

Rethinking Parental Guidance and State Duties under Article 5 in the Digital Age: A Case Study of Ryan Kaji



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CONTENTS

DECLARATION STATEMENT	i
EXECUTIVE SUMMARY	iv
OVERVIEW OF MAIN FINDINGS	v
KEYWORDS	vi
LIST OF ABBREVIATIONS	vii
Chapter 1: Introduction	1
1.1. Background	1
1.2. Research Question	2
1.3. Scope and Limitation.....	2
1.4. Methodology and Methods.....	2
1.4.1. Methodology.....	2
1.4.2. Method	2
Chapter 2: Ryan Kaji: The Child Behind Ryan’s World	4
2.1. Timeline of Ryan’s Career.....	4
2.2. Role of Parents in Creation and Brand Management	6
2.3. Revenue Streams and Commercial Scale	7
2.4. FTC Complaint and Legal Controversies.....	7
2.5. Conclusion.....	9
Chapter 3: Children’s Rights Evolving Capacities Under the CRC in a Digital Age	10
3.1. Article 5, Parental Guidance and Evolving Capacities.....	10
3.1.1. Article 5 as the Core Provision on Parental Guidance.....	10
3.1.2. Article 5 in the Private Sphere.....	13
3.2. Article 18 and the Shared Responsibility of Parents and the State	15
3.3. Article 3(1) and the Best Interests Principle	16
3.4. Interrelation Between Articles 5, 18 and 3(1) in Digital Contexts.....	17
3.4.1. Digital Parenting and Article 5: Direction vs Control	17
3.4.2. Article 18: Parental Responsibility and State Assistance in Digital Markets.....	18
3.4.3. Article 3(1): Best Interests in Commercialised Childhood.....	19
3.4.4. The Need for Doctrinal Integration	20
3.5. Conclusion.....	21
Chapter 4: Applying the CRC Parenting Framework: The Case of Ryan Kaji	22
4.1. Introduction.....	22
4.2. Inside the Home: Parenting, Commercialization & Evolving Capacities.....	22
4.2.1. Article 5 and parental guidance in the family business model	22
4.2.2. Article 18 and the limits of State oversight in private family enterprise.....	23

4.2.3.	Article 6 and Ryan’s holistic development: Is it being supported at home?	24
4.3.	Enjoyment of Rights Beyond Development: Education, Play and Expression	25
4.3.1.	Article 31: Right to play and rest — is filming encroaching or enhancing his right to play?	25
4.3.2.	Article 28: Education and schooling — is the filming interfering with or enhancing his education?	26
4.3.3.	Article 13: Freedom of expression — is Ryan’s role as an influencer enhance his enjoyment of his right to freedom of expression?	28
4.4.	Regulatory Oversight: The State’s Role in Digital Childhood Protection	29
4.4.1.	Article 3(1): State’s duty to ensure child’s best interests in policy and law	29
4.4.2.	Article 6: State’s duty to ensure children’s right to development	30
4.4.3.	Article 32: Protection from economic exploitation – are current laws sufficient?	32
4.4.4.	Article 12: Right to be heard – did Ryan has a say in decisions?	34
4.5.	Reflections: Evaluating Compliance: Has the State Met Its Duties Under the CRC?	35
4.5.1.	Understanding the Role of the State in the Private Sphere	35
4.5.2.	Parental Autonomy vs. State Intervention: The Regulatory Dilemma	36
4.5.3.	Article 5 and the Limits of Parental Guidance in a Commercialised Family Model	37
4.5.4.	Implementing Article 5: The State’s Role in Overseeing Parental Guidance	38
4.5.5.	The Ryan Kaji Case: A Reflection on State Responsibilities	39
4.6.	Conclusion	41
Chapter 5: Conclusions and Recommendations		42
5.1.	Findings	42
5.2.	Identifying Gaps and Challenges	43
5.2.1.	Middle Childhood: A Forgotten Zone	43
5.2.2.	Regulatory Dilemma: When Parenting Becomes Business	44
5.2.3.	Fragmented Oversight and Forum Shopping	45
5.3.	Conclusion	45
BIBLIOGRAPHY		47

EXECUTIVE SUMMARY

This thesis explores how State obligations and parental guidance intersect under Article 5 of the Convention on the Rights of the Child (CRC) in the context of child influencers, with a particular focus on the case of Ryan Kaji. As digital platforms increasingly enable children to become content creators and commercial entities, this study investigates whether current legal frameworks sufficiently protect children's rights in such environments, particularly in middle childhood.

The thesis is guided by the central research question: To what extent does the State's response to guidance provided by parents of child influencers align with their obligations under Article 5 of the CRC framework?

Child influencers challenge traditional legal boundaries between private family life, commercial activity, and children's rights. Using the case of Ryan Kaji—a child YouTuber turned multimillion-dollar brand—as a focal point, the study applies legal doctrinal analysis to assess how the CRC, and particularly Articles 5, 18, and 3(1), operate within the digital sphere.

The thesis is structured into five chapters:

Chapter 1 introduces the background, research questions, methodology, and scope. It outlines the rise of child influencers, the gaps in legal protections, and the potential of the CRC to guide regulatory responses.

Chapter 2 examines Ryan Kaji's career trajectory, the role of his parents in brand management, the family's commercial operations, and regulatory controversies, including the FTC complaint and allegations of opaque advertising practices.

Chapter 3 provides a doctrinal analysis of the CRC provisions relevant to parental guidance and child autonomy. It explains how Articles 5, 18, and 3(1) collectively frame evolving capacities, best interests, and shared responsibilities in both private and public domains, especially in digital contexts.

Chapter 4 applies this framework to Ryan's case, assessing how the enjoyment of rights such as play, education, expression, development, and protection from exploitation are affected by his role as an influencer. It critically evaluates whether the parental guidance he received and the State's regulatory approach fulfill the CRC's obligations.

Chapter 5 summarizes key findings, highlights regulatory and doctrinal gaps—such as the lack of enforceable standards in the private sphere, the ambiguity of evolving capacities in middle childhood, and the challenges of fragmented oversight—and offers recommendations for strengthening children's rights in the digital economy.

This study concludes that while the CRC offers a strong normative foundation, it requires more robust implementation and contextual adaptation to protect children whose digital identities and labour are increasingly commercialised by parental decisions. A doctrinally integrated reading of Articles 5, 18, and 3(1) is essential to ensuring that both States and parents uphold children's rights in a rapidly evolving digital landscape.

OVERVIEW OF MAIN FINDINGS

This thesis explores how the State's obligations under Article 5 of the Convention on the Rights of the Child (CRC) apply in the context of child influencers, particularly where parental guidance intersects with commercial activity in the digital age. Using the case of Ryan Kaji as a reference point, it examines how children's evolving capacities are shaped, supported, or restricted by monetised family-led media enterprises, and how State inaction can leave significant gaps in protection.

The study finds that Article 5, which grants parents the responsibility to provide guidance in accordance with the child's evolving capacities, becomes particularly complex when family life is commercialised. In such scenarios, the private sphere transforms into a workplace, blurring boundaries between play and labor. Parents, acting as both guardians and brand managers, risk prioritising profit over developmental needs. While the CRC recognises parental discretion, the absence of safeguards means that children's rights can be subordinated to market demands—especially in cases where no independent assessment of the child's will or capacity is made.

The findings also show that State actors have yet to adapt effectively to the challenges posed by the digital economy. Although Articles 18 and 3(1) outline shared responsibility between parents and the State and demand that children's best interests be a primary consideration, current legal frameworks remain reactive and fragmented. The thesis finds that the State often defers to parental authority without evaluating whether guidance is consistent with children's rights, particularly in commercialised digital settings.

A critical gap identified is the lack of attention to middle childhood within the CRC's evolving capacities framework. Children aged 6–12, like Ryan Kaji, are neither fully dependent nor deemed autonomous, yet they are increasingly visible and monetised online. This conceptual oversight leaves them without age-specific protections, making their evolving capacities especially vulnerable to misuse in the absence of clear procedural standards.

Moreover, the study emphasises that evolving capacities must be treated as a dynamic legal principle, not a rhetorical device. While Article 5 offers a powerful tool for balancing protection and autonomy, it is often implemented without clear criteria or monitoring mechanisms. This creates inconsistent outcomes, where the quality and nature of parental guidance vary widely across socio-economic and cultural contexts.

Ultimately, the thesis concludes that the CRC framework must be more assertively applied in digital and commercial family environments. Protecting the rights of child influencers requires doctrinal integration across Articles 5, 18, and 3(1), greater State accountability, and the development of regulatory tools that reflect the realities of childhood in the digital marketplace. If evolving capacities are not clearly put into practice, and if both States and parents are not held to child-rights-based standards, children like Ryan Kaji will continue to take part in the digital economy without proper recognition, participation, or protection.

KEYWORDS

EVOLVING CAPACITIES – PARENTAL GUIDANCE – DIGITAL AGE – CHILD INFLUENCERS –
CONVENTION ON THE RIGHTS OF THE CHILD

LIST OF ABBREVIATIONS

COPPA	:	Children’s Online Privacy Protection Act
CRC	:	Convention on the Rights of the Child
CRC Committee	:	Committee on the Rights of the Child
ECHR	:	European Convention on Human Rights
FTC	:	United States’ Federal Trade Commission
ICCPR	:	International Covenant on Civil and Political Rights
TINA	:	Truth in Advertising
UN	:	United Nations
UNICEF	:	United Nations’ Children Fund

Chapter 1: Introduction

1.1. Background

Over the past decade, the rise of social media platforms such as YouTube, Instagram, and TikTok has transformed not only how content is consumed, but also who creates it. One notable development is the rise of child influencers or ‘kidfluencers’—minors who produce entertainment or promotional content for large online audiences, often with significant commercial success.¹

A prominent example is Ryan Kaji, the American child behind the Ryan’s World YouTube channel. He began appearing in videos at age three, initially reviewing toys in casual clips filmed by his parents. By age eight, he was among the highest-earning YouTubers, making \$29.5 million in 2020.² His brand has since expanded into merchandise, games, a Nickelodeon series, and international licensing—reflecting a sophisticated, family-managed business model.³

Ryan’s story exemplifies the legal and ethical ambiguity surrounding child influencers. Digital labor often lies outside existing regulatory frameworks for child performers, raising concerns about exploitation, privacy, and autonomy.⁴ Despite producing monetised content, many are not consistently protected by labour laws, advertising standards, or welfare regulations. Their visibility—curated by parents—blurs the line between family life, entertainment, and commercial enterprise.⁵

International children’s rights law offers a framework to analyse this phenomenon. The Conventions on the Rights of the Child (further “UNCRC” or “CRC”) affirms that children are rights holders in their own capacity and must be protected from all forms of economic exploitation (Article 32)⁶, while also being supported to develop their personal identity (Article

¹ See Marina A Masterson, ‘When Play Becomes Work: Child Labor Laws in the Era of “Kidfluencers”’ 1.

