



Friday, Nov. 8, 2019  
9:00 AM – 10:15 AM

### **Session 106 | Digital Media for Children - a Minor Problem?**

Digital media plays a central role in all facets of children’s lives: education, consumer content, social media, mobile apps, connected toys, home assistants, and video games. A study found that 70% of kids ages 2-5 can operate a mouse, but only 11% can tie their own shoes. The need to protect minors is reflexive and instinctive, and with so much digital media directed towards and/or accessible to minors, combined with the uncensored, hyperconnected, and data-driven nature of the digital world, it’s not surprising that we’re seeing a heightened urge to protect minors across all industries.

In this interactive session, we will discuss current legal and business trends, the opportunities and challenges involving digital media and minors, and ask you to examine your own thoughts and practices on these topics. Not only will we walk through the framework of various laws and agencies aimed at protecting minors, but we will also guide you through examples and recent lawsuits that highlight how this framework is enforced and plays out in real life. Throughout the session, we will underscore best practices and key principles so that you will leave with practical takeaways. Our panel of experts includes in-house counsel from Niantic, the developer of *Pokémon GO* and *Harry Potter: Wizards Unite*, and SuperAwesome, the leading provider of kid-friendly tech solutions, as well as the assistant AG in the Texas AG Consumer Protection Division and outside counsel specializing in COPPA and FERPA.

**Moderator:**

Yan Perng, *NCSOFT*

**Speakers:**

Marine Gallois, *Niantic*

Pete MacIntyre, *SuperAwesome*

Beth Chun, *Office of the Texas Attorney General*

Cecillia Xie, *Morrison & Foerster*

BIOS FOR SESSION 106

DIGITAL MEDIA FOR CHILDREN - A MINOR PROBLEM?

FRIDAY, NOV. 8 (9:00-10:15 AM)

---

**Moderator:**

**Yan Perng, NCSOFT**

Yan Perng is Senior Corporate Counsel at NCSOFT West and provides counsel on legal affairs such as intellectual property, corporate governance, employment, esports, and other business transactions. NCSOFT is a Korea-based, global video game developer and publisher with offices in Korea, Taiwan, China, Japan, the United Kingdom, and the United States, with successful franchises such as Lineage, Aion, Guild Wars, and Blade & Soul. Prior to NCSOFT, Yan was an associate at Foster Pepper, a Seattle-based law firm, in the firm's business and intellectual property practice groups.

**Speakers:**

**Marine Gallois, Niantic**

Marine Gallois heads up the Product and Privacy legal team at Niantic, AR tech leader and publisher of world-famous location-based AR game *Pokémon GO*. Her team oversees product compliance for Niantic's full portfolio of titles and technology initiatives, with issues ranging from trust and safety and consumer protection to copyright, and privacy. Marine created Niantic's GDPR compliance program and has been spearheading the Niantic Kids child privacy project. Prior to Niantic Marine built up and led several product and commercial legal teams at Softbank Robotics America and Ubisoft. Originally from France, she started her career as a film production attorney before joining the gaming world. Marine is a member of the California Bar and French Bar and a Sciences-Po Paris alumni.

**Pete MacIntyre, SuperAwesome**

Pete MacIntyre is General Counsel at SuperAwesome, the leading provider of COPPA and GDPR-compliant tech for the kids' digital media ecosystem. He was previously Associate General Counsel at App Annie Inc and has held legal roles at Microsoft, British Broadcasting Corporation and Yahoo!. He holds a LL.B (Hons) and LLM from the University of Strathclyde, Glasgow.

**Beth Chun, Office of the Texas Attorney General**

Beth Chun is an Assistant Attorney General in the Consumer Protection Division of the Office of the Texas Attorney General. She specializes in the civil enforcement of state and federal consumer protection laws, including an emphasis on emerging technologies. Beth received her J.D. from The University of Texas School of Law and her B.A. in History and Managerial Studies from Rice University.

