



Tuesday September 10th, 2024

Mr. Philippe Dufresne
Privacy Commissioner of Canada
30 Victoria Street
Gatineau, Quebec
K1A 1H3

By Email - OPC-CPVPconsult1@priv.gc.ca

Subject: IAB Canada – Response to Age Assurance Exploratory Consultation

Dear Commissioner Dufresne,

Thank you for consulting industry and for providing the opportunity to comment on an extremely important issue to IAB Canada stakeholders. We agree wholeheartedly with the OPC’s view that “technological innovation does not have to come at a risk to privacy”, Indeed, IAB Canada and our members have proven this most recently by launching the award-winning transparency consent framework developed to comply with PIPEDA and support interoperability with the GDPR and other jurisdictional privacy requirements.

IAB Canada members strongly support the efforts of the OPC to protect the safety of children online in Canada. Our members have spent significant time and resources to provide an age-appropriate experience for minors and continue to evolve solutions as technology becomes available.

Additional Context

The OPC should remain aware of the rapid advancements in technology that are converging to solve for general protections of children online. Disrupting the course of innovation with rigid requirements that have unintended sweeping consequences would both hinder access to content for all Canadians but also incur such astronomical technical costs that would deter large and small platforms from operating in Canada. Poor safety and privacy offerings translate to lost growth and revenue, and the media industry is motivated to improve on both points. Being too prescriptive will also break products and tools, yielding worse solutions for the issues surrounding access to appropriate content for younger users.

We must avoid targeted, isolationistic regulations and embrace partnership with media platforms to further encourage meaningful dialogue and innovation. The pace of global innovation, along with the number and diversity of platforms, means that international coordination and interoperability are essential to finding effective solutions that work across borders to connect Canadians with the world. Compliance costs are a core issue, not just for Canadians but even more so from international companies that operate in Canada.

Privacy Considerations

The challenge with developing overly constricted age assurance policy lies primarily in industry's ability to demonstrate compliance without triggering potential privacy violations. Platforms have developed age assurance mechanisms to provide an age-appropriate experience to younger users, and the industry continues to innovate on age assurance while respecting the privacy rights and freedom of expression of all users. It is for this reason that the OPC must carefully consider and fairly assess the practices that are in place to satisfy privacy concerns rather than to assume current solutions are in some way infringing on privacy rights. Furthermore, there are new solutions always being developed as industry is always moving faster than the pace of regulations.

We caution against adopting an overly prescriptive approach to regulating age assurance. This field presents inherent challenges and trade-offs—balancing effectiveness, accessibility, privacy, affordability, and risk. Age assurance is rapidly evolving, with ongoing advancements in policy, regulation, and technology, and both organizations and governments are still working towards an equilibrium between privacy, free expression, information access, and online safety.

A flexible framework is essential for enabling the innovation needed to advance practicable solutions that safeguard privacy. Dismissing certain technologies prematurely could hinder the development of effective, scalable measures necessary for promoting online safety in dynamic, fast-paced environments.

Additionally, platforms vary significantly in their target audiences, features, resources, and risk profiles. A one-size-fits-all approach risks favoring 'industrial' moderation models that may not be accessible to emerging platforms and could limit the diversity of moderation strategies across online communities. Openness to a range of solutions is critical to avoiding the homogenization of the Internet, allowing both large and smaller platforms to develop effective, tailored strategies that reflect their unique needs and the diverse communities they serve.

IAB Canada Comments on Preliminary Views

In reviewing the OPC's initial positions, we would like to offer the following commentary on the points communicated for this consultation:

- **Should be restricted to situations that pose a high risk to the best interests of young people; and,**
- **Must consider impacts on the privacy rights of both young persons and adult users of the online service.**

Fortunately, our members have reported consistent year over year reductions in exposure to high-risk content. The rapid evolution of technology like AI that allows for quick identification of questionable content coupled with sophisticated privacy-protected methods of age assurance have allowed for major progress in this important area of online safety. Strengthening these efforts remains a top priority for all IAB Canada members.

- **Should be proportionate to the risk and have taken into account potential alternative means of restricting access to content such as education, device-level parental controls, or individual or household-level Internet filtering technologies.**

Our members support this position. To impose age assurance across the entire media ecosystem would be untenable and catastrophic for the publishing community as it would apply another barrier of entry to the existing privacy consent requirements.

The industry has worked hard to establish age-based safety and privacy settings, filters, and parental controls where there is a perceived risk of exposure to children. The existing mechanisms are constantly evolving and improving as technology allows. Future approaches to age assurance must be flexible to allow for the use of the most innovative and effective solutions available at the time.

Currently, many safeguards for age assurance have already been developed for parents and guardians and exist through platforms like social media or streaming apps, third party safety providers, wi-fi level services, and on device. Large platforms and other providers have made significant investments in developing sophisticated parental controls and providing resources to parents to facilitate families having conversations about responsible use of devices. The government should help communicate to Canadians about the safety measures that are available to parents and guardians and assist in driving awareness of their use to help promote the online safety of Canadians. While this is not to say that the onus must solely be placed on parents or guardians, but rather to recognize the technology that has been built for these purposes, requiring significant time and investment by industry, who are willing to work with OPC and other regulators to urge adoption. There are simply too many use cases for a one-size-fits-all solution.

Should require that an organization demonstrates the necessity of applying those practices by default.

