August 14th, 2020.

To

Facebook Inc.

Trust, Transparency and Control Labs (TTC Labs)

Mrs. Elaine Montgomery, Labs co-lead

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Ref.: Feedback on *How to design with trust, transparency and control for young people* guide.

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Dear Mrs. Montgomery and TTC Labs team,

Alana Institute, through its **Child and Consumerism** program, in response to the TTC Labs design guide *How to design with trust, transparency and control for young people* ("Guide") and participation at the design jam session hosted online on July 22nd, hereby addresses the issues below, as a written piece of feedback.

1.   About us.

Alana Institute[1] is a non-profit civil society organization that invests in programs that seek to guarantee conditions for the full experience of childhood. Created in 1994, it has been maintained by the income of an endowment fund since 2013. Its mission is to "honor children".

Child and Consumerism is a program from the **Alana Institute** to increase awareness of the impacts and damage of children's commercial exploitation in Brazil and worldwide, especially by advertising and marketing aimed at children under 12 years old in all kinds of media, including the digital environment, and by the predatory and invasive data collection for commercial purposes.

Established in 2006, the program aims to promote the debate on the topic and the enforcement of children's and consumer's rights, notably through advocacy, including legal strategies, policy monitoring, campaigns, research and communication, also cooperating with companies to change their internal policies towards more ethical and fair marketing strategies.

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[1] For more information: https://alana.org.br/en/.

2.   Perspectives from the global south: structural inequalities and multiple childhoods.

The collaborative spirit in which the guide *How to design with trust, transparency and control for young people* was written, based on design jam sessions hosted in three countries, legitimates and gives more significance to its content.

However, it is important to realize that the experts and youngsters who were listened to and took part in those design jams, as well as the "personas" for whom the material's guidelines were thought, do not feature a diverse group of children and teenagers and do not illustrate a range of backgrounds that faithfully represents realities and demands from the global south.

Actually, as much as the UK, the USA and Australia do represent a spectrum of different countries, with different realities, it is certain that the struggles that young people go through in those places are not in every matter comparable to the demands of children and teenagers from latin american countries, for example, as further better illustrated with data about the local dissemination of internet and technology use.

In this sense, as a civil society institution based in Brazil - the fifth largest country in the world -, we feel that the suggestions listed by the Guide should be reviewed in order for the material to also embrace perspectives from the global south, where young people are emerged in a context of structural inequalities of all sorts and matters.

When designing policies that will affect children and teenagers, it is fundamental not to treat them as homogenous and try maximize the comprehension of the peculiarities that each group of them copes with, in physical, cultural, social, economic and environmental aspects.

In other words, is it necessary to understand the existence of "multiple childhoods" around the world and do not standardize the demands and points of view of youngsters and experts from three countries that host a very distinct scenario than most locations from the global south, specially. Thus, we sense that establishing the acknowledgment of "multiple childhoods" and creating the effort to perceive them and their uniquenesses as much as possible should be the starting point for reviewing the Guide *How to design with trust, transparency and control for young people*.

In order to better illustrate a summarized and exemplified view from the "multiple childhoods" that coexist in Brazil so that they can be compared to the "personas" for whom the Guide was charted, we bring some data that indicates how children and teenagers access and engage with the internet and technologies locally - and also how digital inequalities are profound.

Differently from the largest portion of Europe or North America, the first barrier that many brazilian children and teenagers struggle against is accessing technology and the internet. Recent research shows that 5% of brazilian youngsters from ages 9 to 17 have never accessed the internet and 6% have already been connected to it, but not in the past three months[2]. In figures, it's estimated that 4,8 million children and teenagers have no access to internet from their homes[3].

Of course, those numbers do not affect the national population proportionately. For instance, while in urban centers 2% of children and teens have never accessed the internet, that number reaches the rate of 17% when it concerns children and teenagers who live in rural areas[4]. Also, research indicates that every children in social classes A and B have accessed the internet at least once in the past 3 months, while 21% of youngsters in social classes D and E have never accessed it or not accessed it in the past 3 months[5].

