

"SOME STUFF YOU JUST WANT TO KEEP PRIVATE!"



Preliminary report on Stream II of the DPC's public consultation on the processing of children's personal data and the rights of children as data subjects under the GDPR

July 2019



An Coimisiún um
Chosaint Sonraí
Data Protection
Commission



ombudsman
do leanaí
for children

1. INTRODUCTION

From December 2018 to May 2019, the Data Protection Commission ('DPC') ran a public consultation on the processing of children's personal data and the rights of children as data subjects under the General Data Protection Regulation ('GDPR'). This consultation was launched in an effort to address a number of questions arising in the context of new child-related provisions under the GDPR, which is the first EU data protection law to highlight the importance of the protection of children's personal data and the position of children as data subjects.

2. WHY WAS THIS CONSULTATION NECESSARY?

The GDPR is a principles-based regulation, so questions naturally came up about how a number of provisions relating to children should be interpreted and implemented in practice. The DPC also has an obligation under Article 57 of the GDPR to promote awareness and understanding of the rights, risks, rules and safeguards in relation to the processing of personal data, particularly where this relates to children.

This consultation was the perfect opportunity for the DPC to: 1) seek the views of stakeholders and use this feedback to provide valuable guidance on aspects of the GDPR relating to children; 2) raise public awareness about children's rights in today's data protection landscape; and 3) involve children and young people directly in the discussion by giving them a voice in line with Article 12 of the UN Convention on the Rights of the Child.

3. WHAT WAS THE FORMAT OF THIS CONSULTATION?

This consultation was organised into two streams: Stream I invited adult stakeholders to submit their views on issues around the processing of children's personal data. Stream II – the focus of this report – sought to involve children and young people directly in this debate by engaging them in the classroom in a specially designed consultation process aimed at students aged 8 and above.

In January 2019, the DPC contacted every primary and post-primary school in Ireland – as well as all Youthreach centres – and invited them to take part in the consultation. The DPC created and distributed a pack of lesson plan materials designed to help teachers explain and discuss data protection issues with their students, with a particular focus on social media and the types of data routinely disclosed through activity on social media. Through the delivery by teachers of this lesson plan, the DPC invited students to give their opinions on a series of questions on feedback posters. The

DPC's lesson plan asked students to study the terms and conditions of "SquadShare", a fictitious app created by the DPC for educational purposes, and to explore their data protection rights in the context of using this fictitious app. A number of national educational and children's rights organisations helped the DPC to promote this initiative and the consultation was supported by an extensive social media campaign.

4. WHY WE'VE PRODUCED THIS REPORT AND THE DPC'S APPROACH TO EVALUATING RESPONSES

The purpose of this report is to give an insight into the level of engagement the DPC experienced in relation to the child-focussed stream of its consultation. The report also provides an overview of the headline trends and themes emerging from the feedback we received from children and young people in their submissions. This report is not intended to serve as a primary piece of academic research – the purpose of this consultation was simply to gather the feedback of children and young people in relation to important data protection issues and to use this feedback to inform our approach to the guidance we create on this topic.

Children were asked to give their views on six questions, each covering a separate data protection issue. Some of the answers to these questions lend themselves more easily to statistical evaluation, while the answers to other questions were opinion based as the question gave children the opportunity to share their own ideas and to expand the debate. Teachers were encouraged to collect as many opinions from their students as possible, and classes did not have to reach a consensus on the questions put to them. Some classes did appear to arrive at a consensus and only put forward a single opinion for each question, others gave a variety of answers, while some provided polls of how their classes split on divisive questions. For this reason, the DPC adopted a varied approach to analysing the data contained in the responses to these questions.