**Cecillia Xie, Morrison & Foerster**

Cecillia Xie is an associate at Morrison & Foerster LLP. She advises clients across various sectors worldwide on strategies for managing privacy and data security risks. She has substantial experience counseling on privacy and cybersecurity issues in mergers and acquisitions and other transactions, including in connection with a mobile music video platform and a voice and chat app for gamers. While at the Berkman Klein Center for Internet & Society, she presented on privacy and related concerns with the use of telepresence robots at the annual We Robot conference and advised a large domestic nonprofit on a pilot application for children, including issues arising under the Children's Online Privacy Protection Act (COPPA) and Family Educational Rights and Privacy Act (FERPA).

CLE WRITTEN MATERIALS FOR SESSION 106  
DIGITAL MEDIA FOR CHILDREN - A MINOR PROBLEM?  
FRIDAY, NOV. 8 (9:00-10:15 AM)

---

**1. There are several industries that involve digital media that is directed towards and/or accessible to minors**

General:

[https://cdn2.hubspot.net/hubfs/5009836/PwC%202019/Kids%20Digital%20Media%20Report%202019%20.pdf?\\_hstc=135998062.3f7005719a4f9906d3ba80bec6be3f96.1561060985112.1561060985112.1561060985112.1&\\_hssc=135998062.1.1561060985113](https://cdn2.hubspot.net/hubfs/5009836/PwC%202019/Kids%20Digital%20Media%20Report%202019%20.pdf?_hstc=135998062.3f7005719a4f9906d3ba80bec6be3f96.1561060985112.1561060985112.1561060985112.1&_hssc=135998062.1.1561060985113)

Education:

<https://www.ed.gov/oii-news/use-technology-teaching-and-learning>

<https://www.thetechadvocate.org/7-ways-digital-technology-changing-face-education/>

Consumer content:

<https://www.emarketer.com/content/the-digital-video-series-kids-teens-infographic>

<https://www.common sense media.org/blog/parents-ultimate-guide-to-youtube>

Social media:

<https://www.cbsnews.com/news/kid-influencers-companies-make-millions-law-hasnt-kept-up-cbsn-originals/>

<https://www.healthline.com/health-news/heres-how-social-media-affects-teens-mental-health#What-parents-should-know>

Mobile apps:

<https://www.common sense media.org/blog/16-apps-and-websites-kids-are-heading-to-after-facebook>

<https://www.verywellfamily.com/digital-parenting-101-4038621>

Connected toys: <https://www.internetmatters.org/resources/tech-guide/smart-toys-and-wearable-gadgets/>

Home assistants:

<https://www.cta.tech/News/Blog/Articles/2017/December/The-Year-IoT-Became-Part-of-the-Family.aspx>

Video games:

<https://onlinelibrary.wiley.com/doi/full/10.1002/sop2.3>

<https://childmind.org/article/healthy-limits-on-video-games/>

**2. The most popular pastime of children is digital media, and more likely than not, Snapchat or Fortnite**

In this digital age, entertainment for children is also increasingly digital, online, and interactive. For example, Fortnite, a free-to-play video game published by Epic, has been a worldwide phenomenon, amassing almost 250 million players across the globe as of March 2019 and bringing in \$2.4B for year 2018. This video game welcomes players age 12 and above. In a poll, 61% of teenagers say they have played the game, with 22% of boys and 9% of girls playing at least once a day. This year's Fortnite World Cup was won by a 16-year old,

who is now \$3M richer, who stated that he plays 8 hours a day, at least 5 days a week. It's so popular and addictive, that Prince Harry wants it banned.

Similarly, in that same poll, 73% of teenagers say they use Snapchat and 74% use Instagram. It's been reported that teenagers spend an astounding 9 hours a day (and tweens aged 8 to 12 are spending 6 hours a day) with digital technology, entertaining themselves with streaming video, listening to music and playing games.