As a cause and a result from this deep and historical framework of structural inequalities, knowledge on digital citizenship and digital literacy is not widespread or equally spread throughout the country.

Actually, even though specialists recommend that children are assisted by adults (parents, other family members, teachers, etc) when navigating the internet[6], there are still many children in Brazil, mainly from lower socioeconomic classes, who cannot count with that kind of support.

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[2] NIC.BR/CETIC.BR. Pesquisa sobre o uso da Internet por crianças e adolescentes no Brasil - TIC Kids Online Brasil 2019, 2019. Availabe at: <https://cetic.br/pt/arquivos/kidsonline/2019/criancas/#tabelas>. Access on 8.4.2020.
[3] As reference 2.
[4] As reference 2.
[5] As reference 2.
[6] Digital Advertising to Children. Jenny Radesky, Yolanda (Linda) Reid Chassiakos, Nusheen Ameenuddin, Dipesh Navsaria, COUNCIL ON COMMUNICATION AND MEDIA. Pediatrics Jul 2020, 146 (1) e20201681; DOI: 10.1542/peds.2020-1681. Available at: https://pediatrics.aappublications.org/content/146/1/e20201681. Access on: 8/12/2020.

Many families don't have the structure to teach their children how to browse the internet safely - for reasons that range from adults not being aware of online risks for privacy and safety; to adults and specially single mothers dealing with double or triple workloads and burdens that can result on them not having enough time to be aside their children during technology navigation.

According to TIC Kids Online survey, 61% of brazilian parents who graduated high school or further educational levels are able to assist their children when they're online, opposed to 48% of parents who studied up to elementary school[7]. Also, the research indicates that 82% of parents who graduated high school or further educational levels teach their kids ways to navigate the internet, while that percentage drops to 68% when considering parents who studied up to elementary school[8].

The "multiple childhoods" concept is not only related to economic issues such as indicated above. Physical, ethnical and cultural factors, for example, are also determinant on the perceptions and demands of children and teenagers.

Children with disabilities, for instance, may face a number of specific challenges throughout their lives, moreover when it comes to their access to the digital environment and, therefore, to learning topics related to digital literacy and safety. A report produced by the Brazilian institute Rodrigo Mendes[9] shows that only 3.88% of educational websites do not have accessibility barriers for people with disabilities[10].

In addition, it is substantial to have a specific look on black childhoods. Recent waves of protests all over the world reinforced how racism is institutionalized and structural in many senses and one way to diminish that is by lifting race to a transversal matter in every policy and guideline setting. In Brazil, and in many other countries, black families are unproportionately more vulnerable in social and economic matters[11], what definitely influences their access to the internet, technologies, digital safety and privacy.

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[7] As reference 2.
[8] As reference 2.
[9] For more information: https://institutorodrigomendes.org.br/en/.
[10]   Report   available   at: https://institutorodrigomendes.org.br/wp-content/uploads/2020/07/protocolos-educacao-inclusiva-durante-pandemia.pdf. Access on 8/12/2020.
[11] For more information: https://biblioteca.ibge.gov.br/visualizacao/livros/liv101681_informativo.pdf. Access on 8/12/2020.

Besides these issues pointed above, there are still uncountable realities and contrasts that compose the "multiple childhoods" around the world. Of course, it is nearly unmanageable to embrace all of them in one specific material such as the Guide *How to design with trust, transparency and control for young people*, but in order for it to be a universal material, applicable to all continents, it is necessary - and it is possible - to expand the reach of realities that it relates to and demands that it attends.

That said, the Guide itself recognises that it is not designed from a diverse range of points of view[12]. However, we hereby indicate that this lack of diversity and lack of perspectives from the global south, specially, are issues that could turn the Guide into an instrument that deepens inequalities and increases the reality and/or perception of digital exclusion from certain groups of children and teenagers.