5. HOW MANY CHILDREN AND YOUNG PEOPLE TOOK PART IN STREAM II OF THE CONSULTATION?

The DPC received a total of 50 submissions from different schools and Youthreach centres across the country, equating to the views of approximately 1200 students based on an average class size of 25 pupils. While we primarily targeted schools and Youthreach centres, it was very encouraging that other groups such as scouting groups and Comhairle na nÓg groups also participated outside of a formal education setting, not to

mention one student who sent in their own personal submission. Children in the 10-12 years age bracket were the most-represented cohort with 40% of submissions coming in from 5th and 6th class primary students, while 24% of submissions were received from children in 2nd to 4th class (approximately 7 to 10 years). Recent research from CyberSafeIreland¹ indicates that 68% of children aged 8 to 13 own their own smartphone, and 70% of children in the same age bracket are actively using social media, so it is very encouraging that this demographic contributed particularly strongly to the consultation.

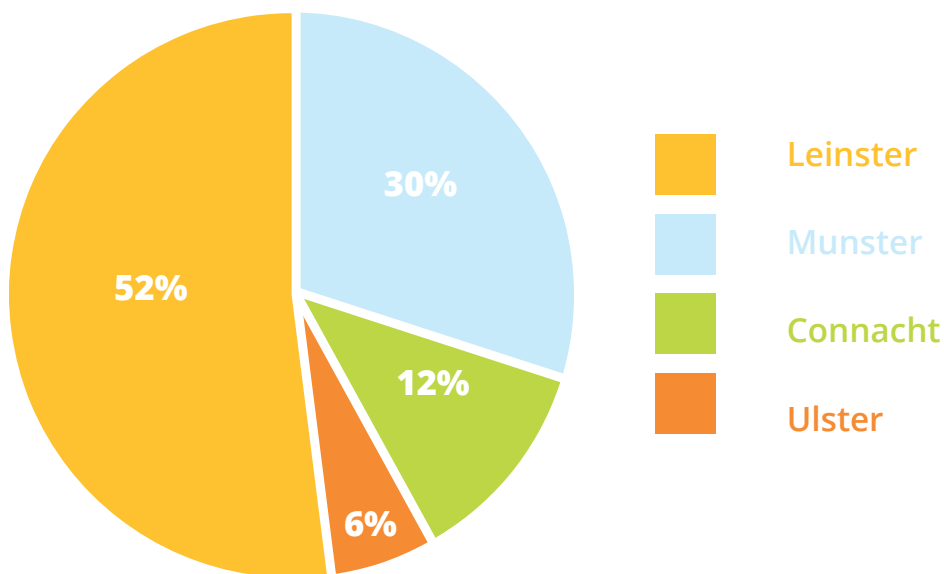
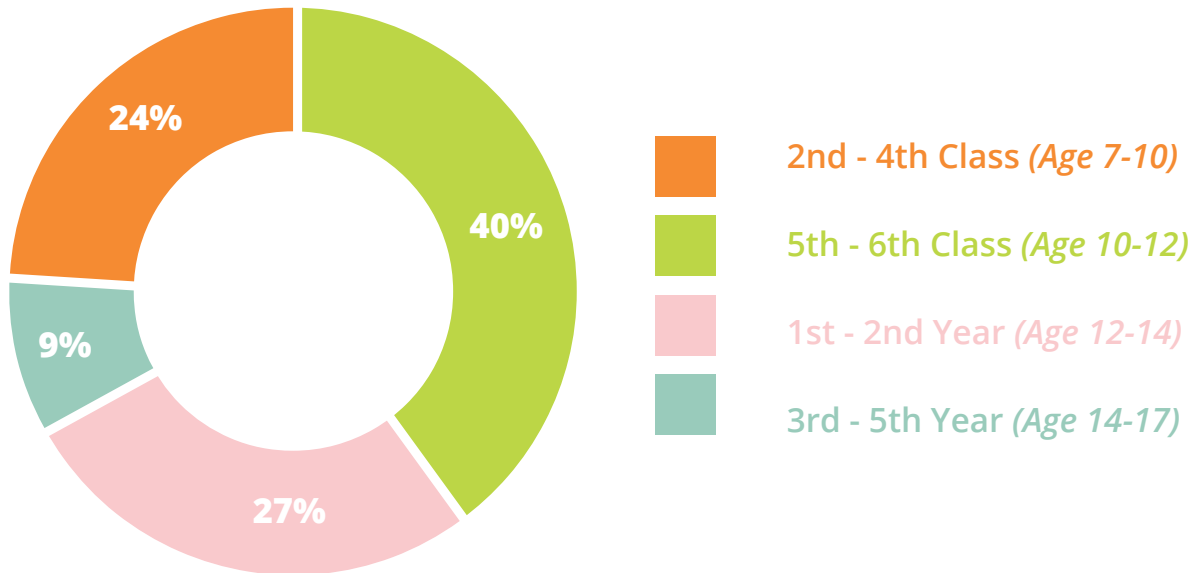
1st and 2nd year secondary students (approximately 12-14 years) were the second most-represented cohort with just under 30% of submissions coming from this category. This is also encouraging considering that approximately 85% of young people in this age bracket use social media and messaging apps according to the same report by CyberSafeIreland. Fewer submissions (9%) were received from 3rd to 6th year students at secondary level (approximately 14-17 years old), but this may be explained by the fact that students in this age bracket were likely focused on preparing for the Junior and Leaving Certificate examinations.

