



Creating an Age Appropriate Design Code in California

Online safety policies have become a domestic and international priority over the past year, and certain ideas have already been codified into law. In the US and around the world, governments have attempted to require companies to moderate harmful content online while protecting free speech and expression, implement age verification and identification tools while respecting users' privacy, and mandate transparency measures without exposing trade secrets or users' personal information. But one effort takes a slightly different approach, and has had the most significant effect so far on the Western internet: implementing an age-appropriate design code for online products, services, and platforms.

The best example of this is currently the UK's [Age Appropriate Design Code](#) (AADC, also known as the Children's Code), which has been in effect and enforceable since September 2021. The formation of the AADC was included as an amendment to the Data Protection Act of 2018, the vehicle for the UK to comply with the EU privacy regime, the GDPR. The details of the code were not formed through the legislative process, but implemented as a statutory code. At its core, the AADC requires websites and apps to prioritize the best interests of a child. It does so by laying out [15 standards](#) that companies must follow. Among other things, the code prohibits nudge techniques that would encourage children to weaken their privacy settings, calls for data minimization, and requires privacy and safety settings to be set to 'high' by default.

The AADC has had a major impact since it came into effect. Companies have made substantial changes to their products and platforms that improve user safety, especially for minors. TikTok has [turned off late night notifications](#) for children and [disabled direct messaging](#) for users under 16. Google implemented [safer search controls](#) for minors, and YouTube turned off autoplay for users under 18. [Instagram](#) both disabled targeted advertising for all users under 18 and turned off direct messaging between adults and children. While some companies have said that these changes

were a long time coming and not directly related to the AADC, advocates point to the substance of the changes as well as the timing (some just weeks before the AADC became enforceable) as [evidence that the AADC is working](#) and companies are making changes to be in compliance.

Online safety advocates around the world, including here in the US, have taken note of the relative success of the UK's AADC and have begun to work on replicating the code domestically. Members of Congress have stated that they have been [closely following the online safety updates](#) coming from the UK, especially those pertaining to the AADC, and it has significantly informed their work and proposed legislation. While there has not yet been a direct copy of the AADC introduced in Congress, California, home to many of the largest internet companies, has been advancing its own version of the AADC.

The [California Age-Appropriate Design Code Act](#) (ADCA) is the bipartisan proposal working its way through the State Assembly. There have been two [Committee hearings](#) on the ADCA so far and in April, the Privacy and Consumer Protection committee voted 10-0 to advance the bill. Like the UK's AADC, the ADCA would require online platforms likely to be accessed by children to comply with standards when designing platforms or products, including considering the best interests of a child. The bill also defines a child as anyone under 18, marking a significant departure from US federal law, which for data privacy purposes has been set at 13 since 1998. The ADCA would require high privacy protections by design and default, data protection impact assessments for products likely to be accessed by minors, and ban the collection of any user information that is not necessary for the product. It would restrict geolocation data collection from children, display a clear signal when that information is being collected, and prohibit collecting any sensitive personal information of a child.

Another connection the two design codes share is Baroness Beeban Kidron, the main architect of the UK's AADC, who has also been a vocal supporter of CA's ADCA, including [testifying at the first public hearing](#) on the bill. Kidron's group, the 5Rights Foundation, works to support the digital rights of children, and after their successful backing of the UK's design code, they are working to replicate that success in other jurisdictions around the world.

This bill is a serious effort to apply world-leading online protections offered in the UK to kids in California, and would improve kids' online safety in many ways. The biggest tech companies are already taking these additional safety actions in order to comply with UK law, but applying similar standards in California would for the first time guarantee that American children receive these protections as well.

There is still much to be determined regarding how businesses will need to comply with the proposed law and what effect it would have on the safety of families and minors. The ADCA wouldn't go into effect until July 1, 2024, to give time for companies to come into compliance. Before it becomes enforceable, the bill would create the California Children's Data Protection Taskforce, which is charged with evaluating best practices for affected businesses to abide by the new requirements, and support these businesses in coming into compliance. The deadline for regulations to be adopted and guidelines to be published is April 1, 2024, so there is considerable time to figure out exactly what implementing this proposed law would look like.

Another important component that still needs to be resolved is [defining key terms](#) in the bill so that businesses can better understand what they must specifically do to be in compliance if this bill becomes law. These include fundamental terms like "business" and "consumer", but also technical terms like "profiling" and "precise geolocation". More clarity around these definitions would bring more certainty to businesses that try to comply with this design code bill.

A significant part of the ADCA that is also included in other online safety policy proposals is age assurance. As new legislation and regulation require companies to be more accountable for the content and services they offer to children, it is more important than ever that companies know the age or age range of their users. This comes with tradeoffs, as collecting more information about a user to confirm their age can run directly counter to data minimization requirements. This is a difficult and challenging part of online safety considerations. FOSI is actively looking into age assurance from a policy, parenting, and industry perspective.

Congress has been quite active in the online safety space over the last 6 months, including a series of high profile hearings with tech company executives and Facebook whistleblower, Frances Haugen. Many bills focused on children's online safety, privacy, and improved agency enforcement have been introduced. However, none of these efforts have passed into law yet, and none of them are built in the

Age Appropriate Design Code model like California's ADCA. In crafting and advancing the ADCA, California has an opportunity to lead the US in taking real, substantive action to protect children online.

As the second jurisdiction to act and with enforcement still years away, California's code may be easier for companies to comply with. Companies with British users faced major compliance burdens when the UK rolled out its AADC, the first of its kind, as they were forced to comply or risk heavy fines. However, the principles of the UK's AADC were first introduced in January 2020, and when finalized into law, companies had a full year to come into compliance before enforcement began in September 2021. California's ADCA, which was written in 2022 and is not enforceable until July 2024, would not be as difficult to comply with, as most companies will have been working on children's safety by design for years.

In fact, one tech company went so far as to praise the UK's design code and welcome its expansion to California. Roblox, a popular gaming platform with millions of child and teen users, reacted quite positively to the news of California's ADCA with [a statement from CEO David Baszucki](#): "The U.K.'s Age-Appropriate Design Code is closely aligned with Roblox's values and its commitment to principle-based safety by design, and we are glad to see California taking steps to follow this model." It is rare for any industry to applaud and welcome regulation, and noteworthy when considering efforts to improve online safety.

The design code model would make families' and children's online experiences safer while asking very little of families themselves. Users would not have to learn new parental controls or user-specific safety tools, reporting mechanisms, or technical methods of consent in order to keep themselves safe online. The principle behind the design code is that safeguards are implemented much earlier in the product development process, requiring safety and privacy to be intentionally considered at the beginning of creating an online product or service. With these requirements codified into law, parents and children could be more comfortable using online services knowing that their personal information and wellbeing has already been taken into account. This would undoubtedly be beneficial for busy parents and families who want to prioritize safety and privacy, but may not have time to learn about each new service or product their kids use.

Age appropriate design codes have the potential to keep young users safe online while at the same time making it easy for parents and families to understand their online rights and protections, and avoid burdensome compliance costs from industry. While more clarity around the bill's terminology is needed, we are encouraged by the impact of the UK's AADC and will continue to track similar developments as online safety takes legislative priority in California and around the world.

Andrew Zack
Policy Manager

About FOSI

The Family Online Safety Institute is an international, non-profit organization which works to make the online world safer for kids and their families. FOSI convenes leaders in industry, government and the non-profit sectors to collaborate and innovate new solutions and policies in the field of online safety. Through research, resources, events and special projects, FOSI promotes a culture of responsibility online and encourages a sense of digital citizenship for all.