More specifically, a few of the passages we found more worrying in this sense are the encouragement of the use of facial recognition technologies - which can be related to racism issues[13] and thus depend on more studies to be considered an inclusive path -; and the absence of "personas" or mentions on children and teenagers with disabilities and their accessibility and peculiar demands on internet, technologies, privacy and safety.

3.   The consent standard as the primary option: is it fair?

Furthermore, when analyzing the Guide, we understood that its primary directive for digital platforms and apps is to teach children about their own digital safety so that they are able to consciously consent on their data collection or tracking[14]. Alongside, the material's

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[12] Guide reference: "There is a need to develop personas, services and design patterns that are more representative, reflecting global cultural and regional diversity. There is also a need to further reflect cognitive diversity and additional needs in personas, exploring how product makers can ensure content, functionality and accessibility are considered when designing for young people".

[13] For more information on this matter, we suggest the productions of MIT Algorithmic Justice League, such as http://proceedings.mlr.press/v81/buolamwini18a/buolamwini18a.pdf and https://www.ajl.org/spotlight-documentary-coded-bias.

[14] The Guide mentions:

"Way2go optimizes the location sharing experience for empowerment by offering complete transparency to the young person, who is also in charge of customization options".

"The solution outlines how personalized services can build flexibility into their contextual controls for people to modify experiences. When turning on or off Vidi's access to data, young people can instantly observe how this affects their feed. Assessing the trade-offs is easy as people can undo their actions if unsatisfied with how it impacts their feed".

guidelines point very strongly to the significance of parental consent as a standard to promote children and teenager rights and safety.

Of course, the empowerment of citizens and the dissemination of digital literacy and safety issues is substantive and should be stimulated. The same applies to the enforcement of parental and families' clarified consent on the collection and use of their children's data.

However, those solutions are not solely enough: their outcomes are not instantly perceivable. And, truth be told, terms of use and privacy policies that internet and technology users have to consent to tend to be inaccessible to most languages and reading skills.

Plus, even if those documents are rewritten to a better understanding language, children and teenagers are individuals with evolving capacities who, therefore, have significant obstacles to distinguish in every situation what is best for themselves or fully understand the long term damages the misuse or mistreat of their personal information and intimacy rights may cause - even if taught about certain guidelines[15].

This unfairness of consent as a primary standard to young people's protection is increased in global southern contexts, which struggle against a number of digital inequalities, as reported above; where digital literacy and safety are not widespread; and where not all parents and families have the means to assist children and teenagers on their navigation of the internet.

The elevation of the consent standard, thus, can even entrench inequalities throughout the world and promote discriminatory treatment to global south countries and/or children and teens inserted in more vulnerable scenarios, as it does not consider inequalities in general and the unfairnesses mentioned above, serving children, teens and families in privileged settings - when it comes to digital literacy, knowledge and time to assist youngsters online - much more adequately.

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[15] The Guide, for example, mentions App Oinc, which would offer advertisement to children. Even though they might consent to using the app, directing advertising to children is an illegal practice in countries such as Brazil and, not only, they is a large extent of research that shows the harms that this ad targeting can cause.
For more information: Digital Advertising to Children. Jenny Radesky, Yolanda (Linda) Reid Chassiakos, Nusheen Ameenuddin, Dipesh Navsaria, COUNCIL ON COMMUNICATION AND MEDIA. Pediatrics Jul 2020, 146 (1) e20201681; DOI: 10.1542/peds.2020-1681. Available at: https://pediatrics.aappublications.org/content/146/1/e20201681. Access on: 8/12/2020.

As the Guide appears to put so much weight on the consent standard, it is also very important to point out that families and young people themselves are not the only agents responsible for their own safety and wellbeing and that the relation between users and tech companies is not horizontal or equal[16].

The Convention on the Rights of the Child (CRC) establishes that all the decisions made by States and by private actors, such as business enterprises in the digital environment, should always consider children's evolving capacities, their best interests and the promotion and protection of all their rights[17]. This responsibility of States and private actors on assuring children's protection - besides themselves and their families - is also locally provisioned by the brazilian Constitution.

