



Online Games Gamble With Children's Data

A report calls for a Danish equivalent to the UK Age-Appropriate Design Code

Regulator: Danish Data Protection Agency (Datatilsynet)

RISK BAROMETER:



JURISDICTION RELEVANCE:

Denmark

TIMELINE:

N/A

WHAT YOU SHOULD KNOW:

- An exploratory report, authored by two Danish think tanks believes that focus on the abuse of children's data by social media should extend to games.
- Its headline criticism is that terms of service, marking digital products 'not suitable for children under 13 years' are a means of absolving responsibility, rather than providing real protections for minors' data – and it calls for a Danish equivalent of the UK Age-Appropriate Design Code. Digital Services Act rapporteur, Christel Schaldemose, has told the Danish newspaper, Politiken, that she will raise the report's findings with the European Commission.
- A negative picture is painted of the freemium pricing model: deriving revenue from both player data and in-app purchases, in a manipulative inter-connected cycle, under the veil of secrecy. Newzoo provides a typology of the various actors in the gaming data ecosystem and the analytics firm's difficulty in disentangling their respective roles is cited as a testament to the sector's opacity.
- Case studies encompass three top games and deploy an anonymous 12-year-old boy. The minor finds that despite self-declaration age tools and/or platform ratings he is subject to monetisation features such as loot boxes, targeted advertising and privacy nudges.
- Additional policy suggestions include funding for a technical study on the sharing of data in the 20 most popular games used by Danish children; more resources

for Datatilsynet to monitor compliance; and the establishment of an independent data ethics board, whose remit should include 'ethical technologies for age verification.'

- Indeed, the protection measure of which the report is fondest is age verification, above all for games which are not, root and branch, designed to cater for children. Revealingly, the authors posed two questions to Datatilsynet: 1) Is it illegal for developers under GDPR to require terms of service to state that players are under 13 but not ask the user to indicate their age in the game? 2) Is it the responsibility of the developer when minors lie about their age and circumvent restrictions?

MOST TELLING:

'The terms of service on which you click yes to being at least 13 years old, are complete nonsense to many children as well as adults.'

DELANY & CO HOT TAKE:

Far from an outlier, the report is emblematic of a growing global consensus that the platform-led age ratings ecosystem is ineffective and a tendency for critics to draw together disparate policy issues concerning the games sector, under the roof of data protection via a 'dark patterns' type narrative. Is it time for the industry to explore age assurance solutions before a prescriptive and expensive system that damages game flow and business models, is mandated by a regulator?