- **That is, organizations should be required to justify why a particular age assurance technique is a more appropriate option than, for example, assuming all users are young people and applying appropriate practices.**

For all sites, platforms and apps to assume that all visitors are young people would be both unjustified and untenable for the media publishing community. Media entities already face significant challenges created by the need to obtain consent under Canadian privacy laws. Adding another layer of friction to access content across the entire audience-base would be catastrophic to innovation and investment in the sector. Furthermore, rendering an app completely off-limits entirely and solely due to the potential presence of inappropriate content, is not a justified approach. Instead, implementing effective parental controls can enable the app's use while restricting access to such content, ensuring a safer experience for young users.

We must avoid the sweeping villainization of media in Canada and resist the compulsion to add warning signs or onerous barriers to every online experience whether it is warranted or not. With each check-stop requirement, we are moving away not only from the frictionless and open access to content available online but also to the notion of "meaningful" consent. Barriers are being made to prevent access to legal content that would be blocked, and this prevents the access of acceptable and important content.

Requiring organizations to assume all users are young and apply child-centric protections risks over-restricting access to content that is suitable for adults and mature teens. This blanket approach could limit access to vital educational, cultural, and informative resources that support personal growth, civic engagement, and informed participation in society. It also infringes on adults' rights to freely access content, undermining freedom of expression and access to information.

In addition, the OPC considers “young people” as those individuals under the age of majority in their jurisdiction, but notes that further distinctions within this group may be necessary. We support an approach to age assurance guidance that expressly recognizes the diversity of young people, particularly the differences in cognitive development, maturity, and vulnerability across age groups. Guidance allowing for a contextual and proportionate approach would enable platforms to provide age-appropriate experiences that respect young people’s right to autonomy and self-exploration on the Internet.

Leveraging AI and other technologies, platforms can identify inappropriate content and are able to take various forms of action to block content or users they believe to be high risk. Already, we are seeing proactive reports emerge from platforms that are now quantifiably documenting identified content takedowns. Each platform has nuanced approaches to delivering important and perfectly appropriate content to Canadians. If the requirement is to block inappropriate content and limit exposure, how organizations meet this requirement must be left to corporate innovation.

Age assurance remains a complicated, industry-wide issue. Currently, there is no 'silver bullet' age assurance solution that can be rolled out across all platforms in a way that fully accounts for a child's right to privacy and access. It is important for companies to continue to assess evolving technologies in this space and work collaboratively to find effective solutions that respect the rights of all users. Age-assurance systems:

- **Should be designed to minimize the identifiability of users and the ability to link users across services;**
- **Should not permit information collected for age-assurance purposes to be used for other purposes;**
- **Should be designed in accordance with relevant industry standards and guidance from regulators (including the OPC) and be subject to effective oversight; and,**
- **Should not require individuals to undergo an age assurance process to access non-restricted content.**

IAB Canada members agree with the position that age assurance should be kept as a privacy-first solution to limit exposure. This is why the various methods deployed or in development leverage platform-limited security measures to deliver on the intent to protect children.

Complementary Steps for the OPC to Consider Promoting Privacy and Online Safety for Young People in Canada

1. Avoid overly prescriptive guidance to procure age assurance.
2. Stick to priorities of the intent to protect children and privacy.
3. Fairly review and assess current frameworks in play to establish the specific technical problem(s) we are solving for.
4. IAB Canada members are charged with the task of innovation and providing the highest quality experiences for Canadians on their respective media platforms. As such, they are constantly evaluating, testing and deploying the latest technological solutions as a competitive business activity. It is critical to involve industry stakeholders in productive dialogue to surgically identify the gaps we are looking to address.

5. Support Canadians by helping to drive awareness of the tools and mechanisms available to protect children online.

IAB Canada and the industry at large is accustomed to the dynamic and constantly evolving needs of the industry. From standards to improve media playback to preventing fraud and preserving privacy, one reality remains constant – adoption lags innovation. The OPC is well-positioned to help drive awareness to the existing solutions that can and should be implemented by parents and guardians to help protect children. To over-regulate in a space that has so many underutilized mechanisms freely available assumes that industry has not yet invested significant resources in creating robust youth safety systems.

6. Avoid the assumption that all visitors could be young people in the Canadian digital media ecosystem.

For all sites, platforms and apps to assume that all visitors are young people would be both unjustified and catastrophic for the media publishing community. This would put the entire Canadian population, including adults, at risk of losing access to platforms that provide valuable entertainment, news, cultural and educational content to citizens every day. Onerous verification requirements that fall outside of the carefully designed platform interfaces could precipitate departures from the Canadian market.

Once again, IAB Canada extends our thanks for the opportunity to address this crucial issue. Technological innovation and privacy are not mutually exclusive, and we hope our comments will ignite a constructive dialogue toward finding solutions that achieve both objectives. Ensuring the safety of children online in Canada is a shared responsibility, and together, we can make this vision a reality.

We look forward to discussing these points further. Please feel free to reach out to me any time at scarreno@iabcanada.com.

Sincerely,



Sonia Carreno
President, IAB Canada

About the Interactive Advertising Bureau of Canada

IAB Canada represents over 250 of Canada's most well-known and respected stakeholders in the digital advertising and marketing sector, including advertisers, advertising agencies, media companies, digital media publishers and platforms, social media platforms, ad tech providers and platforms, data companies, mobile and video game marketers and developers, measurement companies, service providers, educational institutions, and government associations operating within the space. Our members include numerous small and medium sized enterprises.