

The Rt Hon Damian Green
Chair
DCMS Select Committee
House of Commons
London
SW1A 0AA

Our Ref: ICO/O/JE/L/RFM/0538
By email to: dcmscom@parliament.uk

06 February 2023

Dear Damian,

**Further written evidence to the DCMS Select Committee's inquiry titled –
Connected tech: smart or sinister?**

Thank you again for the opportunity to provide oral evidence to your inquiry into connected technology. I was pleased to appear in front of the committee for the first time since my pre-appointment hearing. It was a wide ranging session and I hope the committee found the evidence that Stephen Almond and I provided useful. I look forward to a meeting with you in due course to discuss the range of issues that sit across both our desks.

I wanted to write to provide some further clarity on Kevin Brennan MP's question around the impact of proposed data protection reform on the Age Appropriate Design Code, often referred to as the Children's code (the code). If the government's Data Protection and Digital Information (DPDI) bill, or other future legislation, made significant changes to the UK's data protection regime then the code would likely have to be re-laid. This is because the code, like our other statutory codes, sets out how organisations should comply with the requirements of the underpinning legislation at the time it was laid in parliament. There is currently no proposal within the DPDI to change the requirement for the ICO to produce an Age Appropriate Design Code but we would need to review, update and re-lay it, taking account of any relevant changes to the underlying data protection framework. This is subject to any transitional arrangements that may be developed for the reform legislation.

Whilst the code will need to be re-laid, as we said during the session, we do not see the current law reform proposals as changing the law in such a way as would jeopardise the objectives of the current code. In broad terms, the code sets out that services should operate in the best interests of the child, be designed

following a data protection by design and default approach, be transparent and clear about how they are using children's data, adapt services to the needs of children at different age ranges, and provide appropriate parental controls. As long as UK data protection law continues to recognise the increased risk and sensitivity around processing of children's data online then the objective of the code, to empower children and allow them to enjoy a safe online environment where their personal data is protected, should be upheld.

The reforms to data protection impact assessments (DPIAs) and cookie requirements were specifically identified as areas of concern by Mr Brennan. It may be helpful to clarify that the bill will not change the key principle that organisations must be accountable for, and able to demonstrate, their compliance with the data protection legislation. Furthermore, risk assessments will still be required where organisations carry out high risk processing, the bill will simply amend the specific details that controllers are required to record. Whilst we will need to update the code to reflect this change, we expect risk assessment to remain a key component.

Turning to the changes to cookie requirements under the Privacy and Electronic Communications Regulations 2003, again we do not consider the proposal to move to an opt-out model of consent for cookies placed on websites will jeopardise the objectives of the code, given that the government consultation response confirmed that this model would not apply to websites likely to be accessed by children.

It would also be helpful to draw the committee's attention to some of the advice we have available on our website to help people navigate the use of their personal data, which I know Clive Efford MP was particularly interested in. In addition to our extensive guidance for organisations, we have a range of advice for members of the public which can be found on our 'for the public' landing page¹. Of particular interest to the committee is the 'online and electronic devices' page² which includes advice for using connected technology, keeping your smartphone and other handheld devices safe and protecting WiFi networks.

Finally committee members may be interested in reading our first Tech Horizons Report³. This report examines the implications of some of the most significant technological developments for privacy in the next two to five years. This includes consumer healthtech, next generation IoT, immersive technologies and

¹ <https://ico.org.uk/for-the-public/>

² <https://ico.org.uk/for-the-public/online/>

³ <https://ico.org.uk/about-the-ico/research-and-reports/tech-horizons-report/>

decentralised finance.

I hope this is helpful and I am happy to provide any further information you need. I look forward to reading the committee's report in due course.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'J Edwards', written in a cursive style.

John Edwards
Information Commissioner