

PPA Submission to the ICO's Age Appropriate Design: Code of Practise

**Call for Evidence**

Written Evidence Submitted by the Professional Publishers Association (PPA)

31<sup>st</sup> May 2019

Sent by email to [ageappropriatedesign@ico.org.uk](mailto:ageappropriatedesign@ico.org.uk)

**About Us**

The Professional Publishers Association (PPA) stands for professional publishers, representing magazine media and business information publishers in consumer, customer and business sectors in the UK. Our membership comprises over 260 companies, publishing around 2,500 consumer magazine titles and 4,500 business-to-business publications as well as data and information products. The PPA's membership incorporates the UK's largest publishing houses, including Ascential, Bauer Media Group, Centaur, Condé Nast, Dennis Publishing, The Economist, Haymarket Media Group, Hearst UK, Immediate Media, TI Media, and William Reed Business Media as well as many smaller independent publishers. A full list of members can be found here: [www.ppa.co.uk/Resources/Members](http://www.ppa.co.uk/Resources/Members)

**Executive Summary**

PPA welcomes the opportunity to submit evidence to the ICO consultation on the creation of an age appropriate design code of practise for online services, which seeks to provide guidance on the design standards of online Information Society Services (ISS), which process personal data and are likely to be accessed by children.

However, the creation of a new code of conduct to directly address the way ISSs handle younger viewers risks negative repercussions for the existing media landscape, with the capacity to encompass a greater breadth of media players than intended. Accordingly, such measures need to be co-ordinated and coherently designed from the start, to ensure the policies designed to achieve this aim do not have unintended consequences.

Unless amended, the code severely infringes on publishers, their journalism and business development. As drafted, the new ICO code would require publishers to choose between their online news services being devoid of audience or stripped of advertising, with even editorial content subject to ICO judgment and sanction, irrespective of compliance with general law and codes upheld by the courts and relevant regulators.

Magazine publishers communicate with readers across the globe, sharing content and access to products and services through online communities. Apps, websites and marketplaces enable magazine publishers to connect with readers and channel content; a crucial aspect of members' business models.

Our industry takes the care of children very seriously and strives to ensure young audiences are exposed to age appropriate content. Our members generate a variety of publications, some directly aimed at children and young audiences, with great care taken by magazine publishers and editors to ensure not only the content, but also any surrounding advertising is appropriate.

The current definition of an ISS used within the draft code would encompass those publishers that do not directly generate content for younger audiences, but would expect some site traffic as a result of their content, whether frequent or occasional.

Section 123 of the Data Protection Act 2018 says that this code applies to: *“relevant information society services which are likely to be accessed by children.”* ‘Information society service’ is defined as: *“any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.”*

This means that most online services are ISS, including apps, programs and many websites with search functions, social media platforms, online messaging services, online marketplaces, content streaming services (eg video, music or gaming services), online games, news or magazine websites, and any websites offering other goods or services to users over the internet.

Whilst we recognise the intention and reasoning behind such a code on age appropriate design, we call for an exemption for the publishing industries, who are already compliant with codes to manage child safety. Magazine publishers and editors act in accordance with regulatory bodies such as the Independent Press Standards Organisation’s (IPSO) Editors Code of Practice and the advertising Committee of Advertising Practice (CAP) codes. Our members are adequately regulated and compliance levels are high, with publishers acting responsibly to protect children and young audiences from unsuitable content on their websites.

The publication of the Cairncross Review this year highlighted some of the significant challenges facing the UK publishing industry and adds further reason for caution when implementing new regulation on an industry already under commercial pressure.

We are concerned that in its current form this draft could damage the existing regulatory balance, altering the ecosystem that is increasingly challenging for publishers; more so than other ISSs for example social media companies and search engines. Accordingly, new restrictions need to be proportionate, enforceable and practical, taking into consideration the regulatory landscape that is already in place.

We recommend that the ICO age appropriate design code targets ISSs not already subject to existing codes that ensure children’s safety online, leaving the publishing industry to continue self-regulating on these issues.

## Consultation Questions

### Question 1: Is the 'About this code' section of the code clearly communicated?

Yes.

