

AGE APPROPRIATE DESIGN CODE

STARTUP BRIEFING NOTE



1. BACKGROUND

The ICO, the UK's data protection regulator, has published a draft [Age Appropriate Design Code](#).

This has been produced as a result of an amendment to the Data Protection Act 2018 (the UK implementation of GDPR) requiring it to “prepare a code of practice which contains such guidance as the Commissioner considers appropriate on standards of age-appropriate design of relevant information society services which are likely to be accessed by children.”

The public consultation on this closes on Friday 31st May.

2. WHAT'S IN THE DRAFT CODE?

The code proposes sixteen 'code standards' which companies must follow. Amongst other things, it bans the use of geolocation, nudges and data tracking for under 18s in the UK. The full list of sixteen areas and more information can be found in the draft code [here](#).

Crucially, it also requires companies to apply the code to every user (aka treat every user like they are under the age of 18) unless you verify that they are over the age of 18.

3. WHICH COMPANIES MUST COMPLY WITH THE CODE?

Any site, app, service, or product which could be accessed by a child in the UK at any time, even if it is not targeted at children.

4. WHAT DOES THIS MEAN FOR STARTUPS?

The many startups who use tools like geolocation (e.g. mapping tools or consumer services), nudges (games), or trackers (eCommerce sites/apps) as part of their product in breach of the code at present if they are able to be accessed by children.

Startups in this situation will have three options:

1. Apply the code for all users as a default - treat all users including adults as children - removing the ability of startups to use geolocation, nudges, trackers and other tools key to business models

2. Develop multiple different products - including several for the different age bands proposed for users under the age of 18 and an 'adult' version. They would also need to collect age verification data for all adult.
3. Implement an age-gate and bar under 18s from accessing the service altogether, and collect age verification data for all adult users.

If you have any further questions on how you would make yourself compliant or thoughts on the implications of the code - do reach out via dom@coadec.com

5. WHAT ARE OUR CONCERNS?

Above all, based on conversations we've had across the startup community - given the option available many startups will choose to age-gate their service and bar under 18s. As we explain in our letter to Elizabeth Denham - Option 1 above is a critical business risk, and Option 2 is simply too expensive for companies other than the tech giants.

That will cause two major issues:

- It will mean a vast increase in data collection from all kinds of providers of online services - who would be required to seek age verification from all their users. **This is the direct opposite of the role the ICO is supposed to play.**
- It will close off access to a huge number of startup services to those under the age of 18, and could create an internet for children designed largely by tech giants with the resources to build separate products for adults and those under the age of 18.

Beyond age-gating, there is also a real concern that startups (and tech companies more broadly) will be asked to not only police but shape the behaviour of young people: providing warnings, age gates, symbols showing that parental tracking is ongoing etc. This amounts to asking startups to deliver a clear message that the online world is a dangerous place not to be trusted. This is not responsible. Startups have a role to play in making the web a better place, but this is too far.

On top of all of this - there is no impact assessment anywhere of the costs and the time burden that this will place on companies - who will have to administer this incredibly burdensome and extensive shift (just after the GDPR and ahead of Brexit).

6. WHAT IS COADEC ARGUING FOR?

First, a more sensible definition of what the code calls "services likely to be accessed by children". At present, the ICO suggests this basically means anything a child could ever access. It has no regard for the intended target audience, the type of content or service, the likely share of the audience that is children, or the size of the business that is delivering the service. It should. There are better, clearer and more sensible definitions available - including from the Office of Fair Trading in their [principles for online and app-based games](#). **These should be used instead.**

Second, a real impact assessment of the cost of compliance - particularly for startups.

Third, a more sensible approach to age verification. Mass data collection from nearly every website and app in the UK in the name of protecting kids isn't a good idea...

Finally, a more practical and rational approach to the list of proposed dangers the ICO claims it is saving children from. We do not believe (as the code currently describes) that many of the things banned under the code are de facto bad. 16 year olds want to get home using Citymapper & other geolocation-driven apps too... we need a balanced approach that supports startups doing innovative things - not assumes that tech is by default to blame.

7. WHAT DO YOU THINK?

We'd love to have your feedback on the proposals...

- What impact will it have on your business?
- How will you choose to comply?
- What concerns you the most?
- Which areas do you think are helpful?
- And where needs more clarity?

Do reach out and we would be happy to discuss further.

If you want to get involved - let us know... email dom@coadec.com