¹ CyberSafeIreland's annual report 2017, published Sept 2018. Available at: https://cybersafeireland.org/media/1183/csi_annual_report_2017-final.pdf



PARTICIPATION AT A GLANCE

STUDENT PARTICIPATION BY CLASS GROUP



In terms of participation by geographical location, the majority of submissions came from schools in Leinster (52%), followed by Munster (30%), Connacht (12%) and Ulster (6%). While Leinster is the most-represented province, there was a healthy level of participation from schools all across Ireland.



**WHAT CHILDREN
AND YOUNG
PEOPLE HAD
TO SAY...**

Q1. HOW DO YOU THINK COMPANIES COULD DO A GOOD JOB OF EXPLAINING TO YOU WHAT THEY DO WITH YOUR PERSONAL DATA?

The most common responses received to this question can be grouped into four broad categories: Children and young people across all age groups wanted greater (1) simplicity, (2) transparency, (3) accessibility and (4) flexibility in their interactions with companies.

SIMPLICITY

"Use language children and teenagers can understand easily so that they are properly informed." (Age 12-13)

"Break the information down into bullet points." (Age 15-16)

"Make the font larger, more colourful." (Age 16-17)

"Make a cool video or YouTube clip that's fun (and put a timer on terms and conditions to ensure that you read them)." (Age 12-13)

ACCESSIBILITY

"Big companies (e.g. Google) could come into schools and let students know how their data is used."
(Mixed Student Council, age 12-18)

"It should be possible to ask someone online questions if you don't understand something."
(Age 12-13)

"The company should contact you each time they pass on your data to another company."
(Age 15-18)

TRANSPARENCY

"When you input your personal data, they should ask 'Do you want to know where your information goes?' "
(Mixed group, age 8-12)

"Send us examples of how personal data has been used in the past." (Age 10-11)

"They pay you 1 cent for every piece of data they take from you. To cover themselves in court they explain why they bought it."
(Age 14-15)

"Tell us immediately on signing up for an app how our data will be used before we sign up and agree to the terms and conditions. We would like the chance to think about it first." (Age 10-11)

FLEXIBILITY

"Easier options for turning cookies off." (Age 12-13)

"Have a choice not to give access to photos or contacts." (Age 10-11)

"Have an option to only sign up to some parts or conditions."
(Age 12-13)

"They should ask for a username more than they ask for an actual name." (Age 8-9)

SIMPLICITY

- ▶ Children strongly felt that companies could do a lot more to make their communications more child-friendly. For example, they could make their privacy notices shorter, use simpler language and provide summaries and bullet points of the most important information.
- ▶ Other suggestions included using large and colourful fonts for key sections.
- ▶ A number of classes called for communications to be made simpler by presenting the information in a fun video. They even suggested having a quiz at the end of the video that children and young people have to complete before they can access the service to prove that they understand how their data is being processed.

