

THE CHILDREN'S HYPERVULNERABILITY WITH REGARDS TO INTERNET OF TOYS

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ABSTRACT: The paper aims to demonstrate how the Internet of Toys, which is derived from Internet of Things can bring some bad consequence for our children. It is presented why children must have a bigger protection in reason of their vulnerability as consumers and how legal orders from Unites States, Europe Union and Brazil are treating the protection of children's data.

KEY-WORDS: Children — hypervulnerability — Internet of Toys

I. Introduction

Children, consumption and technology are themes that are intertwined in the digital age and that deserve attention from academia. The vulnerability of the child is aggravated in an environment where the digital and the real can be confused even by adults. Consumption permeates this kind of relationship, since just as technology revolutionizes our lives, it also revolutionizes how suppliers learn about the tastes and habits of their consumers, so they can deliver hyperpersonalized products and services.

The hyperpersonalization of consumption creates a new way of consuming and generates gigantic profits. The more personal data you have from a consumer, the more you can understand what he intends to consume and how much he is willing to pay. This directs information, publicity, and therefore behaviors.

Much of this data that is used to customize user behavior is captured by objects that are part of the Internet of Things, intelligent objects connected to the Internet that can capture, understand, and share data. Children are also affected by this new age by having the Internet of Toys, which are connected toys that transmit data.

The consequences of using this personal data, especially for hypervulnerable beings such as children, involve social, economic and legal aspects. By understanding that personal data is conceptualized as an extension of the personality of the being, the present work intends to look at how the American, European and Brazilian legal systems are dealing with the use of children's data captured by the Internet of Toys.

II. Internet of Things

The vulnerability of the child gains special attention in an age when the boundary between concrete and digital becomes increasingly tenuous. The internet for the majority of the world population is a novelty, but for children is already a natural element of life. Children who were born within this new reality understand it as something natural.

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The internet revolutionized virtually all of our relationships, how we communicate, how we shop, how we relate, etc. Among the revolutions of postmodern life is the Internet of Things (IoT), whose main characteristic is "to give objects of everyday use capture, process, store, transmit and present information"¹

Daily we are connected to devices connected to the internet. It is possible to turn the house lights on and off, adjust the temperature of the air conditioning, watch the child in another room, and unlock the door using your cell phone. These objects can generate data in variety and quantity on those who use it, as a product of its operation. They can be refrigerators, cell phones, automobiles, speakers, clothes, clocks or spatialized devices (temperature sensors, active and passive devices) that in addition to their traditional functions, now use personal data to offer a more personalized service.

The term Internet of Things was coined by Kevin Ashton in 1999. Ashton claims that the Internet of Things provided for the connection of physical objects to the Internet, with the ability to capture information through technologies that would allow observing, identifying and understanding the world². The meaning of the term is not unanimous, according to the Cisco Internet Business Solutions Group (IBSG), the IdC is the time when more "things or objects"³ are connected to the Internet than people. This moment happened for the first time in 2010, when smartphones and tablets became popular and reached 12.5 million⁴, surpassing the world population, which at the time totaled 6.8 billion people. Currently there are almost 03 billion users connected to the Internet⁵ and experts speculate that the number of connected devices is between 26 and 50 billion in 2020⁶. Therefore, the Internet era of Things is already happening.

Davis ranks the internet in four stages⁷. The first one understands that the internet would be geared towards connecting and obtaining information on the network; the second would be characterized by the objective that the user would have a good experience and collaborate through social networks; the third would assign meanings and context to the information obtained and the fourth stage, called Ubiqua Web, would be constituted by the Internet of Things, with connectivity and interactivity between people, information, processes and objects. This last stage is what we live in today and in our Web Ubiqua the form of consumption also changes. With the progressive growth of personal data, the user has gone from being a consumer to a "prosumer", that is, he becomes a producer of content⁸.

The differential of these connected devices is the use of personal data to offer a super personal service to its users. Each time a user uses a social network or uses one of these

¹ See LACERDA, Flávia; LIMA MARQUES, Mamede. Da necessidade de princípios de Arquitetura da Informação para a Internet das Coisas. Available in <http://dx.doi.org/10.1590/1981-5344/2356> Access in: 05 Feb. 2018.

² Ibid.

³ See EVANS, Dave. L'internet des objets: Comment l'évolution actuelle d'Internet transforme-t-elle le monde? Cisco Internet Business Group. 2011

⁴ Ibid

⁵ Information according to the Global Internet Report KENDE, M. Global Internet report. Geneva: Internet Society, 2014. Available in: <http://www.internetsociety.org/doc/global-internet-report>. Access in: 28 jul. 2018.

⁶ See GARTNER. Gartner Says the Internet of Things installed base will grow to 26 billion units by 2020. Available in: <http://www.gartner.com/newsroom/id/2636073>. Access in: 28 jul. 2018.

⁷ See DAVIS, M. Semantic wave 2008 report: industry roadmap to Web 3.0 & Multibillion Dollar Market Opportunities. Executive Summary, 2008. Available in: <http://www.project10x.com>. Access in: 20 jul. 2018.

⁸ See AZAMBUJA, Celso Candido de. Psiquismo digital: sociedade, cultura e subjetividade na era da comunicação digital. Nova Petrópolis: Nova Harmonia, 2012.

connected devices, it provides information that helps to chart their economic, social, political and consumer profile. This process is called "data mining".

As Leandro Augusto da Silva teaches, the data that the user informs are facts. It is necessary to give a semantic meaning or meaning to these data so that they become information. When the data set is comprehensible to the device, the device can make decisions from them, thus arising the knowledge about the person⁹, which potentially means profitable marketing meanings. According to SILVA; PERES; BOSCARIOLI¹⁰:

In a simplified way, data mining can be defined as an automatic or semiautomatic process of analytically exploring large databases, in order to discover relevant patterns that occur in the data and that are important to support the assimilation of important information, supporting the generation of knowledge. (2016, p. 495)

In a didactic way, it can be said that the number of tanned that a profile in a social network receives is a given. Understanding that this profile is accepted and admired by a particular audience is information. Using this profile to advertise a product or service knowing that millions of people who are part of that audience will be influenced by the profile is knowledge because it represents decision making¹¹.

This projection of user behavior from data that is collected on it is predictive analytics. It seeks to predict, anticipate situations, design future events, from computational algorithms, that is, without human interaction. Information about the user "feeds" the algorithm so that it is able to adapt to new parameters, making its prediction and optimization capabilities automatic.