Related articles:

<https://www.usatoday.com/story/tech/columnist/baig/2018/12/06/your-kids-probably-playing-fortnite-classroom-survey-reveals/2211328002/>

<https://www.wvea.org/content/teens-spend-astounding-nine-hours-day-front-screens-researchers>

<https://www.nytimes.com/2019/07/29/us/fortnite-world-cup-winner-bugha.html>

<https://www.hollywoodreporter.com/news/prince-harry-says-fortnite-gaming-shouldnt-be-allowed-uk-1199507>

<https://www.nytimes.com/2019/02/06/technology/personaltech/children-charges-mobile-games.html>

<https://www.nytimes.com/2018/10/26/style/phones-children-silicon-valley.html>

### **3. The most desired career among young people is YouTuber.**

According to a recent study, 75% of 1,000 kids and teens aged 6 to 17 are considering a career in the online video industry, with more than 1/3 of respondents stating they wanted to be a YouTuber. Not only do children follow several popular YouTubers, many of the YouTubers themselves are children, including an 8-year old that makes millions opening toys.

<https://www.tubefilter.com/2017/05/24/most-desired-career-young-people-youtube/>

<https://www.theverge.com/2016/12/22/14031288/ryan-toys-review-biggest-youngest-youtube-star-millions>

<https://www.common sense media.org/blog/the-kid-youtube-stars-your-kids-love>

<https://www.nytimes.com/2017/06/06/arts/lively-the-teenage-life-streamed.html>

### **4. With the rise of digital technology, various organizations are trying to understand its impact on children.**

As an example, UNICEF is preparing a 2019 discussion paper, "Child Rights and Online Gaming: Opportunities and Challenges for Children and the Industry," which is a follow-up from UNICEF's 2017 study on the impact of digital media on children, "Children in a Digital World." The implicit goal of the discussion paper is to create a dialogue with the industry in order to develop best practices for games targeting children. The discussion paper refers to "child rights" as defined by the UN Convention of the Rights of the Child (1989), which serves as a proxy for child safety and health concerns.

[https://www.unicef.org/publications/files/SOWC\\_2017\\_ENG\\_WEB.pdf](https://www.unicef.org/publications/files/SOWC_2017_ENG_WEB.pdf)

[https://www.unicef.org/csr/ict\\_paper-series.html](https://www.unicef.org/csr/ict_paper-series.html)

<https://www.common sense media.org/research/the-state-of-kids-privacy-evaluating-the-safety-and-security-of-kids-tech>

### **5. What are the laws, regulations, agencies aimed at protecting minors?**

COPPA: <https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/childrens-online-privacy-protection-rule>

GDPR: <https://www.dmnews.com/retail/article/13034540/gdpr-and-childrens-data-what-brands-need-to-know>

CCPA: <https://virtualrealitypop.com/what-does-the-california-consumer-privacy-act-ccpa-mean-for-kids-fa2ad78ec00d>

CARU: <https://asrcreviews.org/about-caru/>

ASA: <https://www.asa.org.uk/>

FTC: <https://www.ftc.gov/news-events/events-calendar/future-coppa-rule-ftc-workshop>

General Deceptive Trade Practices:

[https://www.ftc.gov/sites/default/files/documents/public\\_statements/advertising-kids-and-ftc-regulatory-retrospective-advises-present/040802adstokids.pdf](https://www.ftc.gov/sites/default/files/documents/public_statements/advertising-kids-and-ftc-regulatory-retrospective-advises-present/040802adstokids.pdf)

## **6. Several bills have been introduced aimed to prevent the exploitation of children by online media**

Senator Hawley introduced several bills this past year, (i) the Protecting Children from Abusive Games Act (which mirrors the Children’s Online Privacy Protection Act) that prohibits games which are targeted at minors from using loot box and pay-to-win monetization mechanics; and (ii) the Social Media Addiction Reduction Technology (SMART) Act, designed to curb social media addiction by banning features/techniques such as infinite scroll and “achievement” badges that make it more difficult to leave social media platforms.