TRANSPARENCY

Children also wanted companies to be more transparent:

- ▶ They asked for more detail on how their data is processed and, in particular, on the risks of giving companies access to their data.
- ▶ One class offered a practical suggestion that companies should send you specific examples of how they've used personal data in the past, while another group said that they'd like this information immediately upon signing up to an app so that they have a chance to think about it.
- ▶ Many children were sceptical that companies are acting in good faith in this regard – one class wanted companies to “explain exactly what they are going to do with their information”, while others implied that companies use “tiny writing” and “irrelevant info” to make it harder to find out more about the risks associated with using personal data for their services.

ACCESSIBILITY

- ▶ Children felt that companies should be easier to contact and should do more to reach out to and inform them about their processing activities.
- ▶ Some respondents thought that companies should have someone available to answer any questions they might have about their privacy policy (e.g. via an IM service).
- ▶ Others felt that companies should notify them by email or text message every time they pass on their data to another company.
- ▶ Another popular suggestion was for “big companies such as Google” to carry out more outreach activities aimed at children, such as television

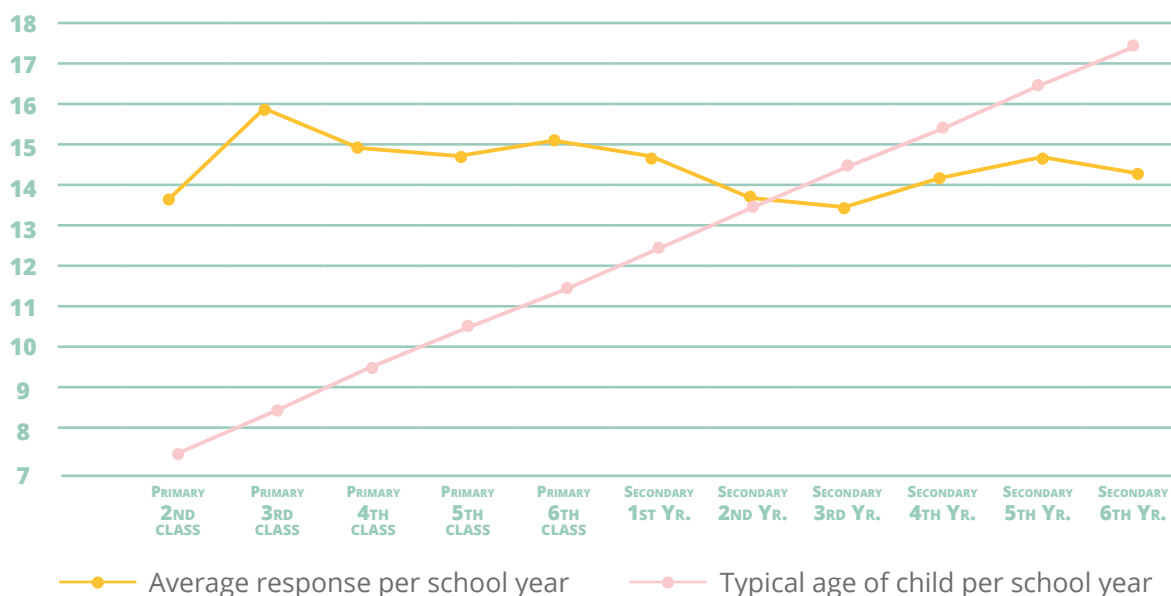
and online ads or even presentations at schools in which they explain how they process personal data.

FLEXIBILITY

- ▶ Children wanted more freedom to restrict the amount of personal data they are obliged to disclose about themselves in order to use their preferred apps and services.
- ▶ They also felt that it should be easier to opt out of disclosing certain types of personal data without forfeiting their access to the service, and that companies should do more to develop and encourage children to use bare-bones services that do not pressure them into disclosing excessive amounts of personal data.
- ▶ Geo-location data and real names were often cited as examples of excessive requests.

Q2. WHAT AGE DO YOU THINK YOU SHOULD HAVE TO BE BEFORE YOU CAN SIGN UP FOR A SOCIAL MEDIA ACCOUNT WITHOUT YOUR PARENTS' PERMISSION?