In postmodern society, the mining of personal data is widespread, as well as the risks to the personality of the citizen. Understanding the use of this personal data, discussing its consequences to be able to regulate the protection of the data in a correct way is an imperative for the defense of the fundamental right to the protection of personal data.

A. Internet of Toys

According to Juliet Schor¹², children and adolescents are today the epicenter of consumer culture, their preferences guide market trends and their opinions shape corporate strategy decisions. Trade in technologies for children is gaining in strength.

This is because children become consumers in three ways: "using the advertised goods, convincing their parents to acquire them and also being loyal to the advertising companies, becoming also future consumers"¹³. The child, in turn, who perceives the environment digital technology more naturally, it becomes more demanding and understands technologies better, boosting the market. The child of postmodernity has a

⁹ COLOMBO, Cristiano; FACCHINI NETO, Eugênio. Mineração de dados e análise preditiva: reflexões sobre possíveis violações ao direito de privacidade na sociedade da informação e critérios para sua adequada implementação à luz do ordenamento brasileiro. *Rev. de Direito, Governança e Novas Tecnologias. Maranhão* | v. 3 | n. 2 | p. 59 - 80 | Jul/Dez. 2017.

¹⁰ See SILVA, Leandro Augusto; PERES, Sarajane Marques; BOSCARIOLI, Clodis. *Introdução à Mineração de Dados. Campus. 1ª Edição. 2016*

¹¹ mineração de dados e análise preditiva: reflexões sobre possíveis violações ao direito de privacidade na sociedade da informação e critérios para sua adequada implementação à luz do ordenamento brasileiro. *Rev. de Direito, Governança e Novas Tecnologias. Maranhão* | v. 3 | n. 2 | p. 59 - 80 | Jul/Dez. 2017.

¹² See SCHOR, Juliet B. *Nascidos para comprar: uma leitura essencial para orientarmos nossas crianças na era do consumismo. São Paulo: Editora Gente, 2009*

¹³ See D'AQUINO, Lucia. *Criança e publicidade: Hipervulnerabilidade? Dissertação de Mestrado. Universidade Federal do Rio Grande do Sul. Programa de Pós-Graduação em Direito.*

cultural identity. Unlike in past generations, the postmodern child becomes a subject of law. According to Lima Marques, she passes from "a passive subject identified and segregated in modernity, the subject of rights (assets) included in postmodernity"¹⁴.

In this section, as subclass of the Internet of Things, there is the Internet of Toys (IoT). This segment follows the same idea of Internet of Things by making an everyday physical object an object connected to the internet and other devices of the same category and thus be able to capture, process and share user information to allow a personalized experience.

This type of toy also called "smart toys" are electronic toys that have microprocessors controlled by software that allow interaction with the user. They also serve as interactive and educational toys. This category is not new in the industry dedicated to commerce for children. The Tamagoshi Toy, created in 1996 and which has become popular in several countries already can be considered a smart toy.

There are also connected toys, toys that incorporate internet technology to respond and interact in a personal way with children. They work from software that can be connected to online platforms via Wi-Fi or Bluetooth. They may have voice recognition sensors for activation and appear to react personally. In this way, users' spoken words can be traced from a distance, by smartphones or tablets. Because they are connected to the internet, there is a permission for remote servers to access this data to improve the toy's intelligence function.

B. The internet of the toys and their consequences for the consumer-children

The toy answer according to the child's emotions to provide personalized responses to children. But it builds trust, toys use sophisticated sensors to collect personal information from the child and family. This intelligence is developed from mathematical algorithms to form artificial intelligence. Therefore, it is necessary to distinguish between a smart toy and a connected, because the smart is not necessarily connected, but the connected is always intelligent.

Generally connected toys offer a login for the parents of the child who will use the toy so they can experience watching the behavior of the child and configure the toy in the way they see fit. The freedom granted to parents allows toy companies to enter into a contract that transfers legal responsibility for collecting, analyzing and distributing child data to the parents, not to the company. Once parents are aware and agree to the terms and conditions of personal data usage of their dependents, the company is granted permission to continue to expand data¹⁵. Considering the difference between toys, the risk and benefit analysis of each doll should be analyzed differently, based on its functionality and use of personal data.

In reason of this new technology that will be in direct and personal contact with a vulnerable child, the internet of toys can cause some fear in part of society. Discussions involving children and technology are not recent. After Gutenberg created a print model that began the Printed Revolution and made it possible for books to become accessible

¹⁴ See MIRAGEM, Bruno. MARQUES, Claudia Lima. O novo direito privado e a proteção dos vulneráveis. São Paulo: Editora Revista dos Tribunais, 2012.

¹⁵ See MASCHERONI, G.; HOLLOWAY, D. The Internet of Toys: A report on media and social discourses around young children and IOToys. Digility, 2017

to the masses, discourses on the potential negative effects of reading such as addiction, manipulation, and insurrection have begun. The same happened when there was technological development for movies and television, computer games and the internet¹⁶.

Despite the fears, the Internet of toys has many benefits. The first is the transformational possibility of education, in which children will learn by interacting with toys, which may facilitate their assimilation. In addition, toys offer a new way to play, relate, protect and learn. They can be an excellent tool for parents, teachers, police officers understand child behavior and thereby detect behavior change, avoiding moral and sexual abuse, accompanying the locality, knowing if the child faces some emotional difficulty, help in the treatment of terminal illnesses and etc.

At the same time it also can increase cyberbullying, data theft for abusive and criminal purposes, pornography, violent content, health issues, development, cognition and social risks, we have not yet had a generation that grows with robots and is controlled full time to know which will be the real consequences.

It is believed that technological evolution is necessary for the development of the human being and should be encouraged. However, it is also necessary to reflect so that technology does not end up violating fundamental rights veiled by the veil of technological advancement.

Disbelief in regulatory legal rules in favor of a free internet is understandable, but it does not stand up to certain questions. At first because digital regulation does not occur only by the legal environment, according to Lawrence Lessig, regulation takes place on the part of States with their legal norms; by economic logic, by social constrictions and finally by technology itself.

In addition, the right is conferred on the right to guarantee the reservation of fundamental rights and ensure that technological development becomes "an element that improves the development of the personality and the economic and social conditions of individuals and collectivities, not the other way around" and regulation is needed to make the space truly free while respecting the fundamental rights of all its users. The reality of capturing user data by intelligent objects is already a reality, and it remains to discuss what limits should be imposed to prevent the use of these data to occur in a negative way.

