

INTRODUCTION

The National Data Protection Authority (ANPD) opened an investigation to analyze how TikTok processes children and adolescents' personal data in the Brazilian context.

The investigation was initiated after a news report¹ revealed that the platform tracks and collects detailed information from child and adolescent users, even from those without registered accounts through its unregistered browsing feature. Furthermore, it was identified that the company shares such data with other organizations for advertising purposes without any concern for transparency.

Given such abusive conduct, the Authority initiated an inspection proceeding² against ByteDance, the entity responsible for TikTok. This type of proceeding investigates whether a violation of the Brazilian Data Protection Law (LGPD) has occurred and allows the ANPD to request further information and documents from the regulated entities, in this case, TikTok.

Throughout the proceedings, the company stated its platform is designed for individuals aged 13 and above, indicating that the use of its social network is only allowed for adolescents. Furthermore, the company affirmed that its business model does not affect fundamental rights and fully complies with the LGPD regulations.

Nevertheless, Instituto Alana, acting in the proceedings as an interested third party, identified and submitted evidence that challenges this version, providing information to support the analysis of the case.

Among the main points discussed, it is worth mentioning that Alana's findings contributed to a very important advancement: **ANPD's determination to suspend the platform's "unregistered browsing" functionality throughout the national territory.** As we will see in more detail, this functionality allowed TikTok to be accessed by anyone across all age groups, without requiring registration or age verification mechanisms. This **enabled and encouraged even easier access by children, a demographic that the company explicitly claims is not allowed on its platform.**

The indications of violations by TikTok were recognized in the proceedings, and the ANPD has then opened a sanctioning proceeding³ against the company. This type of proceeding seeks to investigate and sanction when there are significant indications of violations of the LGPD.

¹ COLUCCINI, Ricardo. **TikTok Is Watching You – Even If You Don't Have an Account.** 2021. Available at: <https://www.vice.com/en/article/jggbmk/tiktok-data-collection>. Accessed April 15, 2024. See also SEI # 3962222.

² Number 00261.004725/2024-81.

³ Number 00261.006648/2024-02.

This report aims to present the main findings of Instituto Alana, together with other evidence and reflections on how TikTok puts the rights of children and adolescents at risk, suggesting paths to improve this scenario in order to guarantee the full protection of children and adolescents as enshrined by the Federal Constitution.

Enjoy your reading!

INSTITUTO ALANA'S FINDINGS

The main findings of Instituto Alana demonstrate that:

<p>➤ Despite denying it, TikTok <u>allows and encourages the presence of children on the platform</u>, especially through access to its feed, algorithm and features without requiring registration or adequate age verification mechanisms.</p>
<p>➤ The company <u>omits information about age restrictions and the requirement for legal authorization for adolescent users</u> aged between 13 to 18 within its standard access interface, thereby neglecting protection of this demographic.</p>
<p>➤ The company <u>refuses to provide transparency and information on the rights of child and adolescent users</u>, who, as individuals undergoing a peculiar process of biopsychosocial development, are entitled to the constitutional right to full protection.</p>
<p>➤ With or without registration, <u>TikTok's personalized feed</u>, which comprises its business model structure, <u>can negatively impact children and adolescents, their physical and mental health and well-being, stimulating addiction and exposing them to harmful content without appropriate control</u>.</p>
<p>➤ The company does not have <u>Terms of Service or Contracts duly adapted to the understanding and evolving capacities of children and adolescents</u>, as provided for in the Statute of the Child and Adolescent (ECA), and in the LGPD to protect and guarantee their rights.</p>

FINDING 01:

TikTok claims children are not allowed on the platform. However, Instituto Alana proved otherwise, as not only the company allows but also encourages their presence on the platform.

TikTok claims:

that the app "can only be used by adults (over 18 years old) and adolescents (13 to 18 years old)", so that children "are not authorized to use the Platform", stating it is "restricted to individuals over 13 years of age"

Instituto Alana performed practical tests and confirmed a concerning issue: prior to our research and intervention, TikTok allowed unrestricted access without requiring account

creation, and the application immediately began displaying personalized videos according to user viewing activity. **The problem? At no point did the platform verify the age of the individuals accessing it.**

This means that children under 13 — who, according to TikTok, should not be there — were able to use the platform without any restrictions through the “unregistered browsing”. **The company not only allows this but also collects data from these children to customize the content they see (and to deliver advertisements too!).**

This design and operational choice persist even after it has become clear that, since 2020, it is the most popular platform among children and adolescents worldwide, where they actually spend most of their time⁴.

