



children's charities' coalition on internet safety

29th March, 2006

Dear Alun Michael, Beverley Hughes and Paul Goggins,

As the issues I am addressing in this letter appear to cross your three different Ministerial portfolios, I thought I ought to send it to you jointly.

You may recall that, along with representatives of ACPO and the Home Office, on behalf of the Children's Charities' Coalition on Internet Safety, I was part of the original group that negotiated a self-regulatory code of practice on passive location based services with the Broadband Mobile Group (BMG). The BMG represents the main UK mobile phone networks in the location market. For these purposes the BMG therefore encompassed Vodafone, 02, Orange and T Mobile, with Virgin and 3 on the sidelines as they did not then provide any location based services.

Essentially this was a negotiation at one remove i.e. while we were negotiating directly with the major networks, what we were actually discussing was the terms which the big networks would impose, via contract, on the smaller independent companies that various entrepreneurs were rushing to establish to sell and promote passive location services. The rationale, I suppose, was that these smaller, newly-formed companies could only sell their products because the major networks were willing to supply them with their customers' location data. Thus, ultimately, it was the major networks that were really behind this trade. Certainly it would be the big networks' brands that would take the hit if anything went wrong so they had the prime responsibility for ensuring that the new location services were properly run.

Most of those involved in the negotiation on location services had already had some experience of negotiating self-regulatory codes of practice. We had just concluded a separate negotiation on a code of practice governing the provision of adult content that is accessible via mobile phones. As part of that negotiation we had agreed that we would need an independent body to be established to oversee the operation of that code. This led to the creation of the Independent Mobile Content Board (IMCB), which is administered by ICSTIS.

In relation to the negotiation on location services, no one thought anything as complex as an IMCB would be necessary to supervise the operation of the location code but, having spent a year or more discussing the other elements, there was a consensus that we would return to this point later and we could let the code go as it was. The code was agreed in the summer of 2004. It became operational on 1st January, 2005.

Despite several requests to reconvene the same original three parties to discuss the unresolved question of how we guarantee compliance with the code, we only managed to meet on 23rd January, 2006. This was at the Home Office, and this was on the occasion of the first annual review of the operation of the entire code.

The networks said they had, in the meantime, decided unilaterally to carry out the compliance monitoring for the code themselves, via their in house security teams. Having recently completed their initial review, the networks delivered an account which indicated that they were broadly satisfied with the way the compliance monitoring system was working. My own view was that while I had no reason to doubt the integrity of the networks' in house security teams, I was not certain the public would be enormously reassured because of a perception of a possible conflict of interests. I agreed that we probably did not need anything as elaborate as the IMCB but I suggested that an outside element ought to be built in somewhere e.g. by asking an independent firm to undertake a "mystery shopping" type of exercise to test all parts of the system from the consumers' perspective. The networks dismissed this idea on the grounds of cost.

However, since the 23rd January meeting we have seen a spate of media stories which, essentially, have demonstrated how easy it is to fake the consent which the code says is essential before their service can be commenced, and how you could sometimes fake it without even having to take physical possession of the other person's phone. Now we have had the first case which specifically involves a child. In an as yet unpublished article a reporter from the Mail on Sunday was able to fool a location service that is expressly designed for children. Using the phone of a 14 year old The Mail on Sunday's Eleanor Mayne got around the system marketed by Child Locate Ltd. Even though this is the first known case where a child location service has been fooled, the fact that any of them can be tricked is a worry because we have always known that it is entirely possible that a malevolent individual could always register a phone to be tracked without acknowledging to the service provider that the phone is owned by a child or will soon be given to a child. I can imagine that some of the other companies in the location market, those companies that have gone to a lot of trouble to do everything correctly and thoroughly, will be very angry that some of their colleagues have not been as careful or fastidious. But we have to be confident that every company is getting it right, not just some of them.

On each occasion that the defects or flaws referred to above have been drawn to the attention of the individual operator concerned, or the BMG, there have been a few harrumphs, blushes and apologies for these "one off oversights", but in the circumstances you will forgive us for feeling less than completely confident that the industry has truly been sufficiently attentive to some fairly basic procedures. Right now it looks like every time someone who is really independent of the networks or the location providers sits down to test the systems they find something wrong. This is bound to raise questions about why the networks' in house security teams did not pick up on these faults.