Similarly, Senator Markey (i) introduced a bill amending the Children’s Online Privacy Protection Act (COPPA) to expand the scope, including revising the "actual knowledge" standard governing data collection to "constructive knowledge," meaning that covered operators are deemed to have knowledge that they are collecting or maintaining personal information from a child or minor, if, by reason of care and due diligence, they should have known that fact; and (ii) cosponsored a bill that directs the National Institutes of Health to conduct and support research on the positive and negative health and developmental effects of media on infants, children, and adolescents.

Related articles:

<https://www.engadget.com/2019/03/12/senate-markey-hawley-children-privacy-bill/>

<https://www.markey.senate.gov/imo/media/doc/Leg%20text%20--Markey-Hawley%203.11.19%20FINAL.pdf>

<https://www.foxnews.com/tech/hawley-takes-aim-facebook-youtube>

<https://www.hawley.senate.gov/sites/default/files/2019-07/Social-Media-Addiction-Reduction-Technology-Act.pdf>

<https://www.gamesindustry.biz/articles/2019-05-08-us-legislator-proposes-loot-box-ban>

[https://www.hawley.senate.gov/sites/default/files/2019-05/2019-05-08\\_Protecting-Children-Abusive-Games-Act\\_One-Pager.pdf](https://www.hawley.senate.gov/sites/default/files/2019-05/2019-05-08_Protecting-Children-Abusive-Games-Act_One-Pager.pdf)

<https://www.markey.senate.gov/imo/media/doc/CAMRA%20Act.pdf>

## **7. Lawsuits and fines for violating children’s privacy can be quite hefty**

With the increase of online data collection, Congress passed COPPA in 2000 to protect children from companies that target and profit from children’s personal information. If a company targets those under 13,

or knows those under 13 use their website, service, game, or app, they need to take steps to get into compliance with COPPA. Similar to the GDPR, children's personal information must be limited to what's needed to process their information, and there should be a defined data life cycle. The FTC can levy fines for COPPA violations ranging from \$16,000 to \$40,654 *per violation*. Related articles:

<https://www.ftc.gov/news-events/press-releases/2019/02/video-social-networking-app-musically-agrees-settle-ftc>

<https://www.huntonprivacyblog.com/2011/05/13/disney-subsiary-settles-ftc-coppa-violation-charges-with-3-million-penalty/>

<https://www.focusonthedata.com/2017/08/class-action-lawsuits-alleged-coppa-violations-reinforce-importance-compliance/>

<https://techcrunch.com/2018/12/04/oath-agrees-to-pay-5m-to-settle-charges-it-violated-childrens-privacy/>

<https://www.wsj.com/articles/youtube-under-fire-considers-major-changes-to-kids-content-11560953721>

## 8. Other related topics

SuperAwesome has been tapping into the growing need for kid-friendly technology, including kid-safe advertising, social engagement tools, authentication and parental controls. Its clients include some of the biggest names in the children's market, including Activision, Hasbro, Mattel, Cartoon Network, Spin Master, Nintendo, Bandai, WB, Shopkins maker Moose Toys and hundreds of others. Key to all these experiences is a technology platform that allows developers to build kid-safe apps and sites. That includes products like AwesomeAds, which ensures ads in the kids space aren't tracking personal data and the ads are kid-appropriate; PopJam, a kid-safe social engagement platform that lets developers build experiences where kids can like, comment, share and remix online content; and Kids Web Services, tools that simplify building apps that require parental consent and oversight.

<https://techcrunch.com/2018/02/19/kidtech-startup-superawesome-is-now-valued-at-100-million-and-profitable/>

Generally speaking, games like Niantic's *Harry Potter: Wizards Unite* and *Pokémon GO* are fun, safe games that families can play together. And unlike conventional video games, both have had the positive effect of getting kids off the couch and out walking around their backyards and neighborhoods.

<https://parents.nianticlabs.com/faq/>

Government agencies like the in the Consumer Protection Division of the Office of the Texas Attorney General provide helpful resources about protecting your children online.

<https://www.texasattorneygeneral.gov/initiatives/cyber-safety>