² Madeline Berg, ‘How Nine-Year-Old Ryan Kaji, YouTube’s \$30 Million Man, Just Keeps Getting Richer’ (*Forbes*) <<https://www.forbes.com/sites/maddieberg/2020/12/18/how-nine-year-old-ryan-kaji-youtubes-30-million-man-just-keeps-getting-richer/>> accessed 29 June 2025.

³ Jay Caspian Kang, ‘The Boy King of YouTube’ *The New York Times* (5 January 2022) <<https://www.nytimes.com/2022/01/05/magazine/ryan-kaji-youtube.html>> accessed 29 June 2025.

⁴ Simone Van Der Hof and others, ‘The Child’s Right to Protection against Economic Exploitation in the Digital World’ (2020) 28 *The International Journal of Children’s Rights* 833, 835 - 837.

⁵ Bayan Kojok, ‘Reinventing Child Labour: A Contemporary Analysis of Children’s Participation in the Digital Labour Economy’ (University of Windsor 2022) 8.

⁶ ‘States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.’ Convention on the Rights of the Child 1989 art 32(1).

8)⁷, enjoy privacy (Article 16)⁸, and participate in decisions affecting their lives (Article 12).⁹ Article 5 establishes that parents and guardians must provide direction and guidance in a manner that respects the child's evolving capacities.¹⁰

Ryan Kaji's case offers a lens to question whether current parent-led influencer models adequately respect children's rights in the digital economy. It highlights how childhood is being reshaped by commercial imperatives and prompts reflection on the legal responses needed to protect children's dignity, development, and autonomy online.

1.2. Research Question

This thesis sets out to explore this research question: "*To what extent does the State's response to guidance provided by parents of child influencers align with their obligations under Article 5 of the CRC framework?*"

1.3. Scope and Limitation

This thesis focuses on child influencers in middle childhood¹¹ within YouTube's toy-video genre, narrowing the scope from the broader landscape of platforms and ages.

1.4. Methodology and Methods

1.4.1. Methodology

This question will be answered through legal doctrinal analysis. Legal doctrinal analysis is an established method for examining how the law has developed and how it applies to specific contexts.¹² It allows for a systematic review of the relevant international legal framework, particularly the UNCRC and its General Comments, as well as associated child labor, privacy, and digital rights issues.

1.4.2. Method

The research combines desk-based legal analysis with a case study approach. It examines the interpretative guidance of the UN Committee on the Rights of the Child

⁷ 'States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.' Convention on the Rights of the Child art 8(1).

⁸ 'No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.' *ibid* art 16(1).

⁹ 'States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.' *ibid* art 12(1).

¹⁰ 'States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.' *ibid* art 5.

¹¹ Psychologists typically define middle childhood as the ages six to twelve. *See, generally*, Marco DelGiudice, 'Middle Childhood: An Evolutionary-Developmental Synthesis' in Neal Halfon and others (eds), *Handbook of Life Course Health Development* (Springer International Publishing 2018) 95–107.

¹² *See* Terry Hutchinson, 'Defining and Describing What We Do: Doctrinal Legal Research' 17 101 - 105.

(“CRC Committee”), focusing on Article 5 of the CRC and General Comment No. 25 (2021), to explore how the concept of evolving capacities applies to child influencers and to assess risks of economic exploitation in the digital environment.¹³

Furthermore, a review of peer-reviewed journal articles, relevant books, and reports from international NGOs (such as UNICEF and Save the Children) and UN agencies (such as the CRC Committee) will support the doctrinal analysis with wider perspectives and empirical insights. Internet sources—including news coverage and interviews—will be used to illustrate the practical realities and media environment in which child influencers operate. This multi-source approach ensures that the thesis not only addresses legal principles but also their application and enforcement challenges in digital influencer culture. The thesis will then draw on the specific case of Ryan Kaji, examining how his career and parental involvement intersect with these child rights standards.

¹³ Convention on the Rights of the Child art 5; see, generally CRC Committee, *General Comment No. 25 (2021) on Children’s Rights in Relation to the Digital Environment*.

Chapter 2: Ryan Kaji: The Child Behind Ryan's World

This chapter sets out the factual and commercial landscape surrounding Ryan Kaji's career, his family's role in managing his brand, and regulatory challenges that emerged.

2.1. Timeline of Ryan's Career

Ryan Kaji's ascent to global fame began in 2015, when at the age of three, he appeared in his first YouTube video, casually filmed by his mother, Loann Kaji.¹⁴ The video, which featured Ryan selecting a toy train at a Target store, was initially intended to entertain family members, particularly his grandparents.¹⁵ However, it unexpectedly drew public attention, and the channel quickly evolved beyond casual home videos.

By 2016–2017, Ryan's content mirrored the rising popularity of the unboxing genre—a format where children open and review toys on camera.¹⁶ One of his early viral videos, the “GIANT Lightning McQueen Egg Surprise,” featured Ryan opening a papier-mâché egg filled with toy cars.¹⁷ The video accumulated over one billion views and played a critical role in launching Ryan's ToysReview into the YouTube mainstream.¹⁸ Initially, the videos on Ryan's channel had low quality, and his parents simply followed his lead. Over time, the video quality improved, the content became more structured and strategically curated, and the parents began to direct Ryan's activities in pre-planned scenarios.¹⁹

In 2017, the Kajis formalized their operation by founding Sunlight Entertainment, a media production company managing all aspects of content creation.²⁰ They also signed a licensing agreement with Pocket.watch, a media company that facilitated expansion into branded merchandise, television, apps, and books.²¹ This move marked a transition from casual content to a full-scale brand strategy, positioning Ryan as both an influencer and a commercial entity.

Between 2018 and 2020, Ryan topped Forbes' list of highest-paid YouTubers for three consecutive years, earning \$22 million in 2018, \$26 million in 2019, and \$29.5 million in 2020.²² These earnings stemmed not only from YouTube's advertising model but also from expansive revenue streams

¹⁴ Kang (n 3).

¹⁵ *Meet YouTube's Richest 12-Year-Old: Ryan's World* (Directed by Jon Youshaei, 2024) <https://www.youtube.com/watch?v=4C__sK7z5_s> accessed 29 June 2025.

¹⁶ *Refer to 'YouTube's Biggest Star Is a 5-Year-Old That Makes Millions Opening Toys | The Verge'* <<https://www.theverge.com/2016/12/22/14031288/ryan-toys-review-biggest-youngest-youtube-star-millions>> accessed 29 June 2025.

¹⁷ *GIANT Lightning McQueen Egg Surprise with 100+ Disney Cars Toys* (Directed by Ryan's World, 2015) <<https://www.youtube.com/watch?v=Tldt2RhrDw>> accessed 29 June 2025.

¹⁸ Van Der Hof and others (n 4) 837.

¹⁹ Neyza L Guzman, 'The Children of YouTube: How an Entertainment Industry Goes Around Child Labor Laws' 102.

²⁰ Kang (n 3).

²¹ *ibid.*

²² Berg (n 2).

that included branded toys, clothing, bedding, and consumer goods. The Ryan's World brand reportedly generated over \$200 million in retail sales in this period.²³

From 2019 to 2021, the brand further diversified into scripted content through a Nickelodeon series (Ryan's Mystery Playdate), mobile games, and theatrical projects.²⁴ Ryan also became the first YouTuber to have a character balloon in the Macy's Thanksgiving Day Parade²⁵—an indication of the mainstream cultural impact of his brand.

However, 2019 also marked a turning point in regulatory oversight, with increased attention from agencies like the Federal Trade Commission (FTC) and consumer advocacy groups. In August, the consumer advocacy group Truth in Advertising (TINA) filed a complaint with the FTC alleging that the Kaji family had failed to clearly disclose paid promotional content in a manner accessible to children.²⁶ The following month, YouTube and Google agreed to a \$170 million settlement with the FTC and the New York Attorney General over violations of the Children's Online Privacy Protection Act (COPPA).²⁷ In response, YouTube implemented policy changes in 2020–2021, requiring creators to designate videos as “made for kids” and limiting personalized advertising—a move that significantly impacted many child-focused channels.²⁸

Despite these changes, the Kaji brand remained profitable, largely due to diversified licensing and merchandise income. Today, the family resides in Hawaii, where Ryan reportedly attends school full-time and has reduced his on-camera activity.²⁹ His parents continue to manage Sunlight Entertainment, and Ryan's younger twin sisters have also begun to appear in content, extending the family's digital presence.

This rapid transformation—from toddler toy reviewer to international media figure—illustrates the unprecedented scale and speed at which a child's identity can be commercialized in the digital age. The timeline of Ryan's career not only provides a backdrop for understanding the family enterprise but also raises pressing legal questions about children's rights, labor protections, and parental responsibility in the context of influencer culture.

²³ Kang (n 3).

²⁴ Refer to 'Shows - Pocket.Watch' <<https://pocket.watch/shows>> accessed 29 June 2025; 'Ryan's Mystery Playdate | A Nickelodeon and Pocket.Watch Production – Dinopaolo | Creative Director & Visual Brand Designer' <<https://dinopaolo.com/ryans-mystery-playdate-a-nickelodeon-and-pocket-watch-production/>> accessed 29 June 2025.

