

Privacy + Security Forum

Session:

**Age Verification Laws – Valuable
Safeguards or Privacy Threats?**

Speakers: Age Verification Laws – Valuable Safeguards or Privacy Threats?



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Agenda

- Setting the Table: Comparative and Historical Context of Regulating the Collection of Children's Data Online
- Overview of the U.S. Landscape
 - FTC Age Verification Enforcement Policy
 - State Children's Privacy Laws
 - Federal Developments
- Approaches to Age Assurance
- Age Assurance in Practice: EU Age Verification App and App-Store Based Age Assurance
- Lessons for Implementation

Development of Children's Privacy Regulation

COPPA

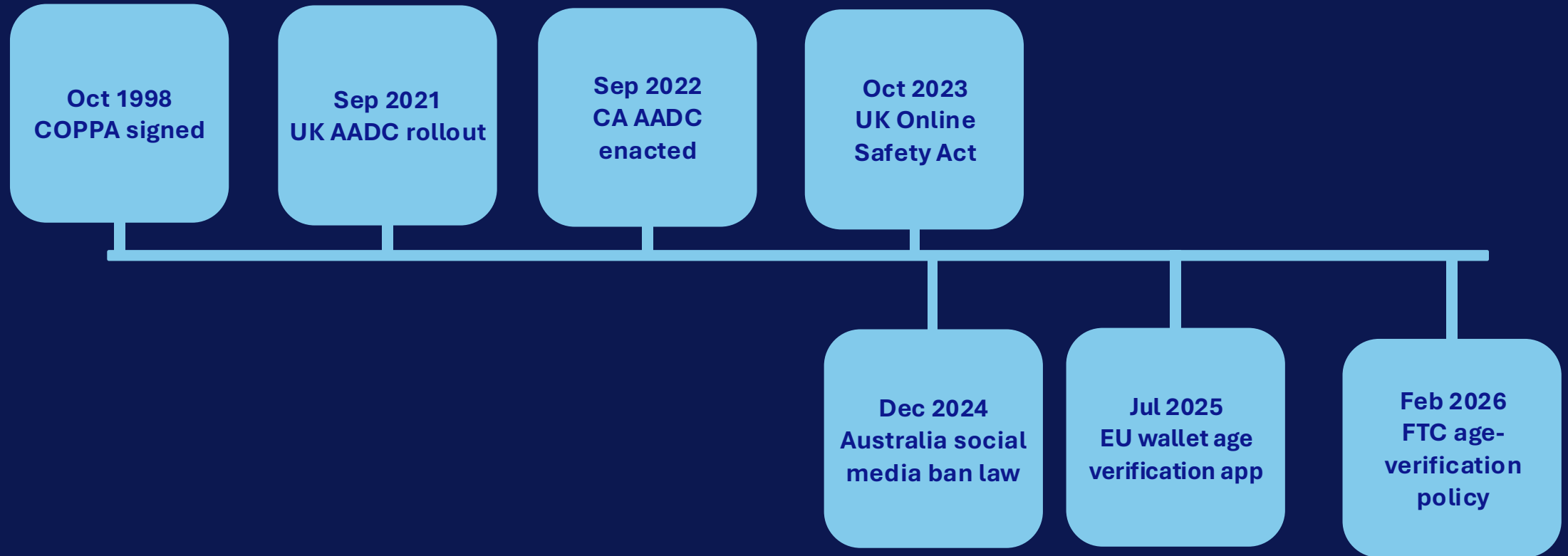


International
understanding of
internet-based risks
for children evolves



New waves of child
safety and privacy
regimes

How We Got Here: Age-Based Laws and Developments Timeline



International Developments

Laws, Proposals, and Enforcement Actions

- UK Age Appropriate Design Code kickstarts the move away from the COPPA approach
- ICO £14.47m enforcement action against Reddit – focus on age verification
- Various EU laws banning access to certain online content, but details around how to age gate/conduct age assurances are not clear in the laws
- Some countries have a country-wide digital wallet/digital ID structure for age assurance
- New trend: Banning children/teenagers from social media
 - Australia's law is currently being challenged
 - But other countries are considering a similar ban (Malaysia, Denmark, France, Philippines, Greece, etc.)

Movement Towards a Risk-Based Approach

- Laws have evolved to take a more risk-based approach
 - More requirements for age gating content that pose a higher risk for minors
 - AADCs that prohibit certain features or uses of data that pose higher risk for minors
 - Similar to laws on real-world access to higher-risk products: alcohol, cigarettes, casinos

At the same time, there has been general movement away from self-attestation or parent attestation of age, towards age estimation or age verification

FTC Age Verification Enforcement Policy

- FTC released an Enforcement Policy Statement about adoption of age verification technology
- FTC will exercise enforcement discretion where a relevant operator complies with certain requirements with respect to age verification technologies

“ To encourage the use of robust age-verification mechanisms, the Commission will not bring an enforcement action under the COPPA Rule against a Relevant Operator that collects, uses, or discloses personal information for the purpose of determining a user’s age (‘Age Verification Purposes’) without first obtaining verifiable parental consent.”

