[FR] Publication of decree on commercial exploitation of the image of children on the Internet

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Under Law no. 2020-1266 of 19 October 2020 regulating the commercial exploitation of children under 16 on Internet platforms, which entered into force on 20 April 2021, so-called “child YouTubers” now enjoy the same protection as children in the modelling and entertainment industries, as described in Articles L. 7124-1 *et seq.* of the Employment Code, as well as specific rights such as the “right to be forgotten”. Before their children are filmed or their videos are disseminated, parents must request an individual licence or approval from the authorities. Their child’s rights and the consequences of their child’s image being posted on the Internet are explained to them.

Adopted in pursuance of Article 1 of the Law, decree no. 2022-727 of 28 April 2022 sets out the details of this protection and the conditions under which people may film, produce and disseminate videos in which children under 16 play the leading roles on online video-sharing platforms for financial gain. The child’s work must be authorised in advance and medically assessed, and the money they earn must be deposited with the *Caisse des dépôts et consignations* until they reach the age of majority or emancipation.

The decree amends the Employment Code, requiring employers to submit various documents. Approval, which can only be granted if sufficient guarantees of the child’s physical and psychological health are provided, is valid for one year and is based on the opinion of a committee comprising a judge, an academic director from the national education service, the departmental director responsible for employment, labour and solidarity, a doctor and the regional director of cultural affairs.

For so-called “Internet grey areas”, i.e. when the activities of child “influencers” are not the subject of an employment relationship, protection is also provided under the Law of 19 October 2020. A declaration must be filed if they exceed certain thresholds for the length or number of videos produced or income earned from their distribution. In the absence of any authorisation, approval or declaration, the authorities can refer the case to the courts.

Video-sharing platforms are also urged, in partnership with child protection organisations, to adopt charters, in particular to make children aware of the consequences that the distribution of their image could have for their private life,

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as well as the associated psychological and legal risks.

Décret n° 2022-727 du 28 avril 2022 relatif à l'encadrement de l'exploitation commerciale de l'image d'enfants de moins de seize ans sur les plateformes en ligne

https://www.legifrance.gouv.fr/download/pdf?id=P5oBe7_TsrcfYF20JDXHOjImAyXlPNb9zULelSY01V8=

Decree no. 2022-727 of 28 April 2022 on the commercial exploitation of the image of children under 16 on Internet platforms

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