²⁵ Refer to 'Red Titan from “Ryan's World” Is Set to Debut as a Giant Balloon in the 94th Annual Macy's Thanksgiving Day Parade®' <<https://www.macysinc.com/newsroom/news/news-details/2020/Red-Titan-from-Ryans-World-is-set-to-debut-as-a-giant-balloon-in-the-94th-Annual-Macys-Thanksgiving-Day-Parade-10-29-2020/default.aspx>> accessed 29 June 2025.

²⁶ Tiffany Hsu, 'Popular YouTube Toy Review Channel Accused of Blurring Lines for Ads' *The New York Times* (4 September 2019) <<https://www.nytimes.com/2019/09/04/business/media/ryan-toysreview-youtube-ad-income.html>> accessed 29 June 2025.

²⁷ 'Google and YouTube Will Pay Record \$170 Million for Alleged Violations of Children's Privacy Law' (*Federal Trade Commission*, 3 September 2019) <<https://www.ftc.gov/news-events/news/press-releases/2019/09/google-youtube-will-pay-record-170-million-alleged-violations-childrens-privacy-law>> accessed 29 June 2025.

²⁸ *ibid.*

²⁹ Van Der Hof and others (n 4) 839.

2.2. Role of Parents in Creation and Brand Management

Parents play a crucial role in safeguarding children's well-being and fostering their development into capable adults—an increasingly complex task in the digital age.³⁰ Yet many feel unprepared to balance their children's digital autonomy with appropriate oversight.³¹

Ryan Kaji's success is underpinned by the sustained involvement of his parents, Loann and Shion Kaji. Originally a science teacher and a structural engineer, they began filming Ryan during toy store visits in 2015 as a casual family project.³² What started as an informal project soon evolved into a highly coordinated business model as the videos gained viral traction and began generating revenue.³³ The substantial income from YouTube's monetisation system ultimately prompted both parents to leave their careers: Loann resigned from teaching to focus on filming and editing, while Shion left engineering to manage contracts and business operations full-time.³⁴ This shift highlights how the significant profits generated by Ryan's content directly influenced the family's decision to professionalise their digital activities.

In 2017, they founded Sunlight Entertainment, a media company now employing over 30 staff to oversee production, licensing, and brand strategy.³⁵ Shion and Loann attest that Ryan retains agency in the creative process. They note that he improvises during filming, directs some content ideas, and genuinely enjoys performing. "On or off camera he is the exact same way," says Shion.³⁶ Loann, meanwhile, has stated, "We don't want YouTube to be his future career... We're continuing right now because he's enjoying doing it."³⁷

While his parents assert a commitment to balance school, play, and work, their dual roles as caregivers and brand managers raise questions about whether Ryan's personal development is secondary to commercial objectives. This arrangement reflects a new form of family-based enterprise, where a child becomes the central asset of a monetized digital brand.

The long-term effects of such digital parenting are uncertain. Families often navigate these dynamics amid complex emotional, economic, and technological pressures.³⁸ Although the Kajis emphasize moderation and enjoyment, the cultivation of Ryan's digital persona into a marketable brand reveals a core tension: can parents both manage a child's online labor and remain impartial guardians of their rights?

³⁰ See Jasmina Byrne and Sonia Livingstone, "Parenting's new digital frontier" in UNICEF (ed), *Children in a Digital World* (UNICEF 2017) 104.

³¹ *ibid.*

³² Kang (n 3).

³³ *ibid.*

³⁴ *ibid.*

³⁵ Van Der Hof and others (n 4) 839.

³⁶ Kang (n 3).

³⁷ *ibid.*

³⁸ Sonia Livingstone and Alicia Blum-Ross, *Parenting for a Digital Future: How Hopes and Fears about Technology Shape Children's Lives* (1st edn, Oxford University Press New York 2020) 54.

2.3. Revenue Streams and Commercial Scale

Ryan's success began with YouTube's AdSense program. His main channel, originally *Ryan's Toy Review*, earned millions annually through advertising, making him the highest-paid YouTuber for three consecutive years.³⁹ Partnering with media company Pocket.watch, his brand expanded into over 5,000 licensed products—from toys and clothing to toothpaste and snack foods—sold by major retailers like Walmart, Target, and Amazon.⁴⁰ These products are sold by major retailers such as Walmart, Target, Amazon, and Skechers, forming a lucrative product ecosystem.⁴¹ This branding shift transformed his channel from a personality-driven platform into a commercial enterprise, creating what van der Hof et al. call a “pervasive commercial identity.”⁴²

This level of monetization illustrates how childhood performance has become a sustainable family business. Although Ryan's parents claim that filming is limited and enjoyable, the commodification of his likeness and daily life raises the question: is this still play, or is it labor? Unlike traditional child actors, child influencers operate in unregulated digital spaces—often without labor protections, oversight, or limits on working hours.⁴³

The influencer economy presents unique challenges for children's rights due to the often invisible nature of advertising, the blurring of entertainment and commercial messaging, and the difficulty of regulating parental roles in content that simultaneously serves as family bonding and business enterprise.⁴⁴ Furthermore, the decentralized nature of digital media means that parents often act simultaneously as guardians, directors, marketers, and financial beneficiaries of their child's labor. This dual role, while legally permissible, raises serious ethical and rights-based concerns when measured against international child protection norms.

Does Ryan's experience as a child content creator align with his rights under the CRC? Furthermore, does the role played by his parents—managing his brand while also acting as caregivers—reflect their responsibilities and obligations under the CRC framework?

2.4. FTC Complaint and Legal Controversies

Ryan Kaji's rise to fame also brought regulatory oversight, especially regarding advertising transparency in content aimed at children. In August 2019, TINA filed a formal complaint with the FTC.⁴⁵ The complaint alleged that the Kaji family had failed to adequately disclose sponsored content in Ryan's videos, presenting advertising material in a manner that was not clear or

³⁹ Berg (n 2).

⁴⁰ Kang (n 3).

⁴¹ *ibid.*

⁴² Van Der Hof and others (n 4) 839.

⁴³ *ibid* 835 - 836.

⁴⁴ Valerie Verdoodt, 'The Role of Children's Rights in Regulating Digital Advertising' (2019) 27 *The International Journal of Children's Rights* 455, 458 - 461.

⁴⁵ Refer to 'Ryan ToysReview' (*Truth in Advertising*) <<https://truthinadvertising.org/brands/ryan-toysreview/>> accessed 29 June 2025; see also 'Ryan ToysReview Targets Preschoolers in Violation of FTC Law -' (*Truth in Advertising*, 2019) <<https://truthinadvertising.org/articles/ryan-toysreview-targets-preschoolers-in-violation-of-ftc-law/>> accessed 29 June 2025.

comprehensible to young children.⁴⁶ TINA claimed that many of Ryan's videos included paid promotions for toys and other products, but these promotions were embedded in ways that children⁴⁷—who typically lack the cognitive skills to recognise marketing content⁴⁸—would struggle to identify. This practice was argued to violate the FTC's truth-in-advertising standards, which require clear and conspicuous disclosures of sponsorship.⁴⁹ As such, the Kaji case highlighted concerns about the blurring of editorial and commercial content in child-directed digital environments, and the broader challenges of regulating influencer marketing practices involving minors.

The complaint was based on the premise that children under the age of eight are generally unable to distinguish advertising from regular content, a conclusion supported by child development research. TINA argued that many of Ryan's videos, including those that promoted toys, foods, and games, appeared to children as regular play rather than paid promotion. This effectively bypassed conventional advertising safeguards and exploited children's cognitive vulnerabilities.⁵⁰

Although the Kajis denied wrongdoing, the complaint coincided with a broader FTC and New York State investigation into YouTube and Google's data practices. This led to a \$170 million settlement over violations of the COPPA, after YouTube was found to have collected data from minors without consent.⁵¹

In January 2020, YouTube responded with new policies requiring creators to label content as "made for kids," disabling personalized ads and interactive features.⁵² These measures were designed to limit monetization of children's content and to prevent platforms from collecting behavioral data on underage users. While these reforms aimed to reduce data exploitation, they primarily addressed platform-level responsibilities and did not regulate content creators or parents, who could still profit through merchandise and non-personalized advertising.

Ryan's World thus exemplifies regulatory gaps in addressing child-focused content that blends family life with commercial activity. It shows how the influencer economy can circumvent traditional labour and advertising laws, especially when children are portrayed as casual participants rather than workers.

This situation has serious implications under international children's rights law, particularly Article 16 of the UNCRC, which guarantees the child's right to privacy, including protection from unwarranted data collection and profiling.⁵³ Equally relevant is Article 32 CRC, which obliges

⁴⁶ 'Ryan ToysReview' (n 45); 'Ryan ToysReview Targets Preschoolers in Violation of FTC Law -' (n 45).

⁴⁷ *ibid.*

⁴⁸ Dale Kunkel, 'Policy Battles over Defining Children's Educational Television' 40.

⁴⁹ See Federal Trade Commission, '16 CFR Part 255 -- Guides Concerning Use of Endorsements and Testimonials in Advertising' <<https://www.ecfr.gov/current/title-16/part-255>> accessed 29 June 2025.

⁵⁰ Verdoodt (n 42) 458 - 461.

⁵¹ 'Google and YouTube Will Pay Record \$170 Million for Alleged Violations of Children's Privacy Law' (n 27).

⁵² *ibid.*

⁵³ Convention on the Rights of the Child art 16.

States Parties to protect children from all forms of economic exploitation, including exposure to manipulative marketing that leverages their own digital presence for commercial purposes.⁵⁴

In this context, the blurring of entertainment and advertising, often referred to as “native” or “embedded” advertising, constitutes a form of manipulative design, or what scholars and regulators term “dark patterns”—interface choices that obscure the commercial intent of digital content.⁵⁵ These tactics undermine the ability of children to give informed assent, and weaken parental control where parents themselves may be unaware of or complicit in these commercial arrangements.