### Question 2: Is the 'Services covered by this code' section of the code clearly communicated?

Yes, however we remain concerned by the scope of the code, as the publishing industry self-regulates on a number of these services via ISPO and CAP.

We call for self-regulation on this to continue, and for this code to only apply to ISSs that are not already subject to regulation.

### Question 3: Have we communicated our expectations for this standard clearly?

Yes, all are clearly communicated.

However, the expectations laid out in the code are challenging to achieve for publishers, requiring extensive resources to ensure compliance.

Furthermore, services 2,3,9 are particularly troublesome, as they are economically challenging to implement and enforce, whilst paving the way for potentially anti-competitive practises.

Regulation should not hamper the operations of a free press, and we feel strongly that existing regulatory bodies operating in the publishing realm (i.e. IPSO and CAP), but also existing legislation such as GDPR tackle these expectations adequately.

### Question 4: Do you have any examples that you think could be used to illustrate the approach we are advocating for this standard?

No.

### Question 5: Do you think this standard gives rise to any unwarranted or unintended consequences?

We are concerned that the code could have significant economic repercussions for magazine publishers. Because magazine publishers would be unable to disprove younger audiences viewing their websites, apps and content, it would lead to costly redesigns of a significant number of publications, not solely those that produce child-specific content.

This would inevitably mean that all visitors to the site would have to verify their age, which could lead to a reduction in traffic to various magazine platforms.

Such measures could discourage innovation and potentially disadvantage SMEs, who have less resources to spend on compliance and altering the website designs to accommodate the users.

Finally, technology evolves quickly, and the code would become outdated and require updating frequently. This is time intensive and would require publishers to continually adapt to new technologies (notably new ways of avoiding the age verification process).

### Question 6: Do you envisage any feasibility challenges to online services delivering this standard?

Yes, we envisage technical challenges to the creation of site-specific robust age verification mechanisms and potential difficulties in obtaining and verifying parental consent for those aged 13 and under.

Furthermore, there would be challenges in relation to ISSs operating in the UK but based elsewhere globally. The code would therefore need to be influential internationally, shaping practises of companies operating globally.

**Question 7:** Do you think this standard requires a transition period of any longer than 3 months after the code come into force?

Yes, compliance for smaller companies could take a longer amount of time than larger companies. Technical transformation, training staff on compliance will be expected by all ISSs.

**Question 8:** Do you know of any online resources that you think could be usefully linked to from this section of the code?

No.

**Question 9:** Is the '**Enforcement of this code**' section clearly communicated?

Yes.

**Question 10:** Is the '**Glossary**' section of the code clearly communicated?

Yes.

**Question 11:** Are there any key terms missing from the '**Glossary**' section?

No.

**Question 12:** Is the '**Annex A: Age and developmental stages**' section of the code clearly communicated?

Yes.

**Question 13:** Is there any information you think needs to be changed in the '**Annex A: Age and developmental stages**' section of the code?

No.

**Question 14:** Do you know of any online resources that you think could be usefully linked to from the '**Annex A: Age and developmental stages**' section of the code?

No.

**Question 15:** Is the '**Annex B: Lawful basis for processing**' section of the code clearly communicated?

Yes

**Question 16:** Is this '**Annex C: Data Protection Impact Assessments**' section of the code clearly communicated?

Yes.

**Question 17: Do you think any issues raised by the code would benefit from further (post publication) work, research or innovation?**

No.

### **Conclusion**

It is important the ICO takes into consideration the existing regulatory environment, and that not all ISSs experience the same degree of regulation. The code (in its current form) will overlap with existing framework of self-regulation in place for magazine publishers. IPSO and Cap have specific measures in place that takes into account the needs of children and young audiences. Should promote industry self-regulating than adding further bureaucracy.

The ICO Age design code could having damaging repercussions for journalism and the publishing industry, as well as their capacity to act as the fourth estate, providing a social good by producing public interest news.

We strongly recommend the ICO code should be only online services not already subject to compliance.

### **Section 2: About You**

The PPA is a trade association representing ISS providers.