State Children's Privacy Laws

More laws will be proposed and enacted, especially if Congress does not pass a federal law

- More than 30 state laws about children's privacy have been enacted, adding to existing state privacy and child protection laws
 - South Carolina AADC requires covered online services to conduct annual audit and submit to AG public reports prepared by independent third-party auditors
 - Many have been enjoined, generally on First Amendment and due process vagueness grounds
- App store accountability acts
 - Texas SB 2420
 - Louisiana HB 570
 - Age gating for social media
 - Utah SB 194
 - Florida HB 3
 - Age gating for "harmful" content
 - Texas HB 1181
 - Tennessee SB 1792
 - AADCs
 - Vermont S.69
 - California AB 2273
 - Virginia SB 361

What about Congress?

- At least 18 bills about kids' privacy/AI bills have been introduced
- COPPA 2.0 bill seems most likely to succeed:
 - Passed Senate in March 2026
 - Preemption could be a sticking point
- Topics for these bills include, among others:
 - Restricted access to harmful content
 - App store age verification
 - Restrictions on targeted advertising to kids
- These laws generally include age assurance provisions or requirements

“These bills put a ceiling on kids’ privacy and safety by stopping states from doing more to protect kids.”
Rep. Frank Pallone (D-NJ)

“As new risks and technologies emerge, families deserve clarity, parents deserve control, and bad actors must face real consequences.”

Rep. Gus Bilirakis (R-FL)

Approaches to Age Verification/Assurance

Age Assurance

- **Age assurance** is a broader, umbrella term
- States and other jurisdictions may require different levels of age assurance depending on the website/app
- COPPA implications: age assurance can create actual knowledge of users under the age of 13
- Many state laws use this generic term, rather than more precise definitions, and:
 - Provide examples of acceptable age assurance technologies or
 - Require regulators to fill in the gaps with rulemaking

COPPA Approach

- Applies to websites directed to children under 13, or who have actual knowledge that children under 13 use their platform
- Once a platform has knowledge, affirmative obligations to seek parental consent, minimize data collection and limit certain use apply
- No affirmative obligation to seek out user ages
- Benefit to this approach: minimal data collection from users
- Drawback to this approach: relies on stated age alone

Age Estimation

- **Age estimation** includes technologies that “guess” age based on data collected about the individual
- Ideally, requires little/no additional data collection (although may require new inferences)
- AI-based age estimation tools carry complexities
- Accuracy of the tools may vary
 - Australian survey of age verification technology providers
 - Tools may require more data to make more granular age inference

Age Verification

- **Age verification** is a process to confirm a user's age with a high degree of certainty
- This approach better ensures the effectiveness of age gating controls
- But websites and apps must collect more sensitive personal information than they otherwise would
- Also, third-party age verification tools may share data with fourth parties
- Increased cybersecurity concerns

Example: EU Age Verification App

The European Commission unveiled a free app designed to support age verification across the EU

- The app leverages the EU Digital Identity Wallet, designed to be operable online and in-person
- Users verify their age with official documents (e.g., passport) or digital IDs, and the app then issues a confirmation token using zero-knowledge proof
- The European Commission is expected to issue implementing regulations and technical standards in the coming months, with pilot programs in select Member States

“Online platforms can easily rely on our age verification app. So there are no more excuses.”

European Commission President Ursula von der Leyen

Example: App Store-Based Age Assurance

This is an increasingly popular age verification mechanism in proposed state laws

- Age verification delegated to app store platforms (Apple, Google Play) rather than individual apps or websites
- App stores use existing account-holder age data and parental control frameworks to gate access to age-restricted content and applications
- Utah, Louisiana, Texas, Virginia, and Alabama laws require app store-based age assurance
- Federal bills proposing app store-based age assurance under consideration
- There are both benefits and drawbacks to this approach

Lessons for Implementation of Age Assurance Tools

The use of age assurance tools must be secure, transparent, and compliant with evolving laws

- Assess the audience of websites/apps
- Risk assessments are key
- Consider whether third-party audits and public reporting may be required
- Ensure available age assurance tools are proportionate to the risk
- Conduct thorough diligence of any third-party age assurance provider
 - Consider whether contractual provisions may be appropriate
- Establish internal policies and governance frameworks

Flexibility is key - the regulatory landscape and age assurance technologies are evolving rapidly.

Stay in touch: Continue the conversation with us

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