Instituto Alana also found **that the company actively ENCOURAGES the presence of children and young users on their app.** An example of this is the “Family-Sized Safety” (*Segurança Tamanho Família*) campaign, which has been directly crafted for children and promoted on TV channels aimed at children.

In the main advertising piece of the campaign, the character *Jorel's Brother (Irmão do Jorel)*, an 8-year-old child, surprises his father by asking for permission to create a TikTok account. The campaign also uses elements that spark curiosity and identification among children, featuring characters from the children's universe browsing the platform, fostering an emotional appeal and a sense of familiarity.



Video of this campaign carried out by TikTok in partnership with Cartoon Network Brazil, available on the YouTube platform.



Point your cell phone camera at the QR Code and watch the ad titled "TikTok? Only after 13, honey!", illustrated above.

⁴ STATISTA. **Most popular social networks worldwide as of April 2024, by number of monthly active users.** 2024. Available at: <https://www.statista.com/statistics/272014/global-social-networks-ranked-by-number-of-users/>. Accessed July 1st, 2024.

And there's more! The advertisements were broadcast on Cartoon Network Brazil, TikTok Brazil's official profile, and Cartoon Network's profiles on TikTok, YouTube, and Instagram. The campaign videos are also available on YouTube Kids, a platform intended for children under 12.

Using a cartoon that is extremely popular among children aged 4 to 11 and airing the campaign on children's channels have, **in practice, worked as a powerful marketing strategy, making the platform even more appealing to children, who were not supposed to be there.**

IN OTHER WORDS: TikTok not only **ALLOWS** children to access the platform, but it **ACTIVELY** encourages them to join it, without **ANY** protection or care regarding their age and well-being.

FINDING 02:

Even encouraging the presence of children on the platform, TikTok does not believe it should make their users understand their rights.

TikTok claims:

that its Privacy Policy, in effect since January 2023, "provides clear, direct and comprehensive information about the collection and processing of users' personal data", and that adolescents should review and acknowledge it when registering on the platform. Thus, they would have no obligation to make the necessary adjustments required by the LGPD.

Furthermore, the company points out that:

it complies with the obligation to inform about the scope of the contract because an "average user, acting reasonably" can understand how their personal data is processed in the App Store description, in the Privacy Policy, and in the Help Center, treating children as "little adults".

In other words, TikTok claims that, under the Brazilian Data Protection Law, it is not obliged to clearly inform users about their personal data usage, except on platforms specifically aimed at children. But this is not true.

Brazilian legislation and the Federal Constitution guarantee the protection of the rights of children and adolescents, regardless of the company's stated "intentions". Meaning that even if TikTok insist it is not targeting children — **which we have seen does not match reality** — the way it collects and uses data from children and adolescents requires special care, with clear and accessible information.

Especially in the case of adolescents, **TikTok seeks to avoid responsibility for transparency regarding how collected data is used**, ignoring that Article 14, §6 of the LGPD addresses both younger demographics. The law requires that any information be

provided in a "simple, clear, accessible and appropriate" manner, considering the stage of development of the children and adolescents, to ensure they understand how their data are used.

And what happens in practice? TikTok fails to make the necessary adaptations required by law, besides **granting responsibility to young users, expecting them to READ AND REREAD the company's privacy and data protection guidelines (those famous "fine print" terms) until they understand them.** If the terms are already poorly understood by adults, imagine how inaccessible they are for children and adolescents.

