**Children’s online privacy**

Many children have digital footprints before they take their first steps, leading to concerns around privacy breaches and the exacerbation of privacy risks by the “sharing” practices of parents and guardians online. The term “sharenting” refers to a parent/guardian sharing photos, videos, personal stories, and other updates about the child’s daily activities, such as eating, sleeping, bathing, and playing. Sharenting invokes a tension between the child’s interest in privacy and autonomy over their digital identity, and the parent/guardian’s right to freedom of speech and to have control over the upbringing of their children.

1. **Risks associated with sharenting**

As information cannot easily be erased once shared online, the harms of sharenting may include:

* identity theft
* resharing pirated information on predator sites
* sharing psychosocial information that should remain private, and
* sharing revealing or embarrassing information that may be misused by others.[[1]](#footnote-1)

Long-term consequences can include a negative impact on the emotional, social and intellectual development of a child, as they may grow up to resent their parents, be victim to bullying and harassment, or have to rebuild their digital identity.[[2]](#footnote-2)

Studies conducted by the Australian Government’s eSafety Commission found approximately 50% of images shared on paedophile sites were taken from social media. The new phenomenon of “Kidfluencers” adds an additional element to this risk. A recent controversial instance concerned a 3-year-old girl, Wren Eleanor, whose mother posted videos of her on their TikTok account, which over time accrued over 17 million followers. As the videos gained attention, people started the notice the ‘creepy comments’ and mass amounts of times the videos had been saved by other anonymous users, and concerns were expressed that the mother may have been exploiting her child for money.[[3]](#footnote-3)

1. **Legislation governing the privacy rights of children**

The law leaves children’s online privacy and sharenting largely unregulated as current laws do not address or govern the publication of a child’s image or information online.[[4]](#footnote-4) According to the United Nations Convention on the Rights of the Child, a child means every human under the age of eighteen, but in Australia, the *Privacy Act 1988* protects an individual's personal information regardless of their age. It doesn't specify an age after which an individual can make their own privacy decision, but for their consent to be valid, an individual must have capacity to consent. Article 16 of the UN Convention on the Rights of the Child, states that:

“No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation and the child has the right to the protection of the law against such interference or attacks.”

Social media platforms are regulated in collecting and handling data on children’s accounts, but individuals’ digital privacy is left to user discretion. Hence a child’s privacy can still be overruled by their parents’ freedom of speech and discretion.

There have been attempts by other countries to implement specific regulations related to the sharing of children’s personal data, but no countries had adopted laws that protects children’s privacy through the lens of rights to their images until earlier this year. In France, the Law no. 2024-120 of February 19, 2024 (“Children’s Image Rights Law”), was implemented with aims to tackle risks of sharenting, by completing measures to limit risk-creating behaviour and enshrine children’s right to privacy and facilitate the exercise of rights which protect minors.[[5]](#footnote-5) This new law is the first law of its kind and sets the precedent for other countries to do the same, to ensure the safety of children and the risks associated with their privacy and image are protected.

1. Keith et al, ‘Parental Sharing on the Internet: Child Privacy in the Age of Social Media and the Pediatrician’s Role’ (2017) *JAMA Pediatrics* 171(5), 413–414. [↑](#footnote-ref-1)
2. Bezáková et al, ‘Security Risks Of Sharing Content Based On Minors By Their Family Members On Social Media In Times Of Technology Interference’ (2021) *Media Literacy and Academic Research* 4(1), 53-69. [↑](#footnote-ref-2)
3. McIntire, 'Welcome to the World: Rethinking Children's Privacy Rights in the Age of Sharenting' (2023) 38(2) *Wisconsin Journal of Law, Gender and Society* 268. [↑](#footnote-ref-3)
4. McIntire, 'Welcome to the World: Rethinking Children's Privacy Rights in the Age of Sharenting' (2023) 38(2) *Wisconsin Journal of Law, Gender and Society* 268. [↑](#footnote-ref-4)
5. Dansac Le Clerc et al, “France introduces new law to enhance the protection of children’s rights in France” (2024) *Baker McKenzie <* [*https://www.lexology.com/library/detail.aspx?g=aefb7759-0424-4f43-806b-211878959f13*](https://www.lexology.com/library/detail.aspx?g=aefb7759-0424-4f43-806b-211878959f13)*>.*  [↑](#footnote-ref-5)