**Protecting ‘Generation Tagged’**

Research currently being undertaken at the Centre of Information Rights at the University of Winchester in the UK, is exploring the implications and issues raised by the depiction of children on social media, digital media and broadcast. The work feeds into growing national and international concerns regarding regulation and control of broadcast and social media platforms as well as the role of parents in protecting their children’s privacy. The research argues that there is a need for change in the law, governance processes or both, in order to ensure that the interests of the child are better represented and better protected. The main research findings are discussed and recommendations are put forward. The research began in 2016 and is on-going.

**Publications**

Marion Oswald, Helen James, Emma Nottingham, ‘The not-so-secret life of five-year-olds: legal and ethical issues relating to disclosure of information and the depiction of children on broadcast and social media’ (2016) 8(2) *Journal of Media Law* 198-228 <https://www.tandfonline.com/doi/full/10.1080/17577632.2016.1239942>

Marion Oswald, Helen James, Emma Nottingham, Rachael Hendry, Sophie Woodman, ‘Have 'Generation Tagged' Lost Their Privacy? A report on the consultation workshop to discuss the legislative, regulatory and ethical framework surrounding the depiction of young children on digital, online and broadcast media’ (2017) <https://winchester.elsevierpure.com/en/publications/have-generation-tagged-lost-their-privacy-a-report-on-the-consult-3>

**Key Findings**

Oswald, James (now Ryan) and Nottingham, who conducted the research, coined the phrase ‘Generation Tagged’; this refers to children, particularly young children, who appear on social media, digital media and broadcast as result of the actions of adults. The research argues that better legal and ethical safeguards are needed to ensure that the best interests of children are properly considered when images and information is exposed on broadcast and social media.

The authors express concerns that society is at risk of embedding a new privacy-intrusive norm and that parents are not educated about the possible risks and harms that might occur to a child as a result of being exposed. The authors acknowledge that it may be possible to judge some of the harm at the point of publication/broadcast. However, the research makes clear that the harm may only be apparent in years to come, and that harm may alter in nature. Furthermore, they suggest that further research needs to be done to identify how these harms might manifest themselves.

The research reviewed the position of children under data protection and privacy law and analysed recent English case law where the privacy rights of the child have been in question. It was clear that, in English law, the privacy rights of the child, are dependant on the actions of their parents.

**Recommendations**

* 1. Young children should have a privacy right independent from their parents’ privacy expectations
	2. Appoint a ‘Children’s Commissioner for Media, Broadcast and the Internet’ to ensure that the interests of children who lack the capacity to consent to participation are independently and impartially represented and protected.
	3. Create an ‘amicus brief’ to represent the interests of young children depicted on broadcast media.
	4. Amend the Ofcom Code to more effectively reflect the ‘welfare principle’ as embedded within family law
	5. Strengthen the ethical review process to ensure that no research-related activity of staff, particularly when involving children, falls outside the process.
	6. Ensure consistency in terms of compliance and regulation between regulated broadcasters and non-mainstream digital media/social media platforms. The introduction of a Children’s Digital Ombudsman could give effect to this.
	7. Amend the journalistic exemption in the Freedom of Information Act to require public-service broadcasters to provide information about their compliance with broadcasting codes and other legal requirements in relation to child welfare
	8. Establish that ‘Controller hosts’ (Facebook, Twitter, YouTube) and ‘independent intermediaries’ (such as Google) which currently benefit from protection under EU and UK law owe a duty of care to children.
	9. As part of the above-mentioned duty of care, the settings on social media services should be privacy respecting as default when images or information about young children are concerned
	10. There should be a limitation on the extent to which information and images relating to a young child can be copied, re-contextualised and re-shown in a different context to the original post or publication.
	11. There should be more education for both children and parents about the impact of ‘sharenting’ and the level of personal information they are potentially exposing by doing this.
	12. That families participating in ‘vlogging’ and ‘sharenting’ activity through social media channels such as YouTube Families be licenced to do so
	13. That social media platforms permitting the activity described at (l.) above have an obligation to engage in the constant and ongoing monitoring of participants and that a failure to do so will amount to a breach of the duty of care referred to at (h.)

**Forthcoming Publications**

* Helen Ryan ‘Generation Tagged and the Global You Tube Family’ in ‘The Digital in Children’s Early Years: Research, Design and Practice’ (forthcoming 2019)
* Emma Nottingham ‘Dad! Cut that out! Children’s Rights to Privacy in the Age of ‘Generation Tagged”: Sharenting, digital kidnapping and the child micro-celebrity’, in International Handbook of Young Children’s Rights (forthcoming November 2019)
* Emma Nottingham, ‘Caring for Critically ill Children in the Glare of Digital Media’ (forthcoming July 2019)