Facepunch Studios

Age Appropriate Design Code Audit

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Information Commissioner's Office

Executive summary

Background & Scope

Under section 123(1) of the Data Protection Act 2018 (DPA18), the Information Commissioner produced a code of practice on standards of age appropriate design ("the Code"). The Code applies to "relevant information society services which are likely to be accessed by children" in the UK. This includes many apps, programs, connected toys and devices, search engines, social media platforms, streaming services, online games, news or educational websites and websites offering other goods or services to users over the internet. It is not restricted to services specifically directed at children.

The Code sets out 15 headline standards of age appropriate design that companies need to implement to ensure their services appropriately safeguard children's personal data and process children's personal data fairly. The Code came into force on 2 September 2021.

More widely, the Information Commissioner is also responsible for enforcing and promoting compliance with the UK General Data Protection Regulation (UKGDPR), the Data Protection Act 2018 (DPA18) and other data protection legislation. Section 129 of the DPA18 allows the ICO to carry out consensual audits. The ICO sees auditing as a constructive process with real benefits for controllers and so aims to establish a participative approach.

Facepunch agreed to a consensual audit of the measures, processes, and policies they have in place to demonstrate conformance with the Code and data protection legislation.

The purpose of the audit is to provide the ICO and Facepunch with an independent assurance of the extent to which Facepunch, within the scope of this agreed audit, is complying with the Code and data protection legislation.

The scope areas covered by this audit are determined following a risk based analysis of Facepunch's processing of children's personal data. The scope may take into account any data protection issues or risks which are specific to Facepunch, identified from ICO intelligence or Facepunch's own concerns, and/or any data protection issues or risks which affect their specific sector or organisations more widely. The ICO has further tailored the controls covered in each scope area to take into account the organisational structure of Facepunch, the nature and extent of Facepunch's processing of children's personal data, and to avoid duplication across scope areas. As such, the scope of this audit is unique to Facepunch.

It was agreed that the audit would focus on compliance to the AADC standards. Findings and recommendations are grouped in the following sections:

- *A: Governance, Transparency and Rights*
- *B: Due Diligence and Data Protection Impact Assessments (DPIAs)*
- *C: Data Minimisation and Sharing*
- *D: Age Assurance*
- *E: Detrimental Use*
- *F: Privacy Settings and Parental Controls*
- *G: Geolocation*
- *H: Profiling and Cookies*
- *I: Nudge Techniques*

Audits are conducted following the Information Commissioner's data protection audit methodology. The key elements of this are a desk-based review of selected policies and procedures, remote interviews with selected staff, and a virtual review of evidential documentation.

Where weaknesses were identified recommendations have been made, primarily around enhancing existing processes to facilitate conformance with the Code. Recommendations for good data protection practice have also been made where other weaknesses have been observed. In order to assist Facepunch in implementing the recommendations each has been assigned a priority rating based upon the risks to children that they are intended to address. The ratings are assigned based upon the ICO's assessment of the risks involved. Facepunch priorities and risk appetite may vary and, therefore, they should undertake their own assessments of the risks identified.

Overview of Service and Processing

Facepunch Studios is an independent UK-based games developer based in Birmingham, and was founded in June 2004 and incorporated in March 2009. Facepunch's ethos is to be player-first and learn from their game communities; as such, Facepunch operates a streamlined management structure, with strategic direction for data protection and privacy compliance oversight set directly from board-level. Facepunch employ around 50 staff, most of whom are Programmers and Designers.

Facepunch is best known for the sandbox game Garry's Mod, and survival game Rust. Rust is an online multiplayer-only survival game that involves player-to-player combat and wilderness survival in open world environments. Facepunch first released Rust on PC via the Steam Early Access program in December 2013, and Rust was fully released in February 2018. Rust can currently can only be purchased online through the Steam platform.

Rust on PC has never been distributed by physical retail so does not have a PEGI rating. Although Facepunch considers Rust to be aimed at users 18 years and over and does not believe that the game appeals to children, Facepunch believes that the Age-Appropriate Design Code (AADC) applies as Rust may be accessed by children under 18 years. Rust gameplay includes online elements where players can interact and play with other players, including in-game text chat and voice chat. Rust supports community-hosted servers, mods, and user-generated content.

Facepunch's reported approach is to collect as little data as possible. Facepunch does not require users to create an account to access Rust, although some gameplay data and device information is collected in-game. This data is used to operate the game and for analytics, however this is usually processed in an aggregated form. Users are informed about data processing taking place through the Facepunch Privacy Policy, which is available on Facepunch's website and signposted to users when downloading Rust.

Facepunch share some personal data of users with third parties in order to operate parts of or functions within their games or services. All third party relationships are governed by legal contracts that include obligations to comply with data protection legislation. Facepunch believes that all data sharing is essential to operating the game or service, therefore players cannot choose to stop data sharing.

Areas for Improvement

Age assurance measures in place should be improved, by assessing and reliably determining the actual ages of current UK child users, regularly monitoring the effectiveness of the third-party age gate used, and assessing which elements of an online service are appealing to or likely to be accessed by children. This would enable more effective consideration of the best interests of children, identification of specific risks to child users of different ages, and implementation of appropriate privacy safeguards.

Where actual user ages are not established with appropriate certainty, the AADC standards should be applied to all users as far as is relevant, to afford child users protection against online risks and harms.

Measures and safeguards to protect child users should be implemented to ensure that children's data is not processed in a way that is detrimental to their health and wellbeing, such as settings that are high privacy by default, age-appropriate information about privacy settings, parental controls over play times and online activity, and active monitoring of data processing on community-hosted servers.

Following the audit, Facepunch implemented several actions and provided evidence of these.

Disclaimer

The matters arising in this report are only those that came to our attention during the course of the engagement and are not necessarily a comprehensive statement of all the areas requiring improvement. The responsibility for ensuring that there are adequate risk management, governance and internal control arrangements in place rest with the management of Facepunch.

We take all reasonable care to ensure that our report is fair and accurate but cannot accept any liability to any person or organisation, including any third party, for any loss or damage suffered or costs incurred by it arising out of, or in connection with, the use of this report, however such loss or damage is caused. We cannot accept liability for loss occasioned to any person or organisation, including any third party, acting or refraining from acting as a result of any information contained in this report.

This report is solely for the use of Facepunch. The scope areas and controls covered have been tailored to this engagement and, as a result, the report is not intended to be used in comparison with other ICO report.