As illustrated below, the answers to this question varied considerably across different age groups:



The orange line represents the average response from children in a particular school year, e.g. the average response from 3rd class primary school students was “16”. The pink line indicates the average age of children in that particular school year, e.g. the average age of a 3rd class primary school student is approximately 8 years.

- Primary school students tended to suggest that this age should be set significantly higher than the average age of their class group. As illustrated in the above graph, students in their third year of primary school (approximately 8-9 years old) felt, on average, that they should have to wait until they are 16 years old before they can sign up for a social media account on their own. Although this gap gradually narrows as students get older, we see a consistent trend among students in primary and early secondary education of setting an age threshold that is several years higher than their own group age. The younger age groups tended to argue that their parents should be involved in setting up social media accounts because they believe their parents are more responsible and can protect them from harm.

- ▶ However, as we move towards the older age groups, we begin to see a marked decrease in the average age suggested by students, particularly when compared with the progressively increasing age of students year-on-year. The older children get, the lower they feel this threshold should be set relative to their own age until they enter second year of secondary school (approximately 13-14 years), at which point they begin to think that it should be equal to or lower than their current age. Only one class group in second year or higher felt that this age should be set at above 16.
- ▶ The average age suggested by students descends closer to 13 years among 2nd and 3rd year students (13-15 year olds) before approaching the 14/15-year mark again among older students (aged 15 to 17).

"18 because it's not really appropriate for anyone younger to be talking to companies." (Age 8-9)

"In some countries you can own a car at 16 so at this age you should be able to be responsible on your phone." (Age 10-11)

"13 because we are mature enough. People underestimate children. We understand the GDPR and our rights.

Many people in the class designed apps that run on ad revenue for their business CBA. We researched GDPR and the Cambridge Analytica scandal. We are old enough!" (Age 13-14)

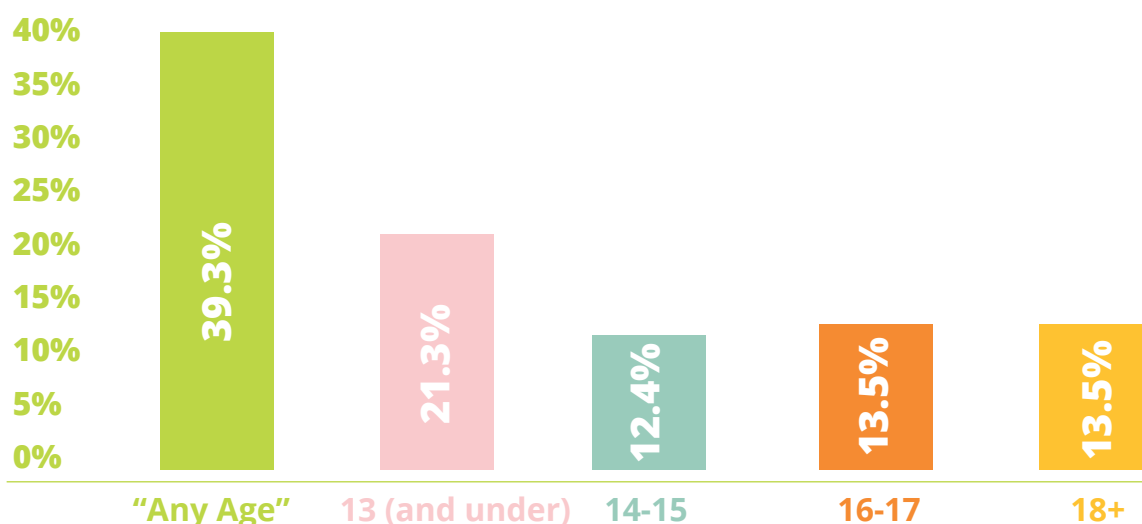
"13 - no one follows the minimum age currently. Parental consent does not work unless more extreme measures are taken. Don't see how changing age would make a difference - raise awareness instead."