While the FTC action targeted the platform (YouTube), the broader question remains unresolved: to what extent should parents, who are both guardians and content producers, be held responsible for ensuring that their children’s digital presence complies with international rights norms? Without clear regulatory frameworks that address the child-as-brand dynamic, the potential for exploitation—however well-intentioned the parents—remains high.

2.5. Conclusion

The case of Ryan Kaji illustrates a transformative moment in the intersection of childhood, family life, and digital economies. His trajectory from casual home videos to a global brand underscores the unprecedented scale at which a child’s identity can be commercialised—and how quickly informal family dynamics can morph into formal business structures. Central to this development is the pivotal role played by Ryan’s parents, who serve simultaneously as caregivers, content producers, and brand managers. This dual role raises pressing legal and ethical questions: to what extent can parental authority remain protective when entangled with commercial gain, and what regulatory safeguards exist to ensure that children’s rights are not subordinated to profit motives?

As Ryan’s public persona grew, so did the regulatory oversight—especially regarding transparency, privacy, and economic exploitation. Yet the existing legal frameworks remain largely inadequate in addressing the child-as-brand dynamic, particularly when commercial activities are embedded within the private sphere of family life. These challenges reveal critical tensions between parental discretion, children’s evolving agency, and the State’s protective mandate under international law.

Chapter 3 builds upon these dilemmas by turning to the normative framework of the CRC. Through an analysis of Articles 5, 18, and 3(1), the next chapter examines how children’s rights—especially in digital and commercialised environments—must be understood not only through the lens of parental autonomy but also through the evolving capacities of the child and the State’s positive obligations to intervene where necessary. In doing so, Chapter 3 lays the legal groundwork for a child-centred model of digital parenting that responds to the complexities revealed by the Ryan Kaji case.

⁵⁴ *ibid* art 32.

⁵⁵ See Simone Van Der Hof and others, “Don’t Gamble With Children’s Rights”—How Behavioral Design Impacts the Right of Children to a Playful and Healthy Game Environment’ (2022) 4 *Frontiers in Digital Health* 822933 2-3; UNICEF the Netherlands, “Children’s Rights in the Digital World” Essay Collection’ (2024) 161 - 162. For discussion of dark patterns, see Woodrow Hartzog, *Privacy’s Blueprint: The Battle to Control the Design of New Technologies* (Harvard University Press 2018) 161-162.

Chapter 3: Children’s Rights Evolving Capacities Under the CRC in a Digital Age

This section provides an overview of the role of the family and parenting within the framework of the CRC, focusing on parental guidance and the evolving capacities of the child. These ideas are especially relevant in digital contexts, where traditional understandings of parenting are increasingly challenged. Key provisions such as Articles 5, 18, and 3(1) will be explored to outline the respective responsibilities of parents and the State in upholding children's rights.⁵⁶

3.1. Article 5, Parental Guidance and Evolving Capacities

3.1.1. Article 5 as the Core Provision on Parental Guidance

3.1.1.1. *Definition and Purpose*

Article 5 of the CRC recognises the essential role of parents, legal guardians, and, where appropriate, extended family or community members in providing “appropriate direction and guidance” to children in a manner consistent with their evolving capacities.⁵⁷ It balances the need to empower parents as facilitators of children’s rights with the obligation to respect the child’s growing autonomy.

Unlike other international instruments⁵⁸, the CRC uniquely codifies this balance in a standalone provision. Article 5 reflects the Convention’s dual commitment: while children are independent rights-holders, parents remain crucial in enabling those rights during a child’s development.⁵⁹

Article 5 thus sits at a conceptual intersection within the Convention. It acknowledges that parents are often best placed to support a child’s development while clarifying that their authority is not absolute.⁶⁰ The child is not a passive recipient of instruction but an autonomous rights-holder whose agency must be respected as it evolves.⁶¹

⁵⁶ Convention on the Rights of the Child arts 5, 18, and 3(1).

⁵⁷ *ibid.*

⁵⁸ *See, for example*, neither International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) nor European Convention on Human Rights (adopted 4 November 1950, entered into force 3 September 1953) ETS No 5 (ECHR), contains a provision equivalent to Article 5 of the CRC.

⁵⁹ John Tobin and Sheila Varadan, ‘The Right to Parental Direction and Guidance Consistent with a Child’s Evolving Capacities’ in John Tobin (ed), *The UN Convention on the Rights of the Child* (1st edn, Oxford University Press 2019) 176.

⁶⁰ *ibid* 160; Sheila Varadan, ‘The Principle of Evolving Capacities under the UN Convention on the Rights of the Child’ (2019) 27 *The International Journal of Children’s Rights* 306, 329-330.

⁶¹ Tobin and Varadan (n 59) 160; Gerison Lansdown, *The Evolving Capacities of the Child* (Innocenti Research Centre 2005) 3–5.

Scholars interpret Article 5 as a normative bridge between the child, family, and State.⁶² Tobin and Varadan frame Article 5 as embodying a fiduciary model of parenting, where authority must serve the child's rights rather than parental interests.⁶³

Thus, Article 5 does more than acknowledge family roles.⁶⁴ It also defines the limits of parental authority and the State's duty to intervene when guidance risks becoming restrictive—particularly in evolving contexts like the digital environment.

3.1.1.2. *The Concept of Evolving Capacities*

The concept of “evolving capacities” in Article 5 serves as a normative tool for assessing when and how children should exercise their rights.⁶⁵ It reflects the understanding that children acquire competencies incrementally and that parental guidance must adjust accordingly.⁶⁶ As children mature, the duty to provide “appropriate direction and guidance” must shift from direction toward facilitation.⁶⁷

The CRC Committee elaborates on evolving capacities in several General Comments—especially No. 7 (early childhood), No. 12 (right to be heard), No. 20 (adolescents), and No. 21 (children in street situations).⁶⁸ These collectively affirm that evolving capacities balance protection and autonomy and must guide both parenting and policymaking.⁶⁹

Lansdown emphasises that evolving capacities are not discretionary but legally grounded in children's right to be treated in accordance with their

⁶² See Tobin and Varadan (n 59) 160–166; see also Varadan (n 60) 306–338.

⁶³ Tobin and Varadan (n 59) 176–177.

⁶⁴ *ibid* 168-170.

⁶⁵ Convention on the Rights of the Child art 5; ‘... the child has a right to direction and guidance, which have to compensate for the lack of knowledge, experience and understanding of the child and are restricted by his or her evolving capacities’ see CRC Committee, *General comment no. 12 (2009), The right of the child to be heard* (UN 20) para 84.

⁶⁶ Lansdown (n 61) 3–4.

⁶⁷ *ibid* art 5.

⁶⁸ See CRC Committee, *General comment no. 7 (2005), Implementing child rights in early childhood* (UN 1) paras 17,23; CRC Committee, *General comment no. 12 (2009)* (n 61) paras 28-30; CRC Committee, *General comment no. 20 (2016) on the implementation of the rights of the child during adolescence* (UN 6) paras 15-18; CRC Committee, *General comment no. 21 (2017) on children in street situations* (UN 21) paras 16-17.

⁶⁹ For example paras 15–17 of *General comment no. 20 (2016)* (n 68) elaborates on adolescence as a transitional stage demanding participatory guidance from adults.

developmental stage.⁷⁰ She cautions against both premature withdrawal of protection and the unjustified denial of agency.⁷¹

Legally, evolving capacities limit parental control. Once a child demonstrates sufficient maturity, the parent's role should shift from director to facilitator.⁷² This approach supports a dynamic view of the child as an emerging subject of rights, and frames parental responsibility as a temporary and responsive role—one that must recede in areas where the child demonstrates autonomy.

Importantly, the principle requires individualised, context-sensitive assessments rather than fixed age-based assumptions.⁷³ It carries significant implications for legal and policy decisions in areas like digital participation, healthcare, and work.⁷⁴ States also bear a duty to foster environments that enable children to exercise their rights progressively, in line with their growing autonomy.⁷⁵

3.1.1.3. *Parental Autonomy vs. Child's Rights*

At the core of Article 5 lies a legal and philosophical tension: reconciling parental authority with the child's evolving autonomy. While the Convention affirms the vital role of parents in supporting the child's rights, this authority is not absolute. It is derivative, meaning it exists only to the extent that it enables the child to realise their rights in accordance with their developing capacities.⁷⁶

This marks a departure from traditional welfare-based models that presumed parental discretion always aligned with the child's best interests. Instead, the CRC recognises children as independent rights-holders. As Tobin and Varadan argue, Article 5 imposes a duty, not a right, on parents—to respect and support a child's agency as it emerges.⁷⁷

This interpretation reshapes the legal understanding of family by placing the child's rights at the centre.⁷⁸ Parental powers must align with the child's

⁷⁰ Lansdown (n 61) 4. *For more discussion, see also:* Elaine E Sutherland, 'The Enigma of Article 5 of the United Nations Convention on the Rights of The Child: Central or Peripheral?' (2020) 28 *International Journal of Children's Rights* 447, 448-450; Gerison Lansdown, 'The Scope and Limitations of the Concept of Evolving Capacities within the Crc' in Claire Fenton-Glynn and Brian Sloan (eds), *Parental Guidance, State Responsibility and Evolving Capacities* (Brill | Nijhoff 2021) 36–51.

⁷¹ Lansdown (n 61) 6–7.

⁷² Sheila Varadan, *Article 5 of the UN Convention on the Rights of the Child: Parental Guidance and the Evolving Capacities of the Child* (Leiden University 2022) 170.

⁷³ See CRC Committee, *General comment no. 16 (2013) on State obligations regarding the impact of the business sector on children's rights* (UN 17) paras 14-18.

⁷⁴ Lansdown (n 61) 8–11.

⁷⁵ *ibid* 7–8.

⁷⁶ Tobin and Varadan (n 59) 164–166.

⁷⁷ *ibid* 165.

⁷⁸ *ibid* 167.

developmental stage and are lawful only when they serve the child's interests.⁷⁹

In domains such as digital exposure, monetised content, or labour, this reading offers a legal safeguard against parental overreach. It also affirms the State's duty to create public policies that support a child-centred model of guidance, grounded in evolving capacities.