It is in this light that we were delighted to see Judy Mallaber MP brought a 10 Minute Rule Bill to promote the establishment of a licensing regime specifically for companies that sell or promote location based services for children. We understand the legislative hurdles that 10 Minute Rule Bills face so we are looking very much to Government to act to ensure the environment is made more secure. In particular you will note that Ms Mallaber's Bill encompasses all child oriented location based services whereas the code of practice mentioned earlier in this letter concerns only those linked to mobile phones. GPS child location services are starting to emerge, and RFID based ones cannot be far behind. There is no code governing the sale or deployment of either of these. Moreover it remains our belief that, in any event, the way the system of consents currently operates within the UK for mobile phone based location systems, is at odds with the provisions of the Privacy and Electronic Communications (EC Directive) 2003.

The potential value of location services for tracking vehicles, and goods, or for helping, for example, lone workers who sometimes have to go into hazardous environments, is not in dispute. Please note also that we have not expressed outright opposition to the principle or idea of location based services for children. In certain, probably rare circumstances, they could be very valuable. We are also aware of at least one organization working with children with certain types of learning difficulties where they are quite excited about the technology's potential to open up new possibilities for them. However, we do have concerns about the value and impact of such technologies across the broad spectrum of family life. Perhaps we need to discuss more fully with the location industry how these services are to be marketed. In essence we are worried that, more or less obliquely, the companies selling these services are promoting the idea that thinking you know where your child's mobile phone handset might be is the same as knowing where your child is, or is the same as knowing that your child is safe and well. It most emphatically is not. If parents or carers come to rely on this technology, and build it into their parenting practice, they could develop an entirely false sense of security. I say this not least because there are some very obvious points about what happens when there is a systems failure within one or more of these location companies, or even the networks themselves. We know nothing about the backup or redundancy features which the location companies or the networks have developed for these types of services. Neither do we know whether or to what extent the staff working in some of these companies have been the subject of appropriate police checks.

In the hands of a very controlling or oppressive parent these technologies could extend parental power in a very destructive way and make it much harder for children to develop relationships within the family based on trust. Please note that, unlike with mobile phone based location services, some of the other location technologies e.g. GPS based systems, will not even allow the child to turn off the tracking device. As long as there is power in the batteries it will continue to emit a signal.

Finally, having said we have no objection in principle to the idea of location based services for children, we most certainly do have grave concerns about the way in which mobile phones are, in effect, also being converted into tools for the covert surveillance of children, and in that context the location element plays an absolutely central role.

Take the *Teddyfone* as an example. Launched last November it is not hard to guess what it actually looks like. In fetching blue and white livery it will instantly appeal to the hungry eyes of at least the younger end of the 4-10 year old “market” the company says it is interested in. It will easily fit into tiny hands, pockets or back packs.

Obviously the *Teddyfone* does what any phone will do and allows you to talk to whoever is carrying it at the time. It also restricts who a child might call *from* the phone. But, for example, by the simple expedient of sending a text message it automatically and silently converts the phone into a listening device. I contacted *Teddyfone* and they confirmed that the listening device was turned on without any audible warning adding, somewhat superfluously, “If the child knew you were listening it would defeat the point of it.”

One wonders how many other parents or teachers in, for example, a nursery or school, would be happy with the thought that, without the child carrying the phone necessarily even knowing about it, someone outside the classroom or nursery could be listening to, and recording, any and every conversation taking place within electronic earshot.

Obviously because the *Teddyphone* is a mobile phone it can also act as a tracking device. In fact the location aspect is a major feature in its marketing. Thus, with the *Teddyfone*, without having to go to the trouble of speaking to your child, you can go to a web site to see where he, she or they are, or you could ask for a map to be sent to your mobile phone showing the same information, and then you could decide whether or not to listen in on their conversations as well. There is another device which can be turned on remotely and silently. It is called a *Pupillo*. It is sold by 3. While not specifically marketed as a child protection product, its utility as an upmarket baby monitor is mentioned. The *Pupillo* boasts a camera and microphone combined and, just to be sure you do not miss anything, the *Pupillo* can see in the dark. To all the world the *Teddyfone* and the *Pupillo* seem to have more in common with the world of James Bond than they do in any reputable manual of parenting.

If the initial offerings from the vendors of location services had been put together and marketed by companies that appeared to have a better understanding of children and families, and who therefore took the security issues much more seriously than appears to have been the case with some of the early entrants to the market, our concerns would be reduced although I doubt they would be completely eliminated.

In the end it will of course be a matter for each individual family to decide whether or not they wish to buy or use location services for their children but I trust you will appreciate why we are writing to you. This whole area of policy needs to be put on to a much clearer footing, and in particular we need greater confidence that the security arrangements in place across the board for location services, not just for those linked to mobile phones, and not just those aimed at children, are as good as they possibly can be. Only in this way will we be able to reassure children, parents and carers, and the general public alike.

Yours sincerely,

John Carr
Secretary
CHIS