In brief, the consent standard, as highlighted on the Guide, has to be better balanced with other directives in order to maximize the promotion of children and teenagers' digital rights. Otherwise, as the Guide enforces the prevalence of the consent standard, it places a much greater responsibility on parents, families and youngsters, thus could be misinterpreted and used for exempting States or companies from the detrimental use of personal data and privacy violations.

And, of course, even if the adequate parental or self consent is given, companies are not allowed to violate children's human rights. In fact, independently from any kind of consent, they are obliged to protect children and teenagers from privacy violations, safety violations (threats to their moral, physical and mental integrity and online sexual exploitation and abuse), economic exploitation (data based marketing and digital influencers as business model), freedom violations (lack of diverse information, behavioral modulation, manipulation and persuasive technologies) and discrimination (digital racism and unequal treatment and protection).

Considering these issues, what we suggest for the revision of the Guide is a significant tone reversal: a shift from the consent standard as the primary guideline to a

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[16] As as example, we highlight the use of educational platforms and apps during the Covid-19 pandemic and ask if parents and families really have a choice on consenting to children and teens using them.
[17] "Article 3
1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration".

children's rights by design standard, in which the responsibility to promote and protect children's and teenagers' rights and development is not only on their parents and families, but adequately balanced and shared between all society's agents, including private companies, which do play - or should play - a very important role on guaranteeing this protection and promotion.

Therefore, as part of this new standard, in all use of children's data in the digital environment, their best interests shall be a primary consideration - as provisioned by The Convention on the Rights of the Child -, from conception and design up to the execution phase.

In practical terms that means, among other measures we encourage to be explored from the UK Age Appropriate Design Code and from new design jam sessions, that designers, developers and tech companies in general should obey the following principles and guidelines:

- **Integrate the CRC provisions into all appropriate corporate policies and management processes:** the consideration of children's rights and best interests should be a primary for all the organization, integrating due diligence on this regard in the company culture, teams and goals, including in the designing and developing of products and services;
- **Interdisciplinary perspective to achieve the best interests of the child:** in the design and development of products or services that directly or indirectly impact children, not only the opinion of users (children and families) should be incorporated, but also the perspectives of specialists, such as psychologists, neuroscientists, health care specialists, educators, and children's rights experts. This allows a more comprehensive look at the impact of these tools on all dimensions of the child, their development and their rights according to CRC;
- **Children's Data Protection Impact Assessments (CDPIA):** the CDPIA is an important process to identify and minimize risks to children in digital products or services that are likely to be accessed by children. It involves the description of the data processing; the consulting with children and parents; the assessment of the necessity, proportionality and compliance of the data processing; the identification and assessment of risks and the identification of measures to eliminate or mitigate the risks;

- **Detrimental use of data:** processing children's data should be always in their best interests, preventing the use that have been shown to be detrimental to their wellbeing, such as persuasive design to extend engagement, marketing and behavioral advertising;

- **Data minimization:** all children's data processing should be adequate, relevant and not excessive in relation to the purposes for which they are processed, collecting the minimum amount of personal data is needed for the purposes of the service, storing that data for the minimum amount of time as possible and giving different options of the service related to each data needed to provide it;

- **Right use, play and participate without data collection:** data processing shouldn't be the only way children can use, play and participate in the digital environment. It's important to have options free from children's data processing, allowing all children to be part of their online community;

- **Age appropriate:** the indication of an age for the use of a particular service or platform is an important tool for parental mediation and to adapt the usability of a product or a service to a specific age range and developmental stages. However, it cannot serve as a validation for the detrimental use of data, and should always be thought of in a protective sense, respecting always the best interests and rights of the child as user;

- **Transparency, accessibility and legibility:** the mechanisms of data processing must be transparent and the terms of use and privacy of all products and services used by children must provide all the information regarding the use of data in a simple, clear and accessible manner, suitable for the understanding of different children and families, including the translation into the different languages and accessibility for people with disabilities with other audiovisual resources when appropriate. Still, privacy tools, settings and remedies should be accessible, meaningful and child-friendly, creating learning opportunities and constant access to these tools during use;