3.1.2. Article 5 in the Private Sphere

3.1.2.1. *The "Private Family Life" Barrier*

A central challenge in implementing Article 5 is that children's right to guidance—consistent with their evolving capacities—is primarily exercised within the private sphere of the home.⁸⁰ This makes the parent-child relationship difficult to regulate and limits the State's ability to ensure compliance without infringing on family privacy, protected under Article 16 of the CRC and broader human rights law.⁸¹

Article 5 operates on a trust-based model, presuming parents act in the child's best interests. However, it lacks oversight mechanisms to determine whether guidance genuinely respects the child's development.⁸² As Varadan notes, parental authority exists within a legally ambiguous "zone of discretion," and intervention is generally limited to cases of harm or neglect under welfare law—not rights-based enforcement.⁸³

This structural opacity becomes problematic when parental discretion unintentionally or deliberately restricts a child's autonomy—such as exposing them to digital labour without informed consent.⁸⁴ Yet in such cases, children often lack mechanisms to assert their rights.⁸⁵

The lack of enforceable standards or procedural safeguards in Article 5 leaves children vulnerable to discretionary paternalism, where the quality and direction of parental guidance varies significantly depending on family context.⁸⁶ This creates what Sutherland describes as a "normative vacuum," wherein States have little doctrinal guidance or legal obligation to assess whether a parent's

⁷⁹ Varadan (n 72) 174.

⁸⁰ Convention on the Rights of the Child art 5.

⁸¹ *ibid* art 16; see also ICCPR art 17.

⁸² Tobin and Varadan (n 59) 176.

⁸³ Varadan (n 72) 145–148.

⁸⁴ Wouter Vandenhoe, 'Article 5: Appropriate Direction and Guidance Consistent with the Child's Evolving Capacities' in Wouter Vandenhoe, Gamze Erdem Türkelli and Sara Lembrechts, *Children's Rights: A Commentary on the Convention on the Rights of the Child and Its Protocols* (Edward Elgar Publishing 2019) 84.

⁸⁵ See *the example* in Chapter 4.

⁸⁶ Charlotte Mol and Fiore Schuthof, 'Comparing the Decision-Making Rights of Adults with Declining Cognitive Abilities with Those of Children' (2024) 20 *Utrecht Law Review* 24.

actions meaningfully support the child's rights.⁸⁷ As a result, the protection of evolving capacities becomes aspirational rather than operational, and children's agency is effectively subordinated to parental will unless serious harm arises.

Without clear standards for what counts as “appropriate” guidance or how to assess capacity, enforcement of Article 5 remains inconsistent. This leaves children vulnerable to discretionary paternalism, where their rights are subject to variable family practices rather than legal guarantees.

In short, the private context of Article 5 limits its enforceability, creating a normative gap between the Convention's aspirations and its real-world implementation—especially in emerging digital and commercial settings.

3.1.2.2. *State Intervention Threshold*

The CRC's endorsement of parental guidance under Article 5 is not absolute. States are expected to intervene when such guidance becomes inappropriate, harmful, or no longer supports the child's evolving capacities. However, the Convention does not define clear thresholds for intervention, resulting in legal and practical ambiguity.

Varadan notes that while Article 5 affirms parental support, it also limits it—it must align with the child's developing autonomy.⁸⁸ Yet determining when parental discretion becomes impermissible control remains challenging. National legal systems often rely on child welfare laws or court interventions that are reactive and require evidence of harm, such as abuse or neglect.⁸⁹

As Tobin and Varadan explain, there is typically no legal basis for the State to challenge parental authority solely for disregarding a child's capacities unless harm is evident. This creates a normative gap, where a child's autonomy may be constrained, but State intervention is legally unjustified.⁹⁰ Although General Comment No. 14 encourages preventive and supportive measures,⁹¹ these remain non-binding.

Therefore, although Article 5 allows for State intervention where parental guidance is inconsistent with the child's development, the lack of procedural clarity and reliance on harm-based thresholds means that many children remain without a practical remedy when their rights are constrained by excessive or outdated parental control. This legal ambiguity is particularly acute in emerging areas such as digital environments and commercialised family life, which will be addressed further in Section 3.5.

⁸⁷ Sutherland (n 70) 451–452.

⁸⁸ See Varadan (n 72) 171–172.

⁸⁹ *ibid* 173–174.

⁹⁰ Tobin and Varadan (n 59) 172–174.

⁹¹ CRC Committee, *General comment no. 14 (2013) on the right of the child to have his or her best interests taken as primary consideration (art. 3, para. 1)* (UN 29) paras 57–59.

3.2. Article 18 and the Shared Responsibility of Parents and the State

Building on the discussion of Article 5, which affirms the parent as a fiduciary guide responsible for enabling the child's rights consistent with their evolving capacities⁹², Article 18(1) provides further clarification on the nature of this responsibility by formally recognising that “parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child.” However, this primary role exists within a shared responsibility framework, as Article 18(2) obliges States to support parents in fulfilling these duties.⁹³

This provision frames parenting as both a private and public responsibility. While parents act as the child's first rights enablers, the State must provide the conditions under which that parental role can be exercised effectively and in line with the Convention's values. Importantly, the State's role is supportive but non-intrusive—designed to empower, not replace, parental responsibility.⁹⁴

Yet this balance raises doctrinal challenges: What if parental choices conflict with children's rights? When does support give way to intervention? These questions are illuminated by the contrast between Article 18's “basic concern” language and Article 3(1)'s “primary consideration” standard. While the former recognises the emotional nature of parenting, the latter demands a higher rights-based threshold in all actions affecting children.⁹⁵

In this regard, Article 3(2) plays a critical role by requiring States to ensure the child such protection and care as is necessary for their well-being.⁹⁶ As Eekelaar and Tobin argue, this brings children's rights into the private domain, where harmful parenting practices might otherwise go unchecked.⁹⁷

Tobin further underscores that under the CRC, parental authority is not autonomous—it is conditional upon the realisation of children's rights.⁹⁸ Article 18 thus reinforces Article 5 in affirming that parental powers are derivative, grounded in a cooperative model regulated by international human rights law.⁹⁹

Finally, this shared responsibility model has significant implications in digital contexts. As will be explored in Section 3.5, commercialised parenting in the digital sphere—such as child influencers and monetised content creation—challenges the functional assumptions of both Article 5 and Article 18.

⁹² See section 3.1.

⁹³ Convention on the Rights of the Child art 18(1) and (2).

⁹⁴ See John Tobin and Florence Seow, ‘Parental Responsibilities and State Assistance’ in John Tobin (ed), *The UN Convention on the Rights of the Child* (1st edn, Oxford University Press 2019) 651.

⁹⁵ Convention on the Rights of the Child art 3(1).

⁹⁶ *ibid* art 3(2).

⁹⁷ See John Eekelaar and John Tobin, ‘The Best Interests of the Child’ in John Tobin (ed), *The UN Convention on the Rights of the Child* (1st edn, Oxford University Press 2019) 78-81.

⁹⁸ See Tobin and Seow (n 94) 673.

⁹⁹ *ibid* 669.

3.3. Article 3(1) and the Best Interests Principle

The best interests of the child is a cornerstone principle of the CRC, most explicitly stated in Article 3(1): “*In all actions concerning children... the best interests of the child shall be a primary consideration.*”¹⁰⁰ Notably, parents are not listed among the actors directly bound by this obligation, raising questions about the principle’s applicability to private parental decisions.

Article 3(1) was primarily designed to guide institutional and State actors—such as courts, legislatures, and administrative bodies—ensuring they prioritise child welfare in formal proceedings.¹⁰¹ Some scholars argue this limits its enforceability over private actors, reflecting the CRC’s intent to avoid excessive intrusion into family life.¹⁰²

However, parents are not entirely exempt from the CRC’s normative framework.¹⁰³ Article 3(2) obliges States to ensure the child receives necessary protection and care,¹⁰⁴ which includes safeguarding children’s rights within the home. As Eekelaar and Tobin explain, this establishes a legal architecture where parental discretion is respected but ultimately subordinate to the child’s rights.¹⁰⁵

This tension is further reflected in Article 18(1), which requires that the child’s best interests be parents’ “basic concern”—a lower threshold than the “primary consideration” standard of Article 3(1). This language acknowledges the informal, emotionally embedded nature of parenting, but still imposes a meaningful expectation that decisions serve the child’s well-being.¹⁰⁶

Where parents fail to demonstrate such concern—through neglect, coercion, or economic exploitation—the State must intervene under its positive duty in Article 3(2).¹⁰⁷ Thus, while Article 3(1) may not impose direct legal duties on parents, it operates as a general interpretive principle that informs the exercise of parental roles under Articles 5 and 18.¹⁰⁸ This functional reading must also be situated within the broader tripartite framework articulated by the CRC Committee, which includes the State’s positive obligation under Article 3(2) to ensure the child such protection and care as is necessary for their well-being—an obligation that reinforces the normative expectation that parental authority be exercised consistently with children’s rights.¹⁰⁹

As clarified in General Comment No. 14, the best interests principle functions both as a substantive right and an interpretive tool, requiring that all CRC provisions—including those related to parental authority—be applied in ways that uphold the child’s well-being.

¹⁰⁰ Convention on the Rights of the Child art 3(1).

¹⁰¹ See Eekelaar and Tobin (n 97) 77.

¹⁰² *ibid* 81-82.

¹⁰³ *ibid* 103.

¹⁰⁴ Convention on the Rights of the Child art 3(2); Eekelaar and Tobin (n 97) 103.

¹⁰⁵ *ibid* 81.

¹⁰⁶ Tobin and Seow (n 94) 667.

¹⁰⁷ Convention on the Rights of the Child art 3(2).

¹⁰⁸ Eekelaar and Tobin (n 97) 77.

¹⁰⁹ *ibid* 102.