There are numerous problems that can be related to Internet of Toys as increase of cyberbullying, data theft for abusive and criminal purposes, pornography, violent content, health issues, development, cognition and social risks, we have not yet had a generation that grows with robots and is controlled full time to know which will be the real consequences.

The use of child data can create a serious problem of micro-segmentation, that is, a behavioral manipulation that happens when giving the child only information, publicity and suggestions of virtual friends that fit the person's algorithm, creating a referential bubble. Micro-segmentation occurs from the "data mining", which is when the data provided by the Internet users (input) creates a source of knowledge (output) that directly impacts the decision-making of its managers. There is then a predictive analysis, which

¹⁶ See TRUELTZCH-WINJEN, Christine. ALIAGAS, Cristina. Ioy – New techs, new fears? A LOOK AT HISTORICAL DISCOURSES AROUND CHILDREN AND TECHNOLOGIES.

seeks to predict, anticipate, project the future, through computational algorithms, without human interaction. This phenomenon is even more persuasive when it comes to children and exploits their innermost vulnerability to convince them to have an act of consumption.

We've had a recent case involving Cambridge Analytics, a data analysis company that worked on Donald Trump's campaign for the presidency of the United States of America in 2016. She would have purchased personal data from Facebook users and those used to predict and influence the choices at the polls¹⁷.

A phenomenon similar to micro-segmentation is discrimination based on the information captured by personal data. This occurs when the user is prevented from using certain products and services, because of the data that has been collected about him. For example, when you have access to a consumer's personal data, such as the type of music he hears or the friends he has on social networks, the health plan refuses to provide insurance or offers in excess of would be in the usual conditions. According to Mendes, the protection of the individual against this type of discrimination will only be achieved with the guarantee of the right not to be subject to an individualized decision, as with the prohibition or limitation of the storage of sensitive or excessive information¹⁸¹⁹.

There is also the use of personal data for children's advertising. Child advertising was already understood as a form of easy consumer capture because the child is more likely to believe and be influenced by advertising even when it has little contact with advertising. According to Bjurström, even though at age 10 children already have the discourse to understand what television programming is and what advertising is, it is only at the age of twelve that they develop a full understanding of the real purpose of publicity¹⁹. Thus, until reaching this age the child does not perceive the persuasive intensity of the advertisement nor question the message that is transmitted.

In the consumption society of the digital age, the contractual imbalance between the parties will become even greater, since there will be no more freedom to contract²⁰. The consumer will be bound by the terms of the contract, as was already the case, but also by the product and price determined by the supplier. This, according to your personal data, only one type of product will be visible in your searches and purchases online, at a price that the supplier knows that you are willing to pay, and it may be higher than it would be costumerly.

Concern with child data is necessary because it can be maliciously used over a long period of time. The child will be monitored and will have their behavior datified throughout their life.

¹⁷ See more information about Cambridge Analytica's Case in: <https://www.bbc.com/portuguese/internacional-43461751> > Acces in 12 Jan. 2019

¹⁸ MENDES, Laura Schertel. Privacidade, proteção de dados e defesa do consumidor. São Paulo: Saraiva. Ed. 01. 2014. P.12

¹⁹ BJURSTRÖM, Erling. Children and television advertising : a critical study of international research concerning the effects of TV-commercials on children, report 1994/95:8. Stockholm: Konsumentverket; Swedish Consumer Agency, 2000. Available in: [http://pt.scribd.com/doc/137315965/Children-Tv- Ads-Bjurstrom](http://pt.scribd.com/doc/137315965/Children-Tv-Ads-Bjurstrom)>. Access in: 09 fev, 2019. p. 2

²⁰ MARQUES, Claudia Lima. Contratos no Código de Defesa do Consumidor : O novo regime das relações contratuais. 7. ed. São Paulo: Revista dos Tribunais, 2014. p. 164

Misinformation about misuse of data and how to avoid it; terms and conditions of use and with complex terminology in order to confuse the consumer; the lack of information given by these same platforms, which do not notify the consumer of what personal data are being collected or which way they are being used; hidden marketing in the behavior of toys²¹; discussions on the ownership of personal data²² are just some of the problems to be faced by consumer law.

According to Doneda, there are some principles of personal data protection. They are: purpose, choice, free access, security, transparency, privacy, equality, guarantee against discrimination, freedom of expression and freedom. There are also classic rules of personal data protection, such as consent - although there is a legal exception for cases where data is indispensable for the performance of a contract or legal obligation of the supplier; transparency; protection against discrimination; communication in the event of a leak; information and systems security, and respect for context, that is, the use of data must be compatible with the context in which the data were collected.

C. Hypervulnerability of Consumer-Child

The subjective field of action is the differential of the Code of Consumer Protection, since it is applicable to all contractual and non-contractual relations between suppliers and consumers. The consumer protection code conceptualizes the consumer broadly²³, considering contractual and noncontractual consumer relations, both individual and collective.

In doctrine there are two theories of interpretation on what would be the final recipient. The first one is the finalist who says that the reading should be

in a restricted way considering as final recipient that factual and economic recipient, that is, a person who withdraws the product from the chain not to resell it nor to use it for professional purposes²⁴. This theory seeks to protect those who are really in a situation of vulnerability in the concrete case.

The second theory is the maximalist, which conceptualizes consumer broadly to apply to the greatest number of relations. Thus, for this theory final recipient is one who withdraws the product from the chain and uses it, without distinction between professional buyer or dealer, which can end up generating the banalization of consumer law.

The Brazilian Superior Court of Justice (STJ), in the Appeal no. 476.428 / SC of 2005, by the rapporteur of the Minister Nancy Andrighi was in favor of the finalist doctrine, seeking, through the in-depth finalism, to conduct a casuistic examination to classify the consumer.

²¹ For example, "My Friend Cayla is pre-programmed with dozens of phrases that reference Disney movies and theme parks. [...] Cayla also tells children she loves going to Disneyland and wants to go to Epcot in Disneyworld." GREE, Lelia; HOLLOWAY, Donell. STEVESON, Kylie;

²² The right of ownership over connected toys is still an open legal question. Software and algorithms are not owned by users. And software and algorithms can be updated or changed by the vendor.