- **No data sharing:** children's data are sensitive and shouldn't be disclosure to third parties, unless a compelling reason is checked and always in the best interests of the child, like for safety reasons;

- **Children's full ownership of their data:** children should have online tools to easily access, ratify, erase, restrict or object processing their data;

- **Commercial-free digital spaces:** products and services for children should be free from commercial pressures and profiling or consumer nudge techniques based on

personal data, especially from thinly veiled marketing strategies, like untransparent influencer marketing and product placement. Children should not be targeted with advertising in the digital environment, preventing marketing practices to be developed direct to them;

- **Promotion of meaningful and non-monetizable experiences:** the design of the service or product should promote autonomous, playful and educational experiences, preventing the monetization of children's experiences, like the unauthorized artistic child labor. Considering that the monetization is possible due to the design and business model of the online products themselves, child influencers should be followed closely by companies to avoid economic exploitation and to ensure the child's protection;

- **Nudge techniques in the best interest of the child:** all nudge techniques should be transparent and ethical, promoting the children's development, their best interests and digital citizenship. They should not be used to undermine children's freedoms and rights;

- **Safety standards:** companies should seek to safeguard the improper exposure of children's data and persistent identifiers that facilitates non-authorized and malicious contact. Moreover, have the duty to prevent and combat known or new child sexual abuse material from being made available to users or accessible on their platforms and services, targeting online grooming, predatory behaviour and ensuring that livestreaming and search mechanism will not expose child sexual exploitation and abuse material and data. Still, it is important to have in place processes to immediately remove or block access to child sexual abuse data, ensuring also relevant third parties with whom the company has a contractual relationship have similarly robust notice and takedown processes;

- **Default settings:** settings must be high-privacy, commercial-free and profiling and geolocation off by default. In all products and services used by children it's important to limit from the beginning: biometrics collection, geolocalization and the online hyper exposure of children data; to prevent the economic exploitation of children's vulnerability for marketing purposes; and to restrict profiling that could lead to behavior modulation or discrimination;

- **Parental controls and mediation:** online tools to facilitate parental controls and mediation are important. However, children should have age appropriate and transparent information about how it works and how it affects their privacy. Still,

designs solutions could encourage parents and children to talk frequently about their experience online;

- **Universal adoption of the best technology and policy available:** to avoid discrimination, companies should adopt the best policies and technologies available for children's rights and best interests protection in all jurisdictions that their products and services are available.

- **Due diligence of policies and community standards:** companies should enforce and be accountable for their own publish terms, policies and community standards, especially regarding privacy policies and age verification and restriction.

Finally, the idea we would like to transmit with this shift to a children's rights by design standard is that internet, apps and digital platform providers should not be allowed to not follow principles and guidelines that promote the protection of children's and teenagers' best interests, even if they collide with commercial interests or purposes, and even if the youngsters themselves or their parents or family members consent to terms of use and privacy policies that make way for violations.

4. Our suggestions.

Considering all of the above, the **Child and Consumerism** program from **Alana Institute** suggests the revision of the Guide *How to design with trust, transparency and control for young people* before its release, so that it is expanded with more diverse perspectives and is thus able to fit better for the global south context.

For that, we suggest the hosting of new design jam sessions in different countries, in the global south - in their own native languages -, listening to local experts, stakeholders, children and teenagers. Also, we suggest the creation of new and more diverse "personas" for the Guide.

Furthermore, we suggest the inversion of the consent standard as a primary guideline for the material to a children's rights by design standard, reinforcing the responsibility of tech companies and apps' and digital platforms' developers on the protection and promotion of children's and teenagers' rights.

At last, we thank Facebook Inc. and TTC Labs for the opportunity of offering our feedback to this Guide and we make ourselves available for remote conversations, if at your interest.

Yours sincerely,

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