

COMP Article 8 11.10.2013

Article 8 Processing of personal data of a child

1. For the purposes of this Regulation, in relation to the offering of ~~information-society goods~~ *or* services directly to a child, the processing of personal data of a child below the age of 13 years shall only be lawful if and to the extent that consent is given or authorised by the child's parent or *eustodian legal guardian*. The controller shall make reasonable efforts to *verify such obtain verifiable* consent, taking into consideration available technology *without causing otherwise unnecessary processing of personal data*.

1a. Information provided to children, parents and legal guardians in order to express consent, including about the controller's collection and use of personal data, should be given in a clear language appropriate to the intended audience.

2. Paragraph 1 shall not affect the general contract law of Member States such as the rules on the validity, formation or effect of a contract in relation to a child.

3. The *European Data Protection Board Commission* shall be *entrusted with the task empowered to adopt delegated acts in accordance with Article 86 for the purpose of issuing guidelines, recommendations and best practices further specifying the criteria and requirements* for the methods of *verifying to obtain verifiable* consent referred to in paragraph 1, *in accordance with Article 66*.

~~4. The Commission may lay down standard forms for specific methods to obtain verifiable consent referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).~~

Recitals

(29) Children deserve specific protection of their personal data, as they may be less aware of risks, consequences, safeguards and their rights in relation to the processing of personal data. ~~To determine when an individual is a child, this Regulation should take over the definition laid down by the UN Convention on the Rights of the Child. Where data processing is based on the data subject's consent in relation to the offering of goods or services directly to a child, consent should be given or authorised by the child's parent or legal guardian in cases where the child is below the age of 13. Age-appropriate language should be used where the intended audience is children. Other grounds of lawful processing such as grounds of public interest should remain applicable, such as for processing in the context of preventive or counselling services offered directly to a child.~~