

# Protecting Children and Young People from the Risks of Gaming (and not just the obvious ones)

Jennifer Agate | 10 March 2016

This note discusses concerns and initiatives around gaming by children and young people. A number of aspects of this article draw on Professor Phippen's own discussions with them and other "stakeholders" around online child safety and digital wellbeing issues.

## Introduction

Last year the media reported on a letter sent by head teachers representing the Nantwich Schools Partnership in Cheshire. The letters, sent to parents, raised concerns about children playing 18-certified video games, such as the Grand Theft Auto and Call of Duty series. The letter described concerns the head teachers, who represented 14 primary and 2 secondary schools, had regarding young children playing games containing "unacceptable" levels of violence and which, they suggested, could lead to the "early sexualisation" of children. The letter continued with a threat that the schools might consider some cases to amount to evidence of child neglect, and result in the reporting of parents of children who play such games to social services.

Concerns over the content of video games are nothing new. As early as 1976 concerns arose from a 1976 arcade game called "Death Race", which encouraged players to use their "car" to run over "gremlins". The game was criticised as being immoral and encouraging violent conduct. However, as gaming has developed, the issues around violent conduct are in fact just one of many concerns.

## Influence and responsibility

There is in fact scant evidence to support the influence of violent and sexual video games on the population at large. Whilst there are clearly moral concerns regarding the accessing of violent and sexualised content by children and young people, a recent meta-analysis of research into the influence of video game violence could find very little rigorous evidence to support these claims, and was critical of the methodological approach of previous research that argued such a link.

Professor Phippen has spent many hours discussing gaming with children and young people. In general there seems to be little evidence that these (self-proclaimed) gamers exhibit antisocial behaviours. However, in one case, a seven year old boy claimed: "I like playing Grand Theft Auto because you can rape people in it".

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After the initial shock of hearing a young child say such a thing, discussion illustrated that he was not actually clear on his understanding of rape (and also that one cannot commit such an act in the game). It also transpired that there were wider issues around his welfare than the video games he was playing.

However, taking a step back from the moral perspective, if we are to take games providers to task on the content they provide, and how they “ensure” that children do not play them, we have to ask what action they might take that they do not already? At a recent online safety conference, a representative of the UK gaming industry was challenged on child safety. They were asked, given that Rockstar Games, the producers of the Grand Theft Auto series, had made a significant amount of money from their games, why they don't give something back by funding child online safety programmes. The response was direct and clear: *“Rockstar Games do not produce games for children”*.

Whilst the initial response might be to say that they are dodging responsibility, objectively they are quite correct. The gaming company has taken responsibility for the communication of the content in the game through the use of PEGI rating and the associated descriptions - that being a legislative requirement of video game manufacturers in the EU. If a parent chooses to disregard clear guidance by purchasing the game for their child, what more can the industry do?

It is interesting to note that, from Professor Phippen's own conversations with gamers, two games frequently cause the most argument, disagreement and, in some cases, violent conduct. These two games, Minecraft and the FIFA series, have content that cannot be considered to be “adult”. One is a game where players collaborate to build and play in “virtual worlds,” and one provides the means to play football with fellow gamers around the world.

Issues of conflict in these games arise from either the damage and destruction of other players' creations within these virtual worlds, viewed by many players as “good trolling” or “banter”; or, in the case of the FIFA games, sheer frustration from being beaten, the competitive element of these games, and fallout from abuse and mocking caused by a game's outcome.

If we maintain our content focus in terms of child welfare, are we to suggest that it is the responsibility of these games providers to ensure such disagreements do not arise and that they are liable if they do?

Once we take a step back from the moral stance on what is “harmful” based simply on content, we see a complex picture. One that cannot simply be solved by isolating certain games from children and accusing parents of child neglect if they allow these games to be played at home. Discussions with children and young people show that the “issues” are numerous and complex - from the abusive language used by fellow gamers in a multi-play environment, the legitimisation of homophobic terms to ridicule a player, inappropriate advances which might be considered to be grooming, and excessive screen time. Placing more legislation in front of the gaming companies can address none of these issues.

### **Social gaming**

There is another side of gaming which raises far more concerns around the potential impact on children and young people, although perhaps it is an issue that does not

attract as much attention from the media, and therefore policy makers.

Again, drawing on discussion with gamers themselves - particularly younger, primary school-aged gamers, concern arises around app-based gaming (sometimes referred to as “social gaming”, rather than what we might refer to as more serious gaming). Far more younger children are engaged with such gaming, whether it is through the ever growing popularity of tablets with children and young people. According to Ofcom 65% of 3-4 year olds now have access to a tablet, with 11% owning their own – or via websites that offer avatar-based games that appeal to younger children.

It is arguable that these games provide challenges from both a privacy and consumer protection perspective.

Issues arise from the exposure of children and young people to advertising and the free sharing of personal data at an early age. Firstly, clearly there are risks in terms of sharing information with those who might be predatory in nature (for example, the “Sparklebox” case in 2010). However, a more general and insidious concern lies around growing up with a lax attitude toward personal data privacy and sharing. If children are growing up thinking that there is nothing wrong with giving a stranger their email address, mobile number, images and the like, there is a risk that once they have more “valuable” data which can then be linked to other data items such as credit card numbers, national insurance numbers, and similar, they will not be aware of the need to protect it. In a recent workshop with 4-year-old children, Professor Phippen asked them whether their parents had PINs on their phones and, unsurprisingly, many did. However, a significant proportion of children who knew about the PINs were also very willing to tell Professor Phippen what the numbers were!