Youth Group (mixed ages)

"People will always ignore the age limit. It's very easy to get around parental consent. Companies will have to be more strict if they really want to enforce it." (Age 15-16)



Q3. WHAT AGE DO YOU THINK YOU SHOULD HAVE TO BE BEFORE YOU CAN ASK ANY COMPANY FOR A COPY OF YOUR PERSONAL DATA, OR BEFORE YOU CAN TELL THEM TO DELETE YOUR PERSONAL DATA?



- ▶ The most popular answer to this question (approximately 40%) was that children should be able to make access or erasure requests "at any age" because it is their personal data. Of the 40% who said "Any age", the majority of children (45%) were aged 9-12 years old, while this option was least popular with young people aged 15-18 (9%).
- ▶ The second most popular answer (just over 20%) was that children should acquire this right at a very young age, usually below the minimum age of digital consent in the EU (i.e. 13 years). Children aged 12-15 accounted for 45% of those who thought children should be able to make access and erasure requests at 13 or under.
- ▶ Only 13.5% of children and young people thought that you should have to be 18 years old before you can make an access or erasure request to a company.

It is clear that the majority of children and young people who took part believe they should be able to exercise their rights as data subjects at any age or from a relatively young age.

"Any age. You have a right to access your own data. An age should not be required."
(Age 12-15)

"Any age as you should always have a right to know what companies know about you."
(Age 10-11)

"There should not be an age limit. If you have the capacity to contact them, you are mature enough to do this."
(Youth Group, mixed ages)

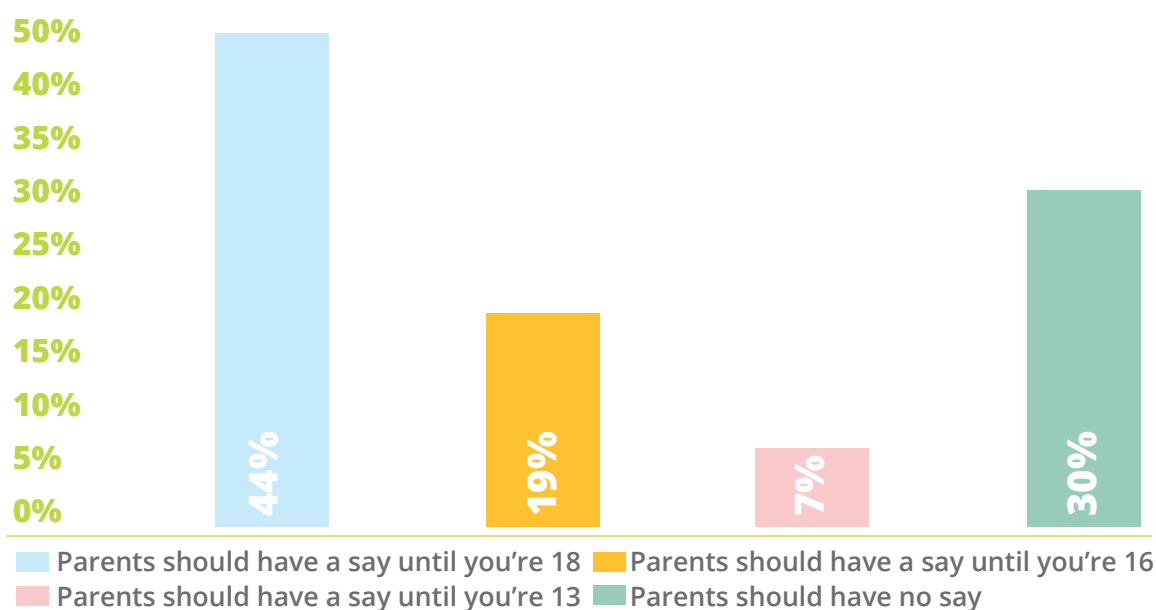
"We think you should be 13. A majority of apps require you to be 13 so you can request it then."
(Age 13-14)

"It would be more helpful to set an age up to which parents could help kids to get their data or delete data."
(Age 8-9)



Q4. DO YOU THINK YOU SHOULD BE IN CHARGE OF YOUR OWN PERSONAL DATA? OR SHOULD YOUR PARENTS HAVE A SAY?