3.4. Interrelation Between Articles 5, 18 and 3(1) in Digital Contexts

The digital age has reshaped family life, with child influencers and monetised parenting raising new concerns about the boundaries between care, autonomy, and exploitation. In these settings, Articles 5, 18, and 3(1) of the CRC must be read together to assess both parental duties and State obligations. Article 5 protects parental guidance aligned with the child's evolving capacities, Article 18 affirms shared responsibility between parents and the State, and Article 3(1) mandates that the best interests of the child be a primary consideration. This section examines how these provisions interconnect to protect children's rights in digital environments.

3.4.1. Digital Parenting and Article 5: Direction vs Control

Article 5 establishes a fiduciary model of parenting grounded in the child's evolving capacities.¹¹⁰ This framework becomes especially complex in digital spaces, where parental roles may expand into commercial management of children's online presence. Evolving capacities require responsive parental support. But in the digital economy, this principle is compromised when children's participation is shaped more by brand performance than individual maturity. When parents assert control over digital content creation and monetisation on the child's behalf, it becomes crucial to ask: is this truly "guidance", or is it a form of digital labour imposed in the guise of parenting?

Varadan have argued that the principle of evolving capacities serves as a protective threshold, not merely a developmental marker.¹¹¹ It demands that parental direction respond to—and not manipulate or stunt—the child's growing agency. Thus, when children's participation in the digital economy is shaped primarily by adult-centric ambitions, it may amount to a misuse of Article 5. The child's right to privacy, dignity, leisure, and free development under other CRC provisions (such as Articles 16, 31, and 12) may be jeopardised.¹¹²

Moreover, while Article 5 was not originally designed for these emerging realities, its interpretive flexibility allows it to be extended to new modalities of parenting, including digital ones. In these cases, direction should mean equipping children to navigate online spaces safely and ethically, enabling their voices to be heard in decisions about online participation, and setting boundaries that reflect the child's maturity and comfort—not just brand engagement metrics or follower counts.¹¹³

This reinterpretation of Article 5 is further endorsed by the Committee on the Rights of the Child in General Comment No. 25 (2021), which emphasises that in digital environments, children must be supported—not coerced—in developing the skills and resilience needed to exercise their rights meaningfully. Parents must act as facilitators of agency, not as gatekeepers of monetised exposure.¹¹⁴

¹¹⁰ See section 3.1.

¹¹¹ Varadan (n 72) 13–15.

¹¹² Convention on the Rights of the Child arts 12, 16, 31.

¹¹³ *ibid* art 5; see also Tobin and Varadan (n 59) 183–185.

¹¹⁴ CRC Committee, *General Comment No. 25 (2021)* (n 13) paras 45-49.

Ultimately, the digital age requires a rebalancing of parental authority and child autonomy. Article 5, when situated within this digital terrain, must be read as a mandate for ethical guidance: one that adapts to the child's maturity, ensures protection from commercial exploitation, and cultivates the child's evolving identity as a rights-holder in both physical and digital domains.

3.4.2. Article 18: Parental Responsibility and State Assistance in Digital Markets

Article 18 articulates a model of shared responsibility between parents and the State.¹¹⁵ Traditionally, this assistance might include parental leave policies, child welfare services, or access to early education. However, the digitisation of family life and the emergence of the child-influencer economy have created new terrains of vulnerability and regulation that challenge the original assumptions behind Article 18.¹¹⁶

In digital markets, the commercialisation of children's online presence—through platforms such as YouTube, Instagram, and TikTok—has created a regulatory blind spot. While these platforms function as economic intermediaries, they are often headquartered outside the child's home jurisdiction and subject to minimal State oversight. Parents become de facto agents and employers, managing contracts, scheduling content, and negotiating sponsorships on behalf of their children. In doing so, they assume functions that traditionally would be subject to child labour laws, advertising standards, and occupational protections. Yet, such regulatory regimes are either lacking or outdated when applied to digital content production in the home.¹¹⁷

This situation leads to a structural paradox: while the CRC framework assigns primary responsibility for child-rearing to parents and supportive responsibility to States, the digital ecosystem shifts both responsibility and power into unregulated, transnational corporate hands.¹¹⁸ The result is a regulatory vacuum where neither parents nor States are fully equipped to protect children's rights. Parents may lack the digital literacy, legal knowledge, or bargaining power to safeguard their children's best interests in digital contracts, while States may hesitate to intervene in private family life or across national borders.

Given this evolving context, Article 18 must be interpreted in a forward-looking and dynamic manner. Its principle of shared responsibility should be expanded to include new forms of State support tailored to the digital age. This could involve mandatory digital literacy programmes for parents to help them assess risks and navigate contracts in the influencer economy, as well as legislative frameworks that require transparency and regulation of income generated from children's digital labour, ensuring fair compensation and savings mechanisms (such as "Coogan laws" for digital earnings¹¹⁹). Additionally, institutional oversight bodies should be established to audit, license, or certify digital child labour arrangements, while child-centred data protection laws must be implemented to

¹¹⁵ See section 3.2.

¹¹⁶ Livingstone and Blum-Ross (n 38) 154–157.

¹¹⁷ Friederike Siewert, 'A Study On Kidfluencing From A Human Rights Perspective New Forms Of Child Labour' [2024] Umeå University 24-25.

¹¹⁸ Varadan (n 72) 15–16.

¹¹⁹ California Child Actor's Bill 1939 (CA) also known as Coogan Law § 6750–53, applicable by analogy to digital labour.

ensure that children's images and personal information are not misused, monetised without consent, or subjected to surveillance capitalism.¹²⁰

Moreover, States must also take seriously the positive obligation under Article 18(2) to "render appropriate assistance" to parents. This includes not only providing tools and education but also creating a legal and institutional framework that holds digital platforms accountable. When platforms profit from children's labour, they should be subjected to child rights-based duties akin to employers or public broadcasters.

This approach aligns with the broader interpretation of Article 18 in international scholarship, which calls for the State's role to shift from passive supporter to active enabler and regulator. As Tobin and Seow argue, Article 18's function is not only to recognise parents' authority but to ensure that their exercise of this authority is legally supported, ethically guided, and institutionally reinforced in a way that safeguards children's rights.¹²¹

In conclusion, while Article 18 was drafted before the rise of digital childhood, its interpretive elasticity enables it to serve as a foundation for building modern regulatory frameworks that respond to the unique risks and responsibilities of parenting in the digital marketplace. The parental-State partnership envisioned by Article 18 is not static; it must adapt to emerging social, economic, and technological realities to remain meaningful.

3.4.3. Article 3(1): Best Interests in Commercialised Childhood

Article 3(1) does not apply directly to parents, it places a binding duty on States, courts, administrative authorities, and private actors—including corporations—to adopt decision-making processes that are child-centred and rights-oriented.¹²² Its relevance persists in digital markets where commercial platforms profit from children's labour. This new reality poses a critical challenge to Article 3(1): how can the best interests principle be meaningfully applied when digital content involving children is driven by algorithmic engagement and monetisation? Platforms like YouTube or TikTok, for instance, profit from children's public presence but often lack institutional safeguards that prioritise children's developmental needs, privacy rights, or protection from exploitation. When these platforms fail to establish ethical and transparent practices for child influencers, it constitutes a failure to treat the child's best interests as a primary consideration, thus breaching Article 3(1).¹²³

Though parents are not legal duty bearers under Article 3(1), their decisions are still shaped by—and often enabled by—the digital economy. In this context, Article 18(1) becomes relevant, as it sets a "basic concern" threshold for parental action. This is a notably lower standard than Article 3(1)'s "primary consideration," reflecting the CRC's intention to respect family autonomy.¹²⁴ However, when parents act in a capacity that approximates an institutional role—such as running a monetised brand around their child—they arguably enter a legal and moral grey zone. While their primary legal responsibility

¹²⁰ CRC Committee, *General Comment No. 25 (2021)* (n 13) paras 74–81.

¹²¹ Tobin and Seow (n 94) 652.

¹²² See section 3.3.

¹²³ Sonia Livingstone and Amanda Third, 'Children and Young People's Rights in the Digital Age: An Emerging Agenda' (2017) 19 *New Media & Society* 657 670.

¹²⁴ Tobin and Seow (n 94) 670.

remains under Article 18, they operate within a structure shaped by institutional actors who are bound by Article 3(1), and who often fail to provide adequate safeguards.

The CRC Committee, in General Comment No. 14, clarifies that the best interests of the child must be assessed in all decisions affecting them—especially those involving long-term implications.¹²⁵ This includes not only material conditions but also emotional well-being, identity development, and the right to be heard.¹²⁶ Yet in commercialised childhoods, these broader dimensions are frequently neglected in favour of profitability and visibility.

Moreover, the blurred boundary between private family decisions and public commercial practices creates a legal vacuum where neither the parent's Article 18 duty nor institutional Article 3(1) obligations are properly discharged. The CRC, when read holistically, demands a more integrated and protective approach—one that recognises the interdependence between Article 5 (parental guidance), Article 18 (shared responsibilities), and Article 3(1) (institutional obligations)¹²⁷. Each provision contributes to a comprehensive vision of child well-being that is especially necessary in digital and commercialised environments, where the child's identity, labour, and rights intersect in complex and often underregulated ways.

Thus, in the context of commercialised digital childhoods, Article 3(1) should serve not only as a procedural guideline for institutions but also as a normative benchmark for evaluating both parental and corporate conduct. As the primary duty bearer, the State must ensure that institutional environments—particularly digital marketplaces—are structured to uphold and proactively enforce this standard. In doing so, Article 3(1) reinforces the mandate of Article 5 for rights-aligned parental guidance, while simultaneously affirming Article 18's vision of shared State responsibility—especially in cases where children's digital labour generates institutional profit.

3.4.4. The Need for Doctrinal Integration

The challenges posed by digital childhoods—particularly in commercialised family settings—underscore the urgent need for a doctrinal integration of Articles 5, 18, and 3(1) of the CRC. While Article 5 affirms the centrality of parental guidance aligned with a child's evolving capacities, it lacks enforceable standards when such guidance is compromised by financial motives.¹²⁸ Article 18 complements this by situating parental responsibility within a shared framework with the State, yet its emphasis on assistance rather than oversight may limit its regulatory potential.¹²⁹ Meanwhile, Article 3(1), although primarily directed at State actors, functions as a broader interpretive principle that should inform both parental behaviour and institutional response.¹³⁰

¹²⁵ CRC Committee, *General comment no. 14 (2013)* (n 91) paras 29-32.

