

## - Social networking

# Protecting children on social media

Bangkok Post · 9 Nov 2022 · 9 · CHATTRIKA NAPATANAPONG ATCHARAPORN ARIYASUNTHORN Chattrika Napatanapong and Atcharaporn Ariyasunthorn are researchers at the Thailand Development Research Institute (TDRI). Policy analyses from TDRI appear in the Bangkok Post on alternate Wednesdays.

Is it wrong to post video clips or photos of children on social media? Maybe this is the wrong question. Instead, we should ask whether those posts are legal or not. The question of the appropriateness of posting children's photos or video clips on social media has raised a storm of debate recently with an online campaign to respect children's privacy vis-a-vis the insistence of many parents and teachers that the posts were made in good faith.



Indeed, what is wrong with mums and dads sharing parental love and joy on social media and teachers sharing a good laugh from children's innocence and cuteness?

A lot, according to the proponents of children's right to privacy.

Even with the best of intentions, what adults believe to be children's cute behaviour may be a cause of embarrassment when they grow up. Think of photos of naked babies. After all, they were too young to give consent, and the digital footprints stay forever.

Those online video clips and photos often expose children's identities and whereabouts that threaten their safety and dignity from criminals preying on vulnerable children. Also, the paedophiles who collect children's photos around the world and use them for sexual purposes.

Even when parents are cautious with their children's privacy, other people can still post their kids' photos or video clips online without their knowledge and subject their kids to public amusement or ridicule. Teachers in particular. Thai social media is abuzz with photos and video clips of young children posted by their teachers to get public likes and views. Though most posts sell smiles and laughter, many are insensitive, or even cruel. Precisely.

PDPA is short for the Personal Data Protection Act which took effect this year. Under the PDPA, consent is crucial. For children under 10, you cannot collect, use, or disclose their personal information unless you get parental approval.

For youth, legally defined as those under 20, they can grant consent only when the activities are beneficial and necessary for their lives and when the activity does not need approval from other people. For example, receiving educational grants. For activities that are not part of their daily lives, such as high-value businesses, their parents can legally represent them.

So, is it illegal to post and share children's photos and video clips on social media? What if the photos accidentally contain photos of children we do not know?

Under the PDPA, no need to worry if the content is for family and private uses. It is illegal, however, if the disclosure is for commercial purposes without the parents' consent. But the law does not specifically define what "family and private uses" covers. The lack of clear guidelines and some rules that are behind the times also make legal interpretation and implementation problematic.

The PDPA makes the public respect other people's personal information regardless of age and gender. It protects the rights of children and youth. But such protection has at least three loopholes.

Firstly, the ambiguity of "family activities" and "private use". Secondly, to be the children's legal guardians, the parents must have legal marriages. Thirdly, the lack of specific rules and regulations for operators to inform and get consent from children and youth before collecting their personal information.

The Thai PDPA may learn from other countries' practices to strengthen protection for children and youth in social media.

The United States, for example, has a specific law — the Child Online Privacy Protection Act of 1998 (COPPA) — to protect children's privacy. It is mandatory for website operators to post a clear and comprehensive online privacy policy for persons under age 13 and provide a way for parents to review and correct their children's personal information.

In the European Union, the European Data Protection Board clearly stipulates that the use of a child's personal information for family activities does not cover its use on social media accessible to the general public.

Ireland also has a specific manual on the collection, use, and disclosure of children's personal information. The manual comprehensively covers children's rights under the General Data Protection Regulation with ageappropriate rules to inform and seek consent from minors. The privacy protection for children and youth is stricter than the standard rules for adults.

This manual also requires online operators to communicate with children and youth on personal data collection with concise, transparent, and easy-to-understand language. It also allows the children's guardians the right to give or withdraw consent for the children in addition to birth parents.

Following best practice, Thailand should issue specific guidelines and manuals for the collection, use, and disclosure of children and youth. They must clarify the meaning of "for family activities and private use only" and "access limited to family members only" when a child's personal information is used online. The clarity is crucial to help parents understand the rules. It will also help online operators to design their systems accordingly.

Importantly, society and the family structure have changed. Many children and youth are not living with their birth parents. The law must recognise this reality when defining who should be allowed to act as their guardians.

The online operators must also make it easy for children and youth to understand their right to be informed before or during the collection of personal data with age-appropriate formats such as the use of videos and graphics.

Clear and easy-to-understand rules and guidelines are crucial. They will enable society, parents, guardians, and teachers to protect children's online safety and privacy more effectively.

Weak and vague laws, however, can do little to stop online social bullying against children. Sadly, the perpetrators are often the people who are supposed to protect them, not realising that the brief social media fame from their viral stories can hurt vulnerable children for life.

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