



Guideline 28: Digital rights issues can arise in a range of different contexts and may warrant exploring less conventional routes. Be open to alternative areas of the law that may prove to be more effective in addressing issues, particularly against private actors.

Connected toys are an interesting example that cuts across different fields of law as well as different contexts.⁵⁷ Smart or connected toys, part of the broader category of the Internet of Things, are becoming increasingly popular. However, the toys portrayed as cuddly and cute are not as innocent as they look. There are growing campaigns, such as #WatchOut and #ToyFail that seek to highlight the issues of many of these toys – in particular, issues around children’s safety and privacy, invasive data collection practices, and complex and unwieldy terms and conditions that prompt concerns around consumer rights. Bringing a case around smart toys could be done through a children’s rights lens, a privacy and data protection lens, or a consumer protection lens. Accordingly, there are different fields of law that could be relied on, separately or collectively, when addressing the concerns associated with smart toys.

Competition law is another area of law that implicates digital rights. Digital rights activists have cautioned that “a small number of large online platforms not only act as economic gatekeepers but also as ‘fundamental rights’ gatekeepers.” Big tech companies, who wield significant influence, have unfettered power to set the standards of the digital world – which often comes at a price for consumers and their digital rights. Abusive terms of service and distorted power dynamics threaten freedom of expression and access information. It may be worth exploring digital rights issues through a competition law lens, which may also include consumer protection considerations. DFF is working on Taking on Big Tech in the fight for digital rights and has developed a short guide to competition law for digital rights litigators to provide individuals working on digital rights litigation with an overview of the main principles of EU competition law.

Another example would be the tensions of intellectual property and copyright laws in the context of digital rights. ARTICLE 19 explains that while copyright laws can “benefit society, promote the progress of science and the arts, facilitate growth, support creativity and spread cultural expression”, copyright law “has been increasingly used to discourage creativity and stifle free expression and the free exchange of information and ideas in order to protect

⁵⁷ Connected Toys are internet enabled devices that are incorporated into physical children’s toys and often include a microphone and speaker, are connected to an app. See UK Information Commissioner’s Office, ‘Connected toys and devices’ Age appropriate design: A code of practice for online services (2020) (accessible at <https://ico.org.uk/for-organisations/guide-to-data-protection/ico-codes-of-practice/age-appropriate-design-a-code-of-practice-for-online-services/14-connected-toys-and-devices/>).