²³ The consumer definition can be found in Article 02, single paragraph, 17 and 29 of the Code of Consumer Protection

²⁴ CARVALHO, Diógenes Faria de; OLIVEIRA, Thaynara de Souza. A proteção do consumidor criança frente à publicidade no Brasil. *Revista de Direito do consumidor*, São Paulo, v. 23, n. 94, 2014. P. 191.

For the present theme, which discusses the impact of the Internet of Toys for the consuming child, it is important to understand in which category of consumer are the infants. As a matter of fact, it is not they who carry out the commercial operation, the one that withdraws the product from the chain of production, because of its lack of civil, economic and psychic capacity, regardless of the category in which they fit.

It is possible to affirm that consumer child falls within the concept of consumer by equation, term defined in art. 17 of the Consumer Protection Code, which explains that similar consumers are those who have suffered the consequences of a consumer accident due to product or service. This means that even if you were not the person to buy the product, if it is damaged by the product, it also deserves to be protected.

In this section, art. 29 of the Brazilian Code of Consumer Protection (CDC) also provides legal protection to "all persons who are determinable or not, exposed to commercial practices under the Code, such as misleading advertising, abusive advertising, behavior inappropriate in the pre-contractual phase." This configuration stems from the legislator's concern to protect people who may be harmed or harmed by the activities of market vendors. Although these people have not removed the product from the chain, they are affected by the supplier's misconduct in many cases, also needing protection.

Therefore, the core of the legal definition of consumers adopted by Brazilian lawmaking focuses on the idea of consumer vulnerability to the supplier. Considering that the Consumer Defense Code considers that protection should concern not only the consumer-purchaser but also the victim-consumer, there is no doubt about the legal permission to be a child also considered a consumer, even if it does not has the capacity to enter into a legal deal with the supplier²⁵.

In a consumer society, children are increasingly exposed to advertising, and this in turn is infiltrated by the leisure of the modern child, such as internet videos and intelligent toys. consumption to be included in a social inclusion. They come to understand from an early age the social value of using a toy or backpack of a particular brand that most children's advertising to be part of a particular social group, etc. The understanding of consumer vulnerability has already been recognized by the UN through Resolution 39/248, which understands that the relationship between consumer and supplier is unbalanced in economic, Oeducational and purchasing terms.

The vulnerability of the consumer occurs, among other occasions, when we undergo advertising pressures that create consumer needs that overcome our real need, the lack of technical information, the lack of instruments for complaint or doubts and in other moments of life.

There is in the doctrine the expression multivariable vulnerability, which means that vulnerability runs through the condition of economic inequality between consumer and supplier also occurs when the consumer has a lack of essential information about essential characteristics of the product; when it is immersed in advertising and without

²⁵ Even if the child is not denied the possibility of being protected by the right of the consumer, it must not be forgotten that for this child to enter a court action against the violating supplier under the law of Article 3 of the Cil Code, be represented by its legal representative in court, which does not prevent it from appearing at one of the poles of the consumer legal relationship, or is a party to the proceedings.

enjoying the forms of organization and technicity of the suppliers²⁶. For Claudia Lima Marques and Bruno Miragem, the vulnerability is divided into technical, legal, factual and informational²⁷. The classification of Moraes vulnerability types still includes political or legislative, biological or psychic, and environmental aspects²⁸. The situation can be aggravated when the consumer is poorer, less academically educated or by his or her age, be it tender or advanced.

Closely related to this concept of vulnerability adopted by the Brazilian legal system, it should be emphasized that the recognition of human rights involves the recognition of juridical assets and the specificities of special groups, which due to their condition deserve special attention on the part of the law.

For this reason the differences between the consumers themselves cannot be denied. Thus, although hyper-vulnerability is not an explicit concept in our legal system, it is possible to say that it refers to an implicit concept existing in the Brazilian legal system and based on constitutional principles, since the 1988 Constitution provides for the protection of dignity of the human person, in addition to establishing special protection for certain individuals and advocating the right to difference.

Minister Herman Benjamin has already pronounced, in Resp 586,316, on his understanding, accepting the STJ's idea, according to *in verbis*:

The social state not only imports the vulnerable, but above all the hypervulnerable, because they are those who, precisely because they are minority and often discriminated or ignored, suffer more from the massification of consumption and the 'pasteurization' of the differences that characterize and enrich modern society (...) The Consumer Protection Code, is unnecessary to explain, protects all consumers, but is not insensitive to the reality of life and the market, that is, in the term of the discipline, are called hypervulnerable, as children, the elderly, the illiterate, and how it could not fail to be those who, for genetic reason or not, have diseases that can be manifested or aggravated by the consumption of products or services freely marketed and harmless to the MAJORITY of people.

In the meantime, the CDCD recognizes in Art 39, IV, that it is an abusive practice to take precedence over the consumer's weakness or ignorance, considering their age, health, knowledge or social condition to imply their products and services.

In the specific case of the child, the Brazilian law provides differentiated protection to the child in the Child and Adolescent Study, in the Civil Code of 2002 and also in the Federal Constitution. It could not be different the treatment given to the child, who lives the vulnerability of his birth to his development, needing special help and care because he does not have his own capacity and can be victim easily. The hypervulnerability situation of the enfant occurs because the being is in phase of physical-motor development, intellectual, affective emotional and social.

In the meantime, the CDCD recognizes in Art 39, IV, that it is an abusive practice to take precedence over the consumer's weakness or ignorance, considering their age, health, knowledge or social condition to imply their products and services.

²⁶ See GRINOVER, Ada Pellegrini *et al.* *Código de Defesa do Consumidor: comentado pelos autores do anteprojeto*. 9. ed. Rio de Janeiro: Forense Universitária, 2007, p. 7

²⁷ See MIRAGEM, Bruno. MARQUES, Claudia Lima. *O novo direito privado e a proteção dos vulneráveis*. São Paulo: Editora Revista dos Tribunais, 2012.

²⁸ See MORAES, Paulo Valério Dal Pai. *Código de defesa do consumidor: o princípio da vulnerabilidade no contrato, na publicidade, nas demais práticas comerciais*. Porto Alegre: Síntese, 1999. P .155 e ss.

At the international level, the Declaration of the Rights of the Child, created in 1959 by the United Nations General Assembly, universally recognizes the vulnerability of the child, "because of the lack of physical and intellectual maturity, there is a need for special care and attention, appropriate legal protection ". In addition to the Declaration of the Rights of the Child, there are several other international instruments that protect the child²⁹.