<ul style="list-style-type: none"> What information we collect How we use your information How we share your information Where we store your information Your rights and choices The security of your information How long we keep your information Information relating to children and teens Privacy Policy update Contact Supplemental Terms – Jurisdiction-Specific 	<h3>Automatically Collected Information</h3> <ul style="list-style-type: none"> • Usage Information. We collect information regarding your use of the Platform, e.g., how you engage with the Platform, including how you interact with content we show to you, the advertisements you view, videos you watch and problems encountered, browsing and search history, the content you like, the content you save to 'My Favourites', the users you follow and how you engage with mutual followers. • Inferred Information. We also infer your attributes, including your interests, gender and age range for the purpose of personalising content. • Technical Information we collect about you. We collect certain information about the device you use to access the Platform, such as your IP address, user agent, mobile carrier, time zone settings, identifiers for advertising purposes, model of your device, the device system, network type, your screen resolution and operating system, app and file names and types, keystroke patterns or rhythms, battery state, audio settings and connected audio devices. We automatically assign user IDs and device IDs. Where you log-in from multiple devices, we use your information such as your device IDs and user ID to identify your activity across devices. We may also associate you with information collected from devices other than those you use to log-in to the Platform. • Location Information. We collect information about your approximate location, including location information based on your SIM card and/or IP address. With your permission, we may also collect precise location data (such as GPS). In addition, we collect location information (such as tourist attractions, shops, or other points of interest) if you choose to add location information to your User Content. Click <HERE> to learn more. • Image and Audio Information. We may collect information about the videos, images and audio that are a part of your User Content, such as identifying the objects and scenery that appear, the existence and location within an image of face and body features and attributes, the nature of the audio, and the text of the words spoken in your User Content. We may collect this information to enable special video effects, for content moderation, for demographic classification, for content and ad recommendations, and for other non-personally-identifying operations. Click <HERE> to learn more.
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Excerpt from TikTok's Privacy Policy, updated [DATA] regarding the automatic collection of users' information.

- What information we collect
- How we use your information
- How we share your information
- Where we store your information
- Your rights and choices
- The security of your information
- How long we keep your information
- Information relating to children and teens
- Privacy Policy update
- Contact
- Supplemental Terms – Jurisdiction-Specific**

Brazil

If you are using the Platform in Brazil, the following additional terms apply. In the event of a conflict between the main Privacy Policy and the additional terms, the following terms prevail:

Exercise of data protection rights. Brazilian law grants certain rights to individuals with respect to their personal data. Accordingly, we seek to ensure transparency and access controls to allow users to benefit from the below rights:

We will respond to your requests to exercise your rights below in accordance with applicable law, in particular the Brazilian General Data Protection Law ("LGPD"):

- I. confirmation as to whether your data is being processed;
- II. access to your data;
- III. correction of incomplete, inaccurate or outdated data;
- IV. anonymization, blocking or deletion of data;
- V. portability of personal data to third parties;
- VI. object to the processing of personal data;
- VII. request information regarding public and private entities with which we share data;
- VIII. request additional details, where applicable, regarding international data transfers and the mechanisms (such as the Standard Contractual Clauses) used to carry out such transfers;
- IX. request information on the possibility of refusing to provide personal data and the respective consequences, where applicable;
- X. withdrawal of your consent; and
- XI. request an analysis, where applicable, of decisions made exclusively based on the automated processing of personal data that affect your interests, including decisions made to define your personal, professional, consumer or credit profile, or aspects of your personality.

We encourage you to contact us if you are not satisfied with the way we have responded to any of your rights requests. You also have the right to file a complaint with the Brazilian Data Protection Authority ("ANPD").

Excerpt from TikTok's Privacy Policy, updates [DATA], regarding supplementary terms for Brazil.

IN OTHER WORDS: TikTok ENCOURAGES children and adolescents to use its platform but DOES NOT WANT to comply with the obligation to make them understand their rights. They expect adolescent users to read the "fine print" of their policies until they understand them, without any adaptation, treating them as "little adults".

FINDING 03:

TikTok's personalized feed captures attention, manipulates, and can harm the health and well-being of children and adolescents

TikTok claims:

that its personalized Feed Content Recommendation System "does not produce relevant legal effects on data subjects nor significantly affect them ". This is because "users can choose to skip videos, use the 'not interested' feature, hide videos from certain creators" and have access to alternative means of content display, in the "Following", "Discover" and "Search" tabs.

Instituto Alana found this to be a significant misrepresentation of reality.

Several studies show that TikTok's algorithm — and its business model — **is highly addictive and can harm young people's physical and mental health, including risks to their well-being⁵ and the free development of their personality.**

The company also ignores various analyses⁶ showing that TikTok can quickly **lead the feed into the so-called *rabbit holes*, where they are exposed to a growing stream of radicalization, extremist content, or content promoting self-harm and suicide.**

UN General Comment No. 25 also recognizes these risks, determining that digital platforms **cannot use recommendation systems to manipulate emotions or limit young people's development,** in addition to prohibiting children and adolescents from exposure to sponsored content that has hidden commercial or political motives.

