Thursday, 4 October 2018

Commissioner Elizabeth Denham
Information Commissioner
Information Commissioner's Office
By email: childrenandtheGDPR@ICO.org.uk

Dear Ms Denham,

I fondly recall meeting you at APEC in Vietnam when I was at Microsoft and you were still the BC Commissioner. I was delighted to hear that you had taken on the role as UK Information Commissioner and you may know that I now serve as the Australian eSafety Commissioner. The eSafety Office is currently the only government office in the world solely dedicated to leading and coordinating online safety efforts nationally, and to helping keep its citizens safer online.

My Office has been paying close attention to recent developments in the United Kingdom and Europe in relation to securing a safer online environment for all citizens. We were interested to see the Information Commissioner's call for evidence on the Age Appropriate Design Code (the Code) as a requirement of the *Data Protection Act 2018* (the Act), and felt it opportune to highlight the work that my Office is currently engaged in, in relation to Safety-by-Design, given the synergies this proposed framework shares with the Code.

As indicated above, the Office of the eSafety Commissioner (the Office) is the Australian government agency responsible for leading, coordinating and advising on online safety issues. As such, the Office plays a key role in educating and enabling Australians to combat cyber harm or abuse in all of its manifestations, to better manage the safety and wellbeing of Australians online, and to develop critical digital skills to ensure Australians feel inspired to explore and engage with the online world whilst also having the resilience to overcome online setbacks.

The Office is acutely aware of the debates unfolding internationally on the demand for industry to create safer online platforms and services to meet the needs of children, and all users, in the digital space. The specific needs of children and young people in the digital world have often been overlooked. I am delighted to see a paradigm shift occurring, where the rights of children and young people are beginning to be properly recognised, addressed and promoted in the online world.

As a long-time proponent of privacy by design and industry accountability, I'm sure you'd agree that safety, privacy and security responsibilities should not fall solely upon the end user. These three aspects constitute fundamental design principles which ought to be incorporated from the initial stages of technology's developmental processes. These principles are complementary, rather than mutually exclusive, and must be balanced with one another by necessity. But safety has tended to lag behind the other two disciplines as a recognised product design consideration.

The Office is currently in the process of developing a Safety-by-Design framework to assist, support and harness industry's responsibility to safeguard its users. This will include a set of high-level principles and practical guidance to help technology companies meet best practice, as well as leveraging and driving up standards of user-safety within the tech community. The aim of the framework is to encourage that safety features are built into the design of platforms and services as they are developed, instead of being retrofitted as problems arise. Importantly, it requires that risk assessments are conducted before a product is brought to market, to address all known, and anticipated, risks and harms as they relate to user-safety. The framework is grounded in children's rights, set within an ethical and shared responsibility framework, and aims to provide a blue-print for organisations by setting out continuous and ongoing commitments to drive forward real change.

Access to the online world is ubiquitous, and digital platforms and services are accessed by a wide representation of the population. Age-appropriate design of services is therefore critical, and the best interest of the user should be a primary consideration. The United Nations *Convention on the Rights of the Child* and the rights of children online are imperative and the Code, like the framework, acknowledges the importance of incorporating these rights into the development of digital and technical tools, services and platforms. An impact assessment in relation to child development in the digital world has yet to be conducted, however, we see that an age-appropriate design code could be a valued and much-needed step in recognising the importance of addressing the specific needs and provisions of children online.

The importance of developing a shared and consistent narrative globally is essential if we are to make greater strides in securing a safer online environment for all citizens. To this end, we are delighted and heartened to see the steps being made globally to prioritise the protection of the user within online platforms and services. As an Office, we will continue to work alongside other Governments and the global community to help shape a digital world that we can all be proud of. The significance of national and international collaboration and multi-stakeholder engagement has never been more important to address these issues and we will be happy to share with you our Safety-by-Design framework outcomes after we have completed the consultation.

Please do not hesitate to contact the Office should you have any further questions or queries, and we wish you all the very best in the development of the Age Appropriate Design Code.

Yours faithfully,

Julie Inman Grant
eSafety Commissioner