From this derives the understanding of being difficult for children to understand advertising messages, or to disclose what is fiction and reality, in addition to being more influential to advertising pressures, allowing themselves to be convinced easily, as well as not knowing about the financial issues of hiring does not understand the risks he / she faces when playing a game, watch a drawing on Youtube or play a doll, especially if this type of toy is collecting personal data of the child and his / her family.

D. Hypervulnerability of Child as regard Internet of Toys

The hypervulnerability of the child to the Internet of toys has already generated great discussions around the world. Hello Barbie created in 2015, which looks the same as a regular Barbie doll, is equipped with microphone, speech recognition software and artificial intelligence that allows you to respond to the child in a personal way, almost the same system used by the personal assistant of the Apple, to Siri. After much criticism over the kind of information the doll could capture from users, a social media campaign was broadcast with the hashtag *hellnobarbie*.

Another doll of system called Cayla also caused controversy in Europe. For this reason, the German Network Agency in German Bundesnetzagentur banned in February 2017 the commercialization of the doll in the country, as authorities believed that it could be easily hacked to record private conversations that could be transmitted by the doll's Bluetooth. The German authorities asked the parents to destroy the doll that had already been bought. According to the European Consumer Organization, this case illustrates the well-known lack of upto-date Community legislation to effectively protect consumers from unfair commercial practices and new breaches of security and privacy that are emerging through this type of product³⁰.

In the US, even though the doll was not banned, the case of the Cayla doll was analyzed by the Federal Trade Commission (FTC), which reported that because parents had not been authorized for recording, it did not fit the Child's Online Privacy Policy (COPPA)³¹, nor to the FTC's norms³².

The problem gets bigger dimensions when the companies that manage this data cannot give the necessary protection to the information. In 2015, VTech Electronics North America, a Chinese toy manufacturer, has children's marketing as its social object. It has been attacked by hackers who have leaked information on 6 million children and 4

²⁹ Among the international instruments are the Geneva Declaration of 1924 on the Rights of the Child.

³⁰ See more about it in: <https://www.tsf.pt/sociedade/interior/my-friend-cayla-a-boneca-espia-quea-alemanha-quer-que-os-pais-destruam-5679306.html> e <https://www.dw.com/pt-br/governoalem%C3%A3o-pro%C3%ADbe-venda-de-boneca-espia%C3%A3/a-37609353>

³¹ See more in: <https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reformproceedings/childrens-online-privacy-protection-rule>

³² See more in: <https://www.ftc.gov/enforcement/statutes/federal-trade-commission-act>

million adults including name, gender, birthday, and photographs. VTEC has paid a \$ 650,000 fine to the US government for failing to enforce security measures.

This type of news justifies the fear of being the victim of a digital attack, an increasingly common fear among consumers. According to the European Commission, in 2016 more than 4,000 ransomware attacks³³ occur per day, which represents a 30% increase when compared to the year 2015. One of the reasons for the increase in these crimes is the lack of security in the functionality of connected products. Currently, most of the products available in the European market are designed without basic security requirements in their software^{34,35}.

Recently, inadequate safety mechanisms for connected products for children and sold in the European market have also been discovered. One of the campaigns, titled #Toyfail³⁶, from December 2016, observed technical characteristics of connected games on the European market. It was discovered that anyone could easily access the microphones of one of the tested dolls and talk to the children through the toy without the parents noticing that there was a hacker in the toy.

Another campaign called #WatchOut³⁸, October 2017, tested connected clocks that have the function of allowing parents to be in touch with their children and to know their location. Tests have shown that the security flaws of these devices allow you to change the geographical location of the watch, track the position, and directly contact the child. Other tests developed by German, Belgian and Spanish consumer advocacy organizations found similar results when it came to security breaches of toys and that anyone could connect to the Bluetooth systems of these devices without a password being required^{37,38}.

III. The Regulation of Personal Data in Children in USA, European Union, and Brazil

In addition to the phenomena of the digital age presented so far, the Internet also presents to the Law the challenge of regulating a phenomenon that has pulverized territorial boundaries. As there are no frontiers, the collectivity of data is also faster.

However, the lack of borders in the digital world does not inhibit the possibility of law enforcement based on geographical boundaries. As there is no international law regulating the jurisdiction of cyberspace³⁹, there is admission of the jurisdiction of the domicile of Internet users to analyze abusive conduct in the digital space It will be

³³ Ransomware is a type of malicious software, which according to Avast antivirus is used by hackers to block devices and require a redemption to return access in return. Source: <https://www.avast.com/en-us/c-ransomware>. Access in 06 dec. 2018.

³⁴ See GIOVANNI, Chiara, SILVA, Frederico. Cybersecurity for connected products. ANEC, The European Association For The Co-Ordination Of Consumer Representation In Standardisation.

Available in: <https://www.beuc.eu/publications/beuc-x-2018-_cybersecurity_for_connected_products.pdf>. Acesso 07 fev. 2019.

³⁶ See more in: <https://www.forbrukerradet.no/siste-nytt/connected-toys-violate-consumer-laws/> ³⁸ See more in: <https://fil.forbrukerradet.no/wp-content/uploads/2017/10/watchout-rapportoctober-2017.pdf>

³⁷ See GIOVANNI, Chiara, SILVA, Frederico. Cybersecurity for connected products. ANEC, The European Association For The Co-Ordination Of Consumer Representation In Standardisation.

Access in: <https://www.beuc.eu/publications/beuc-x-2018-_cybersecurity_for_connected_products.pdf>. Acesso 07 fev. 2019.

³⁹ See MENDES, Laura Schertel. Privacidade, proteção de dados e defesa do consumidor. São Paulo: Saraiva.Ed. 01. 2014.

difficult to stop the Internet industry of Things or the Internet of Toys. That is why several countries have been seeking measures to regulate the use of personal data collected from the use of these toys. Currently, 109 countries have General Data Protection Rules.

A. The American Regulation about Children Online Privacy Protection

In the United States of America, the Children Online Privacy Protection Rule (COPPA) is now in effect, which is a law that applies to a website aimed at children or any other operator who has knowledge that is collecting or maintaining a child's personal information. The term personal information includes name, address, online contact, telephone, location, photograph, video, and others that can be used to recognize a user. The law protects children under 13 from certain activities. The protection provided by US law is divided into five steps.