And there's even more! The company **seeks to shift all responsibility to the families of the children.** For TikTok, the existence of the functionality called "Family Pairing", allows families to activate the "Restricted Mode" tool. This would prevent young people from accessing content "possibly inappropriate for all audiences (for example, content flagged as involving real high-risk and dangerous activities or behaviors)" - in TikTok's own words.

Why does this not make sense? If TikTok **admits that certain content is dangerous and high risk, why not automatically block these videos for children and adolescents?** Why does the safety of these hyper-vulnerable and evolving users depend on parents and caregivers manually activating controls, instead of the platform guaranteeing protection by default?

This is equivalent to admitting **that if an adult in the family does not understand how the platform works — the same platform with a highly opaque design — their children WILL suffer from all the risks and potential harms caused by the exposure to content existing on TikTok.**

IN OTHER WORDS: TikTok's feed is not simply a content recommendation system. It is addictive, manipulative, and impacts on the health and well-being of younger individuals, exposing children and adolescents to dangerous content.

⁵ FOLHA DE S.PAULO. Estados dos EUA acusam TikTok na Justiça de prejudicar saúde mental de jovens. Folha de S.Paulo, São Paulo, October 24, 2024. Available at: <https://www1.folha.uol.com.br/tec/2024/10/estados-dos-eua-acusam-tiktok-na-justica-de-prejudicar-saude-mental-de-jovens.shtml>. Accessed: February 28, 2025.

⁶ AMNESTY INTERNATIONAL. Driven into Darkness: How TikTok's 'For You' Feed Encourages Self-Harm and Suicidal Ideation. 2023. Available at: <https://www.amnesty.org/en/documents/pol40/7350/2023/en/>. Accessed July 1st, 2024.

ALSO TO FOLLOW CLOSELY!

During the investigation, it highlighted a systemic problem **that affects users not only of TikTok but of a large part of digital platforms**: the level of user protection and choice is different based on the operating system used for access.

When someone accesses TikTok (or other apps) on an iPhone they receive a prompt asking if they consent to the app tracking their activities across other apps and websites, **the so-called "browsing data"**. This does not happen for Android users accessing the app.

What does this mean? When using TikTok via iPhone, users have more options to control the collection of this browsing data. On Android, the right to opt out of cross-app tracking is not clearly presented, and it is uncertain whether this option is enabled by default.

What is it for? You know when you search the internet for a product, health information, or relationship questions, for example, and start seeing advertisements or sponsored ads or posts exactly about what you searched for? **This happens precisely because of the browsing data collection that tracks your activity even when you are not using the app.**

However, Android users do not even receive this alert, or any other notification about activity tracking outside the application.

And there's more! It is important to mention that Instituto Alana did not find a request for browsing data collection in any other form of platform access - not even via web browser.

Thus, **users who do not use iPhones have their browsing activity OUTSIDE THE APP collected and used for targeted advertising**, without their consent or even awareness. This occurs even in the "unregistered browsing".

This underscores the discrimination existing between operating systems and other forms of access to the application, while the company continues engaging in abusive practices without any accountability.

IN OTHER WORDS: If you use Android, or access the app via a browser, TikTok may be collecting and using data about all your online activity outside the app, WITHOUT YOU EVEN KNOWING.

FOR REFLECTION: LACK OF TRANSPARENCY EVEN IN ACCOUNTABILITY AND INFORMATION DISCLOSURE

Researchers' reflection on TikTok's accountability

During the investigation, TikTok was requested to provide important information but failed to respond appropriately. Its responses were incomplete, very generic, or not useful, a concern highlighted by the National Data Protection Authority.

The ANPD noted the following⁷:

"[...] responding to inquiries is a legal determination, [...] they must clarify the concerns raised by the supervisory body, **without rhetorical devices to evade the highlighted points**. For example, citing sections of the privacy policy without addressing the actual question asked only leads the authority (CGF) to take further procedural steps **due to the insufficient responses**.

In this context, **the regulated party's behavior does not appear solution-oriented**, but rather **serves to delay the supervisory process**, which ultimately harms society."

In other words, instead of collaborating with transparency and commitment, the platform adopted a stance that hinders the work of the Authority responsible for safeguarding the best interests of children and adolescents in the context of data protection, a stance that raises serious concerns about its social and legal responsibility in Brazil.