There is also the issue of “in-app purchasing”. Within many app-based games the initial download of a game may be free, but in order to be able to progress in the game, the player may be required to purchase content or “virtual currency”. Given the child-friendly content in a lot of these games, we can see some worrying issues around, in the first instance, a child pestering their parent to purchase such advancement, but also perhaps a child making those purchasing decisions without parental intervention. There have certainly been a number of news stories around these issues. One might argue that responsibility for such purchases lies in the home. However, regulators are starting to look at these issues more seriously, and in a recent news article it was reported that Apple had refunded over £32 million to parents whose children had made in-app purchases.

Again it is arguable that the mechanisms used for in-app transactions, such as “one click” purchasing, facilitate the ease of transaction, appealing to children who are not reflecting on the implications of their actions. This is particularly where the device is enabled to not prompt for a password to spend, for example, on the relevant iTunes account in order for funds transfer to take place. While this might be viewed as a positive from the game providers – if the buyer has no chance to reflect on the nature of the purchase, they are less likely to withdraw. Certainly the volume of refunds by Apple suggests some admission of liability.

There has been some pressure on industry around issues of age verification. This is viewed by some as a technical means to ensure that children cannot access content or download apps and games that are considered to be inappropriate. Whilst video game certifications, such as PEGI, are a legislative requirement in Europe for what we might view as “traditional” video games, casual and social games fall outside of this

regulation. At the time of writing, there is no genre-specific regulation of “social games” in the UK. This has led to the Office of Fair Trading, now the Competition and Markets Authority, to produce guidelines on in-app purchasing. Whilst this does not go as far as proposing new legislation, it does lay down some principles based on existing consumer law.

## Advertising

Recent rulings from the Advertising Standards Authority have also shown that regulators are starting to pay attention to issues of coercion and aggressive advertising in social gaming, as well as the collection of personal data from children and young people.

In August 2015, rulings were made against the online gaming companies behind the Bin Weevils and Moshi Monsters games following concerns that the games, targeted at children, contained ‘direct exhortations’ to buy a membership package. In June 2015, the ASA ruled that Twitter feeds for gambling products featuring images of children and teddy bears were irresponsible.

The ASA comes down equally hard on the placement of adult content around products aimed at children. Also in June 2015, Mobjizz Limited was censured when a banner for one of its adult sites (featuring an image of naked women engaging in sexual activities) was shown with a “play” symbol at the top in an app featuring an animated cat who repeats phrases back to children. While Mobjizz argued that it had no direct control over the placement of its ads when advertising via third parties, the ASA held that the advert had been irresponsibly placed.

## Privacy

Further research has been conducted by data protection regulators to explore the prevalence of potential privacy infringements in the social gaming context.

A recent “sweep” by the Global Privacy Enforcement Network (GPEN) highlighted the scale of this problem. In an exploration of 50 websites aimed at children by the UK’s Information Commissioner’s Office, an active participant in the GPEN, many of these were found to be lacking as far as protecting children’s privacy was concerned:

- 60% of sites/apps examined collected children’s personal information
- half of sites/apps examined shared this data with third parties
- 22% provided opportunities for children to submit phone numbers
- 23% did similar for photographs and videos
- 71% offered no accessible means of account deletion
- Only 24% encouraged parental involvement

Within the US we can see the established Children’s Online Privacy Protection Act (COPPA), well known for motivating many popular social media platforms to implement “no under 13s rules”, has an impact in addressing concerns around children’s privacy. This is because it establishes regulation for commercial websites and online services (for example, social games) that either:

- are directed to children under 13 and collect personal information; or
- know that they are collecting personal information from children under the age of 13.

COPPA empowers the regulator - in this case the Federal Trade Commission - to act as both investigative and enforcement authority, with the power to fine up to \$16,000 per violation.

Within the EU, the proposed General Data Protection Regulation (GDPR) seeks to implement similar powers to COPPA, where there is an expectation that data controllers must make reasonable efforts to verify consent - taking into consideration available technology without causing otherwise unnecessary processing of personal data, and age appropriate language should be used where the intended audience is a child. However, with the proposed legislation still some way off (proposed to be adopted by 2017) there is currently unclear protection for consumers and, more specifically, children and young people in this field.

## Conclusion

It is clear then that the focus of concern around gaming, and the respondent legislative pressure, might not be the complete solution when it comes to “protecting” children and young people from the associated risks in gaming.

However, while content remains a concern, by focusing on this issue we are missing more serious concerns around data sharing, advertising and privacy issues. If children and young people are engaging, in particular, with social gaming, and are encouraged by the games to hand over personal data that might then be shared with third parties, clearly this is cause for concern. Whilst legislation is starting to catch up, and some sizable fines have been leveled at some companies, given the huge sums of money that can be generated, it remains to be seen whether such measures act as a deterrent.

There is also a concern around raising a generation who see the sharing of their personal data as something insignificant, particularly given the lack of awareness of such issues in the current education curriculum. Certainly this is an area where industry, and legislators, need to be doing more to ensure that children and young people can engage with their environments without feeling pressured to share data and where they do not understand the full ramifications of their actions.

If you require further information on anything covered in this briefing please contact [Jennifer Agate \(jennifer.agate@farrer.co.uk; +44\(0\)20 3375 7194\)](mailto:jennifer.agate@farrer.co.uk), or your usual contact in the Child Protection Unit or visit our [Child Protection webpage](#) for more information.

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