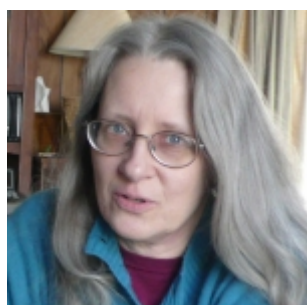


HOW Brexit could affect media content for children and families

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*Wendy M. Grossman provides a non-lawyer's first stab at thinking through what the UK can and cannot change if and when the government pulls the trigger to begin exit negotiations from the EU. She discusses how children may grow up in a vastly different national landscape than the one we know today. Wendy writes about the border wars between cyberspace and real life. She is the 2013 winner of the **Enigma Award** and she has **released** a number of books, articles, and music. [Header image credit: T. Nacho, CC BY-ND 2.0]*

As even Leave campaigners had to admit as soon as the EU referendum result was announced, the idea that Britain can **'take back control over our laws'** is unrealistic. Many laws affecting children's rights and parental concerns will likely remain largely intact, either because they are policies the UK supported originally and promoted to the rest of the EU, or because they implement support for fundamental rights, or because the UK will be forced to accept them in the interests of being able to trade with other countries, including the EU.

As **Helen Stafford** writes at **Democracy Now**, these discussions have been between and about adults, leaving children out of the picture. **Special Needs Jungle** has assembled a **group of experts to predict the impact** of leaving on areas of concern to children with disabilities and their families.

Many other initiatives have a less direct impact. Policies such as age verification, filtering and web blocking are national policies that recent UK governments have pursued and that currently appear in the proposed **Digital Economy Bill 2016–17**. These are likely to go forward without alteration. In a second group are laws such as the EU's recently passed **General Data Protection Regulation (GDPR)**, which strengthens citizens' rights regarding their data; the proposed **Copyright directive**; **telecommunications regulations**, most recently updated in 2010 and under review; the recently passed **2016 Passenger Name Records (PNR) directive**; and the **AudioVisual Media Services directive (AVMSD)**, a **revised version** of which has been under review for much of 2016. How and whether these are transposed into British legislation will depend in part on timing. Finally, the **1998 Human Rights Act** should be considered separately, as it implements the 1950 **European Convention on Human Rights (ECHR)**, which the UK signed long before joining the EU.



Theresa May has announced plans for a repeal bill that will incorporate all current EU legislation into British law, with any desired alterations to be made later via secondary legislation – that does not require parliamentary debate. For the immediate future, we can expect little legal change. The most uncertainty concerns laws still under consideration or that have yet to be transposed into UK legislation.

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The AVMSD is of especial concern with respect to children. Originally passed in 2010, it coordinates EU-wide standards for national legislation covering media content delivered via any medium, including hate speech, accessibility and protection of minors. The revised version will set harmonised standards for all of these. As the Media Policy blog's **Alison Harcourt explains**, the UK would be free to negotiate an agreement under which British companies could continue to broadcast to the EU, although it would have no influence over the rules the EU adopted. The directive **may pass the responsibility for regulating content** deemed illegal or harmful to private companies. The UK has generally favoured **requiring internet service providers (ISPs) to police uploaded content**. Other issues, such as network neutrality and roaming charges, will presumably be delegated to Ofcom. Network neutrality, part of the **EU's commitment to the Digital Single Market**, sounds technical, but the principle that all traffic should be treated equally is of great significance to future universal access to the internet. Without it, entrenched large companies can effectively lock out newcomers and individuals from building businesses or disseminating information.

Alex Harvey has explained the reasons why age verification has become a concern. The **government has conducted a consultation** on how to implement it, and the has spent the last year holding meetings with a view to developing a standard commercial websites can use. In this area, the UK reflects a Europe-wide concern about protecting minors from harmful content. However, **Sonia Livingstone has argued** that much more attention should be paid to promoting media literacy.

Among recently passed laws, the most significant is data protection reform. As **the Office of the Information Commissioner has reminded**, the **1998 Data Protection Act** remains in place as a UK law. However, the EU's 1995 Data Protection directive, on which the 1998 law was based, was superseded in April, when the European Parliament passed the **General Data Protection Regulation**. This harmonises national laws, introduces new requirements such as breach notification, and grants greater powers to regulators. Enforcement begins on 25 May 2018, at which time the UK will still be an EU member; even after leaving, UK companies will be forced to comply or give up trading with the EU. As a non-EU member, the UK will have little influence on future revisions. Even eventually failed to derail the GDPR, **partly because of Edward Snowden's revelations**.

Telecommunications regulations are intended to create the framework for 5G, the next generation of mobile networks, and to harmonise various technical standards across the EU. Its importance to parents and teachers will depend on what may be bundled into it – the 2010 package eventually **included copyright, filtering and network neutrality provisions**, all of which affect children's access to and use of the internet.

The **PNR directive** requires airlines to turn over passenger data to the authorities for the purpose of fighting terrorism and serious crime, and to retain it for up to five years and 30 days – as part of the EU's cooperation with the similar requirement **the US put in place after 2001**. The result will be to collect much more data about passengers and where they travel, and the UK will have little choice but to comply if Britons are to continue to be able to fly to those countries. **Campaigners have warned** that the system could result in far greater government control of travel.

Finally, the rights conferred on the citizens of signatory countries by the ECHR are enforced by the European Court of Human Rights (ECtHR), set up in 1949. It was the ECtHR, for example, that ruled against the UK in **S and Marper vs United Kingdom**, holding that retaining DNA samples given by arrestees who are later cleared is a violation of their right to privacy. Other decisions made by the court with long-term impact include the 'right to be forgotten' (**Google Spain vs AEPD**

and Mario Costeja González), which requires search engines to consider requests to remove links to outdated information from the results of searches on individuals' names.

Both David Cameron and Theresa May have indicated that they favour exiting the ECHR, which would remove the UK from the court's jurisdiction. Plans to replace the Human Rights Act with a British bill of rights were announced in both the 2015 and 2016 Queen's speeches, and are widely seen as a step toward that exit. Until it is repealed or replaced, the Human Rights Act (1998) remains in force.

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However the UK's departure plays out, today's children will be growing up in a vastly different national landscape than we thought only a year ago. It will be up to all of us to ensure that they don't suffer as a result.

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