Further reflection: Is it reasonable for TikTok to be uncooperative, non-transparent, and prone to delaying investigations, even when it is one of the most widely used platforms among children and adolescents in Brazil, with undeniable reach and influence?

TIKTOK IS TRACKING YOU AND YOUR CHILDREN, EVEN IF YOU DON'T HAVE AN ACCOUNT: ANALYSIS OF THE "UNREGISTERED BROWSING"

To support part of the findings mentioned above, Instituto Alana also carried out further **investigations and practical tests that identified several illegalities in the use of TikTok's "unregistered browsing"**.

Let's break it down?

- **What is the "unregistered browsing"?**

⁷ https://anpd-super.mj.gov.br/sei/modulos/pesquisa/md_pesq_documento_consulta_externa.php

It is a feature that allows anyone, **without any requirement for registration or proper age verification, to use the app freely, even those under 13, and receive personalized content and advertising.**

➤ **What does this mean?**

Even acknowledging and admitting that TikTok is not a suitable environment for children, **the company allows people of any age to access the platform and have their data collected and used for content personalization and advertising.**

Whether via the app or the browser, **there are no barriers to children and adolescents accessing the platform, nor guarantee that their guardians are consulted or even informed about their presence on the platform** and their data usage.

➤ **What is the core problem?**

People of all age groups - including children under 12 - can access and are fully exposed to the risks and potential harm caused by the app's different features.

Even stating that **it is not a platform for people under 13**, the company is not only complicit but encourages the presence of children.

➤ **What are the consequences of this research and the current status of the case?**

The presentation of these findings was essential and led the ANPD to order TikTok to suspend this feature nationwide. **Currently, it is not possible to use TikTok in Brazil without completing a proper registration.**

➤ It is important to note that this was a groundbreaking decision in the global context, **no other Data Protection Authority, even in the Global North, had previously issued such a directive.**

➤ The ANPD's investigation under the inspection proceedings, supported by Instituto Alana, is still ongoing, and the company must now present and execute its compliance plan. In addition, the Authority's sanction proceedings have begun, aiming to halt risky practices, repair damages, restore full compliance, and hold those responsible accountable under the LGPD.

Instituto Alana will remain vigilant and fully engaged in the unfolding of the proceedings to ensure that the platform complies with the laws and protects its most vulnerable users.

INSTITUTO ALANA'S RECOMENDATIONS

Given all these factors that jeopardize the protection and rights of children and adolescents, Instituto Alana has drafted several recommendations, including:

1. The development of a Protection Plan for the Rights of Children and Adolescents by ByteDance Brazil, with a clear policy for safeguarding and promotion of these rights. The plan must include well-defined responsibilities, a specific budget, deadlines for implementation, and public accountability.
2. Adjustment of platform access controls with robust and effective age verification mechanisms, ensuring that children and adolescents under 13 CANNOT access the platform, in line with the company's own acknowledgment that it is not a safe or suitable environment for them.
3. Review impact assessment methods to ensure children and adolescents are treated according to their rights and best interests. It is necessary to consider how age, gender, race, economic situation, and other factors may increase users' vulnerability, and especially protect those most at risk.
4. Review of data management procedures, especially for younger users. Data collection must be minimized and limited to specific and legitimate purposes, with an appropriate legal basis, always considering users' actual experiences on the platform.
5. Full suspension of all data collection for behavioral advertising until measures are implemented to ensure such advertising will not target child and adolescent users.
6. Invest in research and technology development to ensure that adolescents use the platform safely and with respect for their privacy rights, in addition to considering their evolving capacities.
7. Develop clear and appropriate Terms of Service, with differentiated provisions for adolescents and the exclusion of abusive clauses. Users of all ages should be able to clearly understand how the platform works, including data collection and associated risks, with visual support to facilitate such understanding.
8. Implement concrete actions to protect young users, such as cooperation with experts, expansion of content moderation, and control of compulsive usage patterns. The platform must be accountable for the effectiveness of these measures.
9. Create campaigns and actions to support a positive experience for adolescents, focusing on responsible consumption, data protection, and transparency regarding the company's business model. It is important that these campaigns do not INDUCE children under 13 to use the platform.
10. Explicit request consent for data collection and behavioral advertising from adult users, in all forms of platform use.