¹²⁶ *ibid.*

¹²⁷ See Eekelaar and Tobin (n 97) 98–100; see Tobin and Varadan (n 59) 161–165; see also Tobin and Seow (n 94) 655–660.

¹²⁸ See section 3.1. and 3.4.1.

¹²⁹ See section 3.2. and 3.4.2.

¹³⁰ See section 3.3. and 3.4.3.

To adequately protect children's rights in the digital sphere, these three provisions must be interpreted together as forming an interdependent framework—one that balances the child's growing agency, the parents' supportive role, and the State's duty to act when that balance is distorted. As Tobin and Varadan argue, this integrated reading positions Article 5 not merely as a procedural right but as a normative safeguard that requires both parents and States to uphold children's developmental needs and dignity in practice.¹³¹ Without this doctrinal alignment, legal systems risk leaving children unprotected in contexts where traditional boundaries between family life, labour, and identity no longer apply. The evolving realities of childhood demand an equally evolving legal interpretation—one that centres the child as a rights-holder, even in the private and digital spaces of their upbringing.¹³²

3.5. Conclusion

Articles 5, 18, and 3(1) of the CRC form an interrelated framework for understanding the legal and normative dimensions of parenting in a child rights context. Article 5 affirms a fiduciary model of parental authority grounded in the child's evolving capacities, while Article 18 introduces a shared responsibility model in which States must support parents in fulfilling this role. Article 3(1), though institutionally oriented, serves as a cross-cutting interpretive principle that anchors both private and public action in the child's best interests. Together, these provisions require dynamic, context-sensitive interpretation, particularly in digital settings where parental autonomy, commercial interests, and child agency intersect in novel ways. This doctrinal synergy is essential to prevent gaps in accountability and ensure that children's rights remain protected amid shifting boundaries between home, market, and platform. The next chapter applies this framework to the case of Ryan Kaji, examining whether current legal regimes meet the CRC's evolving obligations in the digital economy.

¹³¹ Tobin and Varadan (n 59) 159–164.

¹³² Varadan (n 72) 175.

Chapter 4: Applying the CRC Parenting Framework: The Case of Ryan Kaji

4.1. Introduction

This chapter applies the parenting framework developed in Chapter 3 to the real-life example of Ryan Kaji.¹³³ His case sits at the intersection of childhood, commerce, and content creation, raising urgent questions about how the CRC can assess the roles of parents, the enjoyment of children's rights, and the obligations of the State in digitally mediated environments.

The analysis centres on Articles 5, 18, and 3(1) of the CRC to evaluate whether Ryan's evolving capacities and best interests were respected—particularly by his parents, who functioned as both caregivers and managers of his digital persona. In addition, Article 6 will inform the discussion of his right to development, Article 12 will guide the analysis of his participatory rights, and Article 32 will be used to assess potential economic exploitation.

The chapter is structured around three thematic domains. First, it examines Ryan's home environment and parental decision-making, focusing on the responsibilities under Articles 5 and 18. Second, it evaluates the practical enjoyment of Ryan's rights—development (Article 6), participation (Article 12), best interests (Article 3(1)), and potential exploitation (Article 32). Third, it considers the role of the State, analysing whether national and international legal frameworks have established adequate safeguards as required under Articles 18(2) and 3(1).

By mapping these provisions onto Ryan's case, the chapter tests whether the CRC—crafted in a pre-digital era—can effectively protect children in an age of family-run media enterprises and monetised identity. It asks not only whether Ryan's rights have been fulfilled, but also what regulatory innovations are needed to bring the CRC into alignment with new forms of childhood visibility and labour.

4.2. Inside the Home: Parenting, Commercialization & Evolving Capacities

4.2.1. Article 5 and parental guidance in the family business model

The case of Ryan Kaji raises a central question under Article 5 of the CRC: how should parental guidance adapt when the home becomes a site of commercial content creation?

While Article 5 affirms parents' role in supporting their children's rights in line with evolving capacities, this guidance becomes more complex when entangled with financial interests.¹³⁴ In Ryan's case, his parents' dual roles—as caregivers and business managers—blur the line between protection and profit¹³⁵, especially as commercial success occurred during his early developmental years.

Rather than being a private domain immune from oversight, the family business model demands closer examination under the CRC. As discussed in Chapter 3¹³⁶, Article 5 imposes a duty of care that must adjust over time. General Comment No. 14 further affirms

¹³³ See Chapter 2.

¹³⁴ Convention on the Rights of the Child art 5.

¹³⁵ Kojok (n 5) 8.

¹³⁶ See *section* 3.1.

that the best interests of the child must remain a primary consideration,¹³⁷ even in family-led enterprises.

Yet Ryan's participation lacked an independent assessment of capacity or informed consent.¹³⁸ This calls into question whether parental guidance truly reflected his evolving capacities or prioritized business outcomes. When children's identities are commodified, Article 5 must be interpreted as requiring proactive safeguards, ethical reflexivity, and, where necessary, external checks to ensure that the child's rights are not subordinated to commercial goals.

4.2.2. Article 18 and the limits of State oversight in private family enterprise

Article 18 of the CRC affirms the shared responsibility between parents and the State in securing the upbringing and development of the child.¹³⁹ Parents are recognised as the primary duty bearers under Article 18(1), while States are mandated, under Article 18(2), to render appropriate assistance to parents in the performance of their responsibilities. However, when family life is commercialised—as in the case of Ryan Kaji, where the child's image and labour are embedded in a for-profit media enterprise—serious questions arise regarding how far State oversight should extend into the private family domain.

The Kaji family's business model, which blurs the lines between home and workplace,¹⁴⁰ amplifies a long-standing tension in Article 18: while it reaffirms family autonomy, it simultaneously obliges the State to intervene when children's rights are at risk.¹⁴¹ In the digital economy, where a child's brand can be monetised across platforms, the State's supportive role must evolve beyond passive encouragement of parenting and include regulatory mechanisms to prevent economic exploitation.

Although Article 18 uses relatively modest language—referring to the State's obligation to provide “appropriate assistance” and ensure that institutions act in the “best interests of the child”—this phrasing must not be read as a justification for inaction.¹⁴² There is a danger that the deferential tone of Article 18 reinforces a hands-off approach, even when parental conduct may no longer serve the child's best interests.¹⁴³ In Ryan Kaji's case, the family's media enterprise was not subject to routine labour protections or child performance regulations because the activities took place within the home, revealing the legal vacuum in child-influencer regulation¹⁴⁴.

¹³⁷ CRC Committee, *General comment no. 14 (2013)* (n 91).

¹³⁸ The formal complaint by TINA criticizes Ryan's channel for blurring advertising and content without meaningful oversight or disclosures. See Hsu (n 26); see also 'Ryan ToysReview Targets Preschoolers in Violation of FTC Law -' (n 45).

¹³⁹ Convention on the Rights of the Child art 18.

¹⁴⁰ Kojok (n 5) 8.

¹⁴¹ Tobin and Seow (n 94) 658–661..

¹⁴² Tobin stresses that the phrase “appropriate assistance” under Article 18(2) entails concrete obligations and positive duties on the State, not optional support, see *ibid* 652–662.

¹⁴³ *ibid* 658–661.

¹⁴⁴ TINA stated there was lack of enforcement or oversight under traditional child labour frameworks, refer to 'Ryan ToysReview Targets Preschoolers in Violation of FTC Law -' (n 45).

In this context, the State's role must include proactive guidance, regulation, and enforcement to ensure that children working in the digital family business model are not left outside the protective reach of the CRC.¹⁴⁵ The notion of "appropriate assistance" should therefore be interpreted expansively—to include not only material support for caregiving but also oversight frameworks that protect children in non-traditional work environments, such as user-generated content platforms.¹⁴⁶

This interpretation aligns with the object and purpose of the CRC, which is to ensure the full and effective enjoyment of all rights by all children.¹⁴⁷ Thus, a minimalist reading of Article 18 that limits the State's role to passive support falls short of the CRC's normative aspirations—especially when children are exposed to new forms of risk in digital spaces orchestrated by their own families.

4.2.3. Article 6 and Ryan's holistic development: Is it being supported at home?

Article 6 of the CRC recognises that every child has the inherent right to life and obliges States Parties to ensure to the maximum extent possible the child's survival and development.¹⁴⁸ This obligation is framed as a State responsibility, particularly regarding ensuring the necessary conditions and services to protect children's development outside the home. However, when development occurs within the private sphere of the family, the framework under Article 18(1) shifts the responsibility toward parents as primary duty bearers.¹⁴⁹ This dynamic becomes especially significant in contexts like Ryan Kaji's, where the child's home is also the site of commercial activity and public visibility.

Ryan's dual role as both child and content creator raises critical concerns about the compatibility of commercialised home environments with holistic child development, as envisioned by Article 6. Holistic development is defined broadly under the CRC to include not just physical health, but also mental, emotional, spiritual, moral, psychological, and social growth.¹⁵⁰ In families where commercial success hinges on a child's ongoing visibility, performance, and engagement with audiences, the boundaries between care and commodification blur. The concern is whether these arrangements, while legally permissible, may inadvertently place developmental pressures on the child that undermine rest, play, education, and privacy—rights that are essential to full development.¹⁵¹

While States remain accountable for ensuring systemic protections, Article 18(1) places a positive duty on parents to ensure development through day-to-day decisions, routines, and safeguards at home.¹⁵² When the family business becomes a dominant structure of

¹⁴⁵ UNICEF (n 30).

¹⁴⁶ Aoife Daly, *Children, Autonomy and the Courts: Beyond the Right to Be Heard* (Brill Nijhoff 2018) 173–175.

¹⁴⁷ Convention on the Rights of the Child art 18.

¹⁴⁸ *ibid* art 6.

¹⁴⁹ *ibid* art 18(1).