Interestingly, even though most children feel that they should be able to exercise their data protection rights of access or erasure at any age or at a very young age, a large percentage also appear to think that parents should have a say in the management of their personal data:



- ▶ Approximately 45% of children believed that parents should have at least some role in helping children to manage their personal data until they reach adulthood. Of the 45% of children who favoured this option, the vast majority (just under 90%) were students in primary school or in the first three years of secondary school, so roughly between the ages of 7 to 15 years. Many children in this category did not necessarily want their parents to have a strong influence on their digital activities, but rather felt that parents should be kept informed of their child's activities so that they can better protect them. For example, some children in this category wanted their own autonomy online but also for their parents to be able to intervene rapidly in an emergency. Others pointed out that, because parents are always affected if anything bad happens to their children online, it is only fair that they have a say in their child's online activities.
- ▶ More compromise-oriented options, such as involving parents until the child reaches a certain age between 13-16, were less popular. Only 7% of children thought that parents should be involved until they reached the age of 13, while 19% felt their parents should have a role to play

until they reached the age of 16. However, approximately 75% of children seemed to believe that either their parents should be involved throughout their childhood, or not at all.

- ▶ The “Parents should have no say” option accounted for 30% of all responses and was more popular among secondary school students (approximately 60% of the 30%). Children who supported parents having no say at all generally believed that they alone should be in charge of their own personal data. Some pointed out that they are just as technologically proficient as their parents are, and others believed that the decision to involve their parents or not should ultimately lie with them.

“As you get older you should be allowed more privacy and to become more independent.” (Age 11-12)

“We should be in charge of our personal data but our parents should be allowed access it so we don't get into trouble.” (Age 10-11)

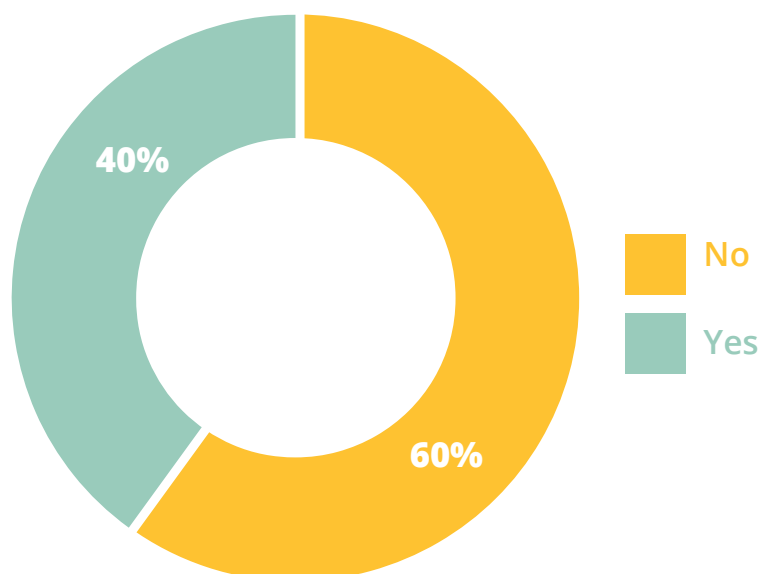
“Yes I should be in charge. I deserve privacy.” (Age 15-16)

“Parents need to know what children are doing online so that they can help keep them safe e.g. giving your number to strangers online, posting photos of yourself in your school uniform.” (Age 8-9)



“It's your business so no parents involved.” (Age 12-13)

Q.5 DO YOU THINK COMPANIES SHOULD BE ALLOWED TO USE YOUR PERSONAL DATA TO SHOW YOU ADS? WHY DO YOU THINK THIS?



