e.g. Portuguese and Spanish. | March until July 2022 (TBD) |
| **Roundtable with CIPL Members and DPAs on Children's Privacy in the EU** | May 17, 2022 |
| **Set of two policy roundtables** including CIPL members that are project participants and DPAs, in West and East globe time zones:<br>1. Americas + EU roundtable – including the Irish DPC, the UK ICO, the Office of Information and Privacy Commissioner of Ontario (IPC), the Brazilian *Autoridade Nacional de Proteção de Dados* (ANPD); and | Fall 2022 |

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|---|---|
| 2. APAC roundtable – including Asian DPAs, Australia and others. | Fall 2022 |
| **Webinar** to launch new CIPL paper (possibly public) | TBD |
| Possible follow-up **121 meetings with key DPAs** | TBD |

## PROJECT TEAM AND MORE INFORMATION

**Bojana Bellamy**, CIPL's President and **Camilla Ravazzolo**, CIPL's Global Privacy Policy Manager, will be the main points of contact for this project. In addition to the CIPL team working on this project, we will have the contribution of the following experts on children data in London and Washington DC:

### Rosemary Jay, Senior Consultant Attorney at Hunton Andrews Kurth

Rosemary Jay is a senior consultant attorney at Hunton Andrews Kurth. She joined from Pinsent Masons LLP where she was head of the Information Law Practice. Prior to that she was the head of the Legal Office of the Data Protection Registrar (now the Information Commissioner) for 12 years. She has practiced in privacy law for nearly 34 years. She has been in the top lawyers in the area of data protection in the UK since this category started in the Chambers and Partners, and in 2020 she was recognised as an "Elder Statesman". She advises on high-level privacy, data protection and confidentiality issues. Her practice covers all areas of information law.

### Phyllis H. Marcus, Partner at Hunton Andrews Kurth

Phyllis heads the firm's advertising counselling practice, and focuses on all aspects of advertising, from the initial development of a claim to its ultimate defence in the marketplace. Phyllis also counsels clients on the intricacies of compliance with the Children's Online Privacy Protection Act (COPPA). Prior to joining the firm, Phyllis was the Federal Trade Commission's Chief of Staff for advertising practices, and leader of the FTC's children's privacy enforcement program.

### Paula J. Bruening, Casentino Strategies LLC

Paula is the Founder and Principal of Casentino Strategies LLC, a privacy and information policy consulting firm. She works with clients on policy issues related to emerging technologies and privacy governance, and on developing strategies for compliance with law and regulation. She brings to her work 30 years of privacy experience in government, advocacy and international organizations. Her writing on data protection has been published in academic and policy journals in the United States and abroad.

*CIPL is excited to continue our work in this special project. To learn more about participating in this initiative, please contact Michelle Marcoot at mmarcoot@HuntonAK.com.*