The first of these is the reporting of data collection practices. Toy operators should notify parents about the use of data and the operator should advise what types of data will be collected from that child. The second is parental consent, ie parents should consent to the child's data collection. Consent should highlight the technology used and requires that consent be made by email, telephone or via your government identification. The third step is that the data collector does not capture data beyond what is "reasonably necessary." In the fourth step it is determined that operators must have a reasonable security procedure to protect their confidentiality, security, integrity if the information is transferred to a third party, the operator must ensure that that third party has taken the same protection measures. Finally, as far as data collection is concerned, operators can only keep personal information for the purpose intended. When personal information is no longer needed, the data should be deleted.

Despite the breakthroughs, there are many critiques of the scope of US law, such as the lack of parental consent on some types of smart toys if data collection does not fit the law, such as the use of passwords or IP addresses. The use of voice data was also criticized because the laws on audio rights are state owned and could require that only one party accept the audio recording or that all those involved in the audio should consent, the latter represents the law of only seven states, which is worrying because it would be possible to record the conversation of one child with another.

Considering these criticisms in October 2017 FTC created the Enforcement Policy Statement Regarding the Applicability of the Coppa Rule to the Collection and Use of Voice Recording in order to remedy problems concerning the COPPA Law. However, this new normative act was only for the collection and use of voice because when the operator of the toy required audio information this did not fit into the COPPA protection laws. The FTC has determined that fines for violation of this law are between \$ 16 and \$ 40,000 per violation.

B. The European Data Protection Rule

In Europe there is a directive on toy safety, Directive 2009/48 / EC⁴⁰. But it only sets rules to prevent accidents during the use of toy, protecting the child's physical safety. This directive determines, for example, maximum levels of lead and other chemical elements in children's products. Concerning toys, there are also the General Product Safety Directives⁴¹, Radio Equipment Directive⁴², and Low Voltage Directive⁴³.

Urges to note that the Toys Safety Directive, dated 2009, as well as the others cited on consumer protection, still saw the issue of toy safety related only to the health of the child, a concept of safety that no longer covers the reality required in the Internet of Toys⁴⁴. For data protection, General Data Protection Regulation (GDPR) is more appropriate, which became effective in 2018⁴⁵.

The GDPR regulates the protection of personal data of European citizens, therefore it reaches collectors of information inside and outside the European Union, whether individuals or legal entities. Article 6 of the Regulation thus provides:

Treatment shall be permitted only if and in so far as at least one of the following situations occurs: (a) the data subject has given his consent to the processing of his personal data for one or more specific purposes; (b) processing is necessary for the performance of a contract in which the data subject is a party, or for pre-contractual arrangements at the request of the data subject; (c) the processing is necessary for the fulfillment of a legal obligation to which the controller is subject; (d) Treatment is necessary for the defense of vital interests of the data owner or another natural person; (e) the processing is necessary for the performance of functions of public interest or for the exercise of the public authority of which the controller is invested; (f) the processing is necessary for the legitimate interests pursued by the controller or by third parties, except where the interests or fundamental rights and freedoms of the right holder which require the protection of personal data prevail, in particular if the proprietor is a child.

The Regulation extends the concept of personal data, including genetic, biometric, physiological, behavioral, imaging and dactyloscopy data. Also important is art. 82 which provides for the right to compensation to those who suffer property or non-patrimonial damage occurred due to violation of the Regulation. It also has an interesting look at personal data, which are understood not only as a fundamental right, but as a matter of European public law. This perspective is demonstrated in art. 04 by stating that "the right to the protection of personal data is not an absolute prerogative and should be considered in the light of its social function, taking into account other fundamental rights, observing the principle of proportionality".

⁴⁰ Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys.

⁴¹ Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety.

⁴² Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC.

⁴³ Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits.

⁴⁴ See GIOVANNI, Chiara, SILVA, Frederico. Cybersecurity for connected products. ANEC, THE EUROPEAN ASSOCIATION FOR THE CO-ORDINATION OF CONSUMER REPRESENTATION IN STANDARDISATION. Available in: < https://www.beuc.eu/publications/beuc-x-2018017_cybersecurity_for_connected_products.pdf>. Acesso 070 fev. 2019. p.05.

⁴⁵ This regulation was influenced by Directive 95/46 / EC which sought to guarantee European citizens an "informational self-determination" by allowing them to have control over their personal data.

The Regulation has a special section for child protection, called "Conditions applicable to child's consent in relation to information society services". Compulsory parental consent for the use of data for adolescents between the ages of 16 and 13 years, it being for the Member State to determine the best age⁴⁶; the duty to inform the processing of data in a transparent and child-friendly manner; the duty of government authorities responsible for the use of data to develop policies to publicly warn about risks, rules and rights relating to the use of these toys; support for the development of industry codes of conduct on implementation of transparency and obtaining parental consent; besides emphasizing the right to forgetfulness⁴⁷.

C. The Brazilian Data Protection Rule

In Brazil, regarding child protection, a bill that regulates advertising aimed at children has completed 15 years in the queue to be voted in the Chamber of Deputies. The delay reflects the power that the toy and food industries, advertising agencies and media outlets have to stop initiatives aimed at protecting children from such advertising.

On the other hand, the country has made a major legislative breakthrough with the Civil Internet Framework (Law No. 12.965 / 14), the recent Law on Data

Protection (Law 13709/18), dated August 14, 2018. The Civil Internet Framework is concerned with data protection when dealing with the collection, processing and use of data in its articles 03 and 07, which aims to guarantee and protect the processing of personal data, by natural person or by legal entity under public or private law, with the objective of protecting the fundamental rights of freedom and privacy and the free development of the personality of the natural person.

The law also seeks to guarantee the dignity and fundamental rights of the person, particularly in relation to their freedom, equality and personal and family privacy, under the terms of art. 5, items X and XII of the Federal Constitution. The approved text was the result of a public debate promoted by the Ministry of Justice, in partnership with the Brazilian Observatory of Digital Policies.

Following the parameters of the European Regulation, the Brazilian law has a specific section for the "Treatment of personal data of children and adolescents" in art. 14. At this point it is determined that the processing of personal data of children and adolescents is carried out in their "best interests"; there is the specific consent of the parent or guardian for the "handling" of the child's data, except that the child's data may be used without parental consent when collection is necessary to contact the parents or legal guardian by a single without storage or transfer; the use of games, internet applications for children should not be conditioned to the provision of personal information beyond those strictly necessary for its operation. In addition, information on data processing should be provided in a simple, clear and accessible way, considering the physical-motor, perceptive, sensorial, intellectual and mental characteristics of the user, using audiovisual

⁴⁶ Considering that Member States are allowed to choose the age of enforcement of the Regulation, it is importante to inform that 11 States choose 16 years-old; 10 States choose 13 years Old, 03 States choose 14 yeats-old and 04 States choose 15 years-old.