- ▶ 60% of children and young people did not think that companies should be allowed to use their personal data to offer them personalised ads, with children aged 10 to 12 the most opposed to this.
- ▶ Those who were against personalised ads argued that they are annoying, an invasion of privacy or that companies had no business using their personal data for profit. Other children recalled unsettling experiences of being “followed” by personalised ads on the internet, and one group of 8-9 year olds drew parallels between TV ads and online ads, saying that online ads “are so scary because they are pointed at you directly and not at everyone like a TV ad”. One class was also concerned by the financial pressures that these ads put on parents.
- ▶ On the other hand, 40% of children and young people thought that companies should be allowed to use their personal data to serve them personalised ads.
- ▶ Of this 40%, children aged 12-14 were most in favour (45%). Children who were in favour of personalised ads pointed to the convenience of receiving ads that are tailored to them and said that apps are boring without them. Others were less enthusiastic but accepted the quid-pro-quo of receiving ads in exchange for a free service.

"It's unfair to target kids with ads to buy things. Kids/families might not be able to afford them." (Age 11-12)

"It feels like they're stalking you." (Age 8-12)

"No because we think it is creepy but at the same time we wouldn't pay to join these sites." (Age 10-11)



"Can be distracting and irritating to see the same ad repeatedly." (Age 16-17)

"Young people use social media as "quiet" time for themselves, so they don't want to be distracted by advertisements." (Age 12-13)

"Tá siad ina gcrá croí. Tá siad ag cuir as don rud atá muid ag déanamh." (Age 12-13)

"Ads are annoying because you're in the middle of a really good YouTube video and then a really bad ad pops up! Sometimes there isn't a "skip ad" button and then you end up watching a useless ad for 1 or 2 minutes." (Age 9-10)

"It's a bit creepy, if you were just talking about something with your friend and then you get ads about it. It feels like they are listening to you with a secret microphone." (Age 12-13)

"There are also really inappropriate ads that pop up and you are not able to skip them." (Age 9-10)



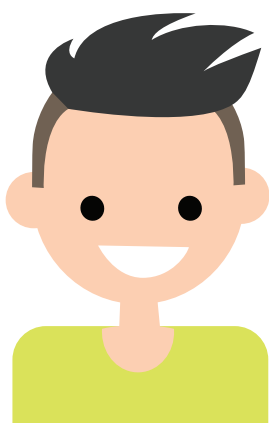
Those who had positive opinions of personalised advertising said that they could be useful for shopping, particularly if they are tailored to their interests and allow them to discover new products.



"Yes because it can work in your favour. It makes ads more personalised. It is better than paying. It is personalised to what you like." (Age 13-14)



Others accepted that ads are "how companies make money" and claimed that they are not bothered by ads that pop up on their social media feeds.



"That's how social media companies earn money. They are annoying but sometimes can be helpful and might provide information. Personalised ads are more relatable to you and can help you find good deals on things you want to buy." (Age 13-14)

CONCLUSIONS

A number of encouraging trends can be observed based on the DPC's analysis of responses from children to this specially tailored consultation:

- ▶ Firstly, children have clear expectations of online services, apps and platforms in relation to their obligation to explain what they do with personal data. They feel that these companies could interact with children about their personal data in a simpler, more transparent, accessible and flexible manner.
- ▶ Secondly, we can see clear trends in relation to children's views of their rights and responsibilities online as well as those of their parents. Younger children at primary school level tend to believe that their parents know best and want more parental supervision and involvement, whereas older children are more likely to think that they are ready to manage their online activities, including the processing of their personal data, themselves.
- ▶ Finally, a particularly encouraging pattern is the fact that the students had creative ideas and comments about how their data protection rights could be better respected in the online environment, as noted in the various quotes from children and young people that are dotted throughout this report.

The DPC found it very encouraging to see students across the country really getting to grips with the subject matter and thinking seriously about their data protection rights. We look forward to sharing more insights from both streams of our consultation in the coming months, and we would like to thank all the teachers, Youthreach and youth group leaders who took the time to deliver the lesson plan but most of all a really big thank you to all of the approximately 1200 children and young people of all ages who took part so enthusiastically. We look forward to learning more about your views and experiences in the future!



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