⁴⁷ Such progress was based on the European Court of Justice ruling in the case of Google Spain SL and Google Inc. c. Spanish Data Protection Agency (AEPD), Mario Costeja González, of 13.05.2014.

resources when appropriate, in order to provide the information needed by the parents or legal guardian and appropriate to the child's understanding. The legislator deserves to be congratulated, in particular for requiring the supplier to report on risks in order to consider consumer vulnerability according to its specificity.

Considering the Brazilian legislative advance, it is now expected to create an independent authority, with the nature of a regulatory agency for the protection of personal data, which details update norms and guidelines on data technology. This body would be a National Data Protection Authority and would be linked to the Ministry of Justice in order to verify cases of violation of data protection rules.

The practical consequences of regulation are already occurring. The Public Ministry of the Federal District⁴⁸ and Goiás have already initiated Civil Inquiries in order to investigate if there is abuse by Youtube in the treatment of personal data of children. According to information from the Agência Brasil, the promoter who determined the Inquiry, reports on the revenues that the company can make in view of the vulnerability of its users, as well as the destination of advertising for children and use of the means of entertainment without the consent of the users. parents - considering that the platform is prohibited for minors of 18 years while it foments the production of contents for children. An investigation against Youtube has already happened in the US, since there was data collection to target ads for children under 13, going against COPPA.

D. The dialogue of sources as an instrument for the protection of personal data of children

As demonstrated, there are a number of recent regulations in several countries that seek to provide greater protection to children who use smart toys that fit the Internet of Toys. Brazil follows the international line by promulgating on August 14, 2018 the General Data Protection Law. Although the said law has dedicated its Section III to "On the Treatment of Personal Data of Children and Adolescents", it is not correct to say that this is the only legal instrument that can be used to grant greater protection to children in the face of advances technological developments.

There are in Brazil other regulatory frameworks on data protection and privacy, such as the Federal Constitution⁴⁹, the Habeas Data Law (Law No. 9,507 / 97); Positive Registration Law (Law No. 12,414 / 11)⁵⁰; Law on Access to Information (Law 12,527 /

⁴⁸ See more in: <https://tecnologia.ig.com.br/2018-07-19/mp-investiga-youtube-coleta-dadoscriancas.html>

⁴⁹ Art. 5 Everyone is equal before the law, without distinction of any kind, guaranteeing to Brazilians and foreigners residing in the country the inviolability of the right to life, liberty, equality, security and property, as follows:
X - the intimacy, private life, honor and image of persons are inviolable, being assured the right to indemnity for the material or moral damage resulting from its violation;
XII - the secrecy of correspondence and telegraphic communications, data and telephone communications is inviolable, except in the latter case, by judicial order, in the cases and in the form established by law for the purpose of criminal investigation or criminal procedural instruction; (See Law No. 9,296 of 1996)

⁵⁰ Art. 3o The databases may contain information of compliance of the registered, for the formation of credit history, under the conditions established in this Law.

§ 1o For the formation of the database, only objective, clear, true and easy-to-understand information that is necessary to evaluate the economic situation of the registrant may be stored.

⁵² Article 4 For the purposes of this Law, it is considered:

IV - personal information: that related to the natural person identified or identifiable;

Article 31. The processing of personal information must be done in a transparent manner and with respect to privacy, private life, honor and image of the people, as well as the freedoms and individual guarantees.

Paragraph 1. The personal information referred to in this article relating to privacy, privacy, honor and image:

11)⁵²; Civil Law of the Internet (Law no. 12.965 / 14)⁵³, in addition to the Consumer Protection Code (Law No. 8.078 / 90)⁵⁴.

The Brazilian legal system deals with child protection in several parts of its legal system⁵¹ and this protection occurs in two ways. The first of these is the direct form, when treating the child and teenager as subjects in the Statute of the Child and Adolescent and in the Civil Code of 2002. The indirect form happens when determining equality in the family, rights and qualifications in art.227, Paragraph 6, of the Federal Constitution⁵². The pluralism of sources existing in Brazil that grant protection to the child, added to the various international instruments leads to the dialogue of the sources that must occur so that this protection occurs in an effective way and with aims to protect the vulnerable.

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- I - shall have restricted access, regardless of classification of secrecy and for a maximum period of 100 (one hundred) years from the date of production, to legally authorized public agents and the person to whom they refer; and
 - II - may have authorized their disclosure or access by third parties before the legal provision or express consent of the person to whom they refer.

Paragraph 2. Anyone who obtains access to the information referred to in this article will be held liable for its misuse.

Paragraph 3. The consent referred to in item II of § 1o will not be required when the information is necessary:

- I - prevention and medical diagnosis, when the person is physically or legally incapacitated, and for use solely and exclusively for medical treatment;
- II - the performance of statistics and scientific research of evident public or general interest, provided for by law, and the identification of the person to whom the information refers is prohibited;
- III - compliance with a judicial order;
- IV - the defense of human rights; or
- V - protection of the prevailing public and general interest.

Paragraph 4. The restriction of access to information regarding private life, honor and image of person cannot be invoked with the purpose of harming the process of finding irregularities in which the holder of the information is involved, as well as in actions aimed at the recovery of historical facts of greater relevance.

§ 5 The Regulation shall provide for procedures for handling personal information.

⁵³ Article 7 Access to the internet is essential to the exercise of citizenship, and the user is guaranteed the following rights:

- I - inviolability of privacy and privacy, their protection and compensation for material or moral damage resulting from their violation;
- II - inviolability and secrecy of the flow of their communications over the Internet, except by judicial order, according to the law;
- III - inviolability and confidentiality of their private communications stored, except by judicial order; VII - failure to provide third parties with their personal data, including connection records, and access to Internet applications, except by free, express and informed consent or in the cases provided for by law; ...
- IX - express consent regarding the collection, use, storage and processing of personal data, which should occur in a prominent way of the other contractual clauses;
- VIII - clear and complete information on the collection, use, storage, treatment and protection of your personal data, which may only be used for purposes that: a) justify its collection; b) are not prohibited by law; and c) are specified in service contracts or in terms of use of internet applications;
- X - final exclusion of the personal data that you have provided to a certain internet application, at your request, at the end of the relationship between the parties, except for the hypotheses of mandatory record keeping provided for in this Law;

⁵¹ Art. 43. The consumer, without prejudice to the provisions of art. 86, will have access to the information in the registers, records, records and personal and consumer data filed on it, as well as on their respective sources.

Paragraph 1. The registers and data of consumers must be objective, clear, true and in language of easy understanding, and can not contain negative information referring to period superior to five years.

Paragraph 2. The opening of a registration, registration, registration and personal and consumption data shall be communicated in writing to the consumer, when not requested by him. Paragraph 3. The consumer, whenever he finds inaccuracy in his data and registers, may require its immediate correction, and the archivist must, within five working days, communicate the change to the eventual recipients of the incorrect information. § 4 The databases and registers related to consumers, credit protection services and the like are considered public entities. Paragraph 5. Once the prescription for the collection of debts of the consumer has been completed, the respective Credit Protection Systems will not provide any information that may prevent or hinder new access to credit from suppliers.

⁵² See MARQUES, MIRAGEM. O novo direito privado e a proteção dos vulneráveis. p.131

The Principle of the Best Interests of the Child, basilar for the protection of the child, and that fits in the doctrine of integral protection, constant in art. 01 of the ECA, should be read in postmodern⁵³ law in accordance with the UN⁵⁴ International Convention on the Rights of the Child. This express seeks to address economic and affective well-being, the right to cultural identity and respect for human rights.

Following the theory of the dialogue of the sources, which teaches that one does not have to choose a specific norm to be superior to the others, because the norms are not revoked, they dialogue with each other. What must happen is the simultaneous application of various legal devices with the aim of better protecting the interests of the vulnerable, according to the *pro homine* principle⁵⁵. Professor Erik Jayme explains that in postmodernity "Complex life case decisions are today the addition, the joint application, of various sources (Constitution, Human Rights, supranational and internal law). Today there is no longer a fixed determination of order between the sources, but a cumulation of these, an application side by side⁵⁶. According to this idea there is a materialization of the conflict rule, being applicable the most favorable law. Therefore, the 'material' law more favorable to the interests of the most vulnerable, replaces the classic game of conflict of laws.

The theory of source dialogue follows the principle *pro homine*, which determines that in case of conflict of norms, one should opt for what is most beneficial to the individual.

Therefore, it does not matter the origin but the result, which is to benefit the vulnerable⁵⁷. According to Lima Marques, this was the understanding of the 1993 Hague Convention, which did not repeal the Statute of the Child and Adolescent because it believed that national laws should be maintained (Article 28 of the Convention)⁵⁸.

IV. Concluding remarks

It appears that the right to privacy is a fundamental right, there is also a basic right of the consumer to data protection. The constitutional protection of the inviolability of privacy, provided for in Article 5, X of the Constitution, leads to an understanding of the right to privacy of personal data and selfdetermination of its information.

The protection of personal data is especially relevant when talking about the consumer-child because, because of its hypervulnerability, it is more likely to report personal data without being able to measure its consequences, to be more susceptible to

⁵³ See MARQUES, Claudia Lima. *Das subsidiaritätsprinzip in der Neuordnung des internationalen Adoptionrechts – Eine Analyse des Haager Adoptionsübereinkommens von 1993 in Hinblick auf das deutsche und ds Brasilianische Recht*. Verlag für Standsamtwesen GmbH, Frankfurt-Berlin, 1997. Tese de doutorado na Universidade de Heidelberg, Alemanha, sob orientação do Prof. Dr. H.c. Erik Jayme, aprovada com nota máxima e *Summa cum Laude*.

⁵⁴ See JAYME, Erik. Entrevista. Revista Trimestral de Direito Civil, Rio de Janeiro, v. 1, n. 1, p. 63-67, 2003. Available in <<http://seer.ufrgs.br/index.php/ppgdir/article/view/43484/27363>>. Access in: 30 nov. 2017

⁵⁵ MIRAGEM, Bruno. MARQUES, Claudia Lima. O novo direito privado e a proteção dos vulneráveis. São Paulo: Editora Revista dos Tribunais, 2012. p. 356.

⁵⁶ See JAYME, Erik. Entrevista. Revista Trimestral de Direito Civil, Rio de Janeiro, v. 1, n. 1, p. 63-67, 2003. Available in <<http://seer.ufrgs.br/index.php/ppgdir/article/view/43484/27363>>. Access in:

⁵⁷ See RAMOS, André de Carvalho. Curso de Direitos Humanos. 4. ed. São Paulo: Saraiva, 2017. P. 208.

⁵⁸ See MIRAGEM, Bruno. MARQUES, Claudia Lima. O novo direito privado e a proteção dos vulneráveis. São Paulo: Editora Revista dos Tribunais, 2012. p. 131.

abusive advertising in disguise, to the indicated behavioral predictions by the mineration of personal data and, therefore, to the and discrimination.

For this reason, it is believed that in spite of the Brazilian legislative advances with the Internet Civil Registry and the new General Law on Data Protection, it is necessary to deal with the protection of children's personal data with greater severity. The legal duty stems from the fact that the child does not perceive the type of influence he is suffering, nor does he understand that this is an abusive commercial maneuver, since he does not have sufficient mental discernment to do so.

In order to achieve adequate protection of children's data, it seems necessary to reinforce the rules on Internet safety measures of Toys, as technological advances cannot be stopped and more and more children will be in contact with these technologies until soon this will be the totality of toys found in the market. To this end, the concept of toy safety must be changed. It should not only be discussed the maximum amount of chemical agents in an object or size of the pieces, but also what are the safety mechanisms that that toy offers to keep the personal data of the child is playing and of their relatives.

Imperative is the design change over the Internet of Toys. The safeguard of this information today will grant the maintenance of the fundamental rights of the adult of tomorrow. We must guarantee freedom, privacy, non-discrimination and security of our kids.

In Brazil, fortunately there are legal milestones that can help in this fiercer fight against the abuse of children's personal data. The Magna Carta, the Consumer Defense Code, the Internet Civil Registry, the General Data Protection Act, the Adolescent Child Statute, the Habeas Data Act, the Positive Registration Law and the Access to Information Act are some of the instruments that should be read together in order to punish more rigorously the abuse of children's personal information. The theory of the Source Dialogues teaches exactly what should be read together of the norms to achieve greater protection of the vulnerable according to the *pro Homine* principle.

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