¹⁵⁰ CRC Committee, *General comment no. 5 (2003), General measures of implementation of the Convention on the Rights of the Child* (UN 27) para 12.

¹⁵¹ Daly (n 137) 113–115.

¹⁵² Tobin and Seow (n 94) 678.

daily life, it is essential to evaluate whether such an environment can truly support Ryan's evolving capacities and holistic development. This includes whether Ryan has adequate time away from cameras, whether his education is uninterrupted, whether he can develop relationships free from surveillance, and whether his emotional and psychological needs are addressed as a child—not just as a brand.

The division of responsibility between children's evolving capacities and Article 6 (State obligation) and/or Article 18 (parental responsibility) must not be interpreted in a vacuum.¹⁵³ Where the child's commercial activity is publicly regulated but privately executed, the State has an enabling role to support and monitor parents—through guidance, training, and regulatory clarity—to ensure they meet their obligations under Article 18(1) in ways that uphold the child's Article 6 rights. Without such scaffolding, developmental rights risk being overlooked in pursuit of commercial gain.

Therefore, this section underscores that the right to development must be realised not just by protecting children from State neglect, but also from well-meaning but structurally harmful parental decisions—especially when these decisions transform the home into a workplace.

4.3. Enjoyment of Rights Beyond Development: Education, Play and Expression

4.3.1. Article 31: Right to play and rest — is filming encroaching or enhancing his right to play?

Article 31 of the CRC enshrines the child's right to rest, leisure, play, and recreational activities appropriate to their age, alongside the right to participate in cultural life and the arts.¹⁵⁴ It asserts that States must actively ensure that children have access to these rights, recognising their importance in promoting the child's holistic development. However, the rapid growth of the digital economy, particularly in family-based business models like Ryan Kaji's, has led to questions about whether commercialising a child's image and labour via platforms like YouTube is encroaching on or enhancing the child's right to rest and play.

Ryan's YouTube career, which began at a very young age, is embedded in his daily life, where filming for content production often overlaps with play and leisure time. Filming content can be seen as an act of recreation and cultural expression; however, it involves structured, adult-driven goals of generating revenue and engaging audiences, thus raising concerns that this may not meet the spirit of leisure articulated under Article 31. As Lansdown and Tobin have highlighted, play should be understood as an activity free from external imposition, motivated by intrinsic enjoyment,¹⁵⁵ not for economic gain.

While filming may initially seem like an enhancement of Ryan's right to express himself culturally, considering it as play requires careful scrutiny. Article 31 does not merely guarantee time for physical activity or fun, but also a safe, unstructured space for children

¹⁵³ Varadan (n 60) 320–325; Varadan (n 72) 77–81.

¹⁵⁴ Convention on the Rights of the Child art 31.

¹⁵⁵ Gerison Lansdown and John Tobin, 'The Right to Rest, Leisure, Play, Recreation, and Participation in Cultural Life and the Arts' in John Tobin (ed), *The UN Convention on the Rights of the Child* (1st edn, Oxford University Press 2019) 1205.

to develop creativity and agency.¹⁵⁶ When such play becomes structured for financial benefit, and parental involvement directly ties the child's activities to commercial objectives, it risks undermining the autonomy of the child's leisure.

The CRC Committee's General Comment No. 17 underscores that activities aimed at achieving personal development, including self-initiated play, must be voluntary, with children exercising autonomy over their time and the activities they engage in.¹⁵⁷ Ryan's situation challenges this autonomy, as his play and creative activities are integrated into a business model, with limited scope for unstructured leisure or individual choice in how he spends his free time. While his parents may have good intentions, their role as both guardians and managers of his brand creates a conflict of interest, wherein play may inadvertently be transformed into a work-like obligation¹⁵⁸.

Moreover, the right to rest is closely tied to ensuring that children have respite from exertion, including structured activities that may be mentally or physically taxing.¹⁵⁹ While filming and brand promotion may appear light-hearted, the continuous pressure to produce content and engage with millions of viewers can result in burnout, which runs counter to the child's right to rest as outlined in Article 31. The CRC Committee has warned that the right to rest must ensure that children are not overburdened by demands that interfere with their health and well-being.¹⁶⁰

Thus, this section will explore whether the commercialisation of Ryan's image, while embedded within his family life, encroaches on his right to unstructured play and rest as guaranteed under Article 31, and whether parental guidance in this regard strikes the appropriate balance between supporting Ryan's emotional, social, and creative development without exploiting his evolving capacities for commercial gain.

4.3.2. Article 28: Education and schooling — is the filming interfering with or enhancing his education?

Article 28 of the CRC guarantees every child's right to education, ensuring that it is available, accessible, and adapted to the child's individual needs.¹⁶¹ It places a duty on States to provide compulsory primary education, and to progressively make secondary and higher education accessible to all.¹⁶² The question raised in the context of Ryan Kaji's life is whether his involvement in the family business, specifically his YouTube content creation, is hindering or enhancing his educational experience.

¹⁵⁶ See the definition of play at CRC Committee, *General comment no. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31)* (UN 17) para 12.

¹⁵⁷ *ibid* para 28.

¹⁵⁸ Refer to Kang (n 3).

¹⁵⁹ See CRC Committee, *General comment no. 17 (2013)* (n 156), 'The right to rest requires that children are afforded sufficient respite from work, education or exertion of any kind, to ensure their optimum health and wellbeing,' (para 4).

¹⁶⁰ *Ibid*.

¹⁶¹ Convention on the Rights of the Child art 28.

¹⁶² *ibid* art 28(1)(a)–(c).

Ryan Kaji, as a content creator at an extremely young age, lives in a unique position where his education is not only shaped by traditional schooling but also heavily influenced by his role as a public figure. For a child in this position, the concern arises as to whether the time spent creating content or appearing in videos interferes with his right to receive an education, particularly his right to attend school, receive academic support, and rest—elements integral to his development. While the family may argue that Ryan is still in formal schooling,¹⁶³ his significant public career raises the possibility that filming and content production could detract from his focus on traditional educational objectives.

Article 28 explicitly mandates that education should be free and compulsory at the primary level¹⁶⁴. However, the commercialisation of Ryan's time and the expectations attached to his content creation may undermine these rights by interfering with his schooling time or introducing commercial pressures into what should be a protected space for his personal growth and education. According to General Comment No. 1 on the CRC, the purpose of education is to enable the child to develop their personality, talents, and abilities, free from exploitation or undue external pressures.¹⁶⁵ In Ryan's case, the educational experience might be compromised if his schooling is secondary to the pressures of filming, managing a brand, and participating in high-stakes commercial projects.

At the same time, filming and content creation could, in some ways, enhance Ryan's education by providing him with opportunities to learn in non-traditional ways—for example, developing skills in communication, media literacy, and entrepreneurial thinking. However, the potential benefits must be weighed against the risk of excessive commercialisation which shifts the focus away from Ryan's overall well-being and might result in educational neglect. Article 28 must be interpreted broadly to ensure that education, whether formal or informal, contributes to the holistic development of the child, and is not shaped purely by economic incentives.¹⁶⁶

The State's role under Article 28 is to regulate and monitor educational environments to ensure that children's rights are protected from exploitation, particularly when commercialisation enters the private realm of the family. While Ryan's parents may take responsibility for his education within their home, the State still has an obligation to intervene when the child's right to a balanced, inclusive, and accessible education is at risk¹⁶⁷ due to their family's business interests.

In conclusion, the question of whether the filming enhances or interferes with Ryan's education depends not just on the time and energy devoted to content creation, but on the extent to which his parents and the State ensure that his educational needs are fully met without compromise or exploitation. The State's duty to provide a child with an education that is both accessible and non-discriminatory applies not only within formal education

¹⁶³ Refer to Kang (n 3).

¹⁶⁴ Convention on the Rights of the Child art 28.

¹⁶⁵ CRC Committee, *General comment no. 1 (2001), Article 29 (1), The aims of education* (UN 17) para 2.

¹⁶⁶ Varadan (n 72). 130–132.

¹⁶⁷ Refer to Christian Curtis and John Tobin, 'The Right to Education' in John Tobin (ed), *The UN Convention on the Rights of the Child* (1st edn, Oxford University Press 2019) 1065.

systems but also when the child is learning in more informal, non-institutionalised settings.¹⁶⁸

4.3.3. Article 13: Freedom of expression — is Ryan’s role as an influencer enhance his enjoyment of his right to freedom of expression?

Article 13 of the CRC guarantees every child’s right to freedom of expression, which includes the right to seek, receive, and impart information and ideas of all kinds through any media of the child’s choice.¹⁶⁹ This right is foundational in shaping the child’s autonomy, identity, and participation in society. The question arises as to whether Ryan Kaji’s role as an influencer enhances or diminishes his enjoyment of this right, particularly in a commercialized environment where his expressions are often curated and directed by his parents for business purposes.

Ryan’s involvement in the family business—producing videos, unboxing toys, and engaging with millions of followers—reflects a public expression of his identity, but it is essential to examine whether this form of expression is truly free. Article 13 ensures that children enjoy freedom of expression regardless of boundaries and through various modes, including digital media.¹⁷⁰ However, while Ryan enjoys access to a global platform and participates in a creative outlet, his freedom to impart information and express ideas may not be entirely self-determined. His expressions might be strategically curated, commercialized, and inherently linked to his family’s financial interests, raising the question of whether these commercial pressures infringe on his personal autonomy in expressing himself.

According to the CRC Committee, freedom of expression should allow a child to express ideas and feelings for intrinsic purposes, without external motives or adult interference.¹⁷¹ When a child’s role as a content creator is framed within a business model—such as in Ryan’s case—there is a risk that expression becomes instrumentalized. His public persona is shaped by marketing needs, with expectations for consistent output of content, potentially limiting his authentic self-expression. This is especially pertinent considering Ryan’s age and evolving capacity, as his right to freedom of expression may be unduly shaped by his parents’ entrepreneurial interests, which could interfere with his ability to express himself in an unforced, natural manner.

The right to freedom of expression as articulated in Article 13 includes children’s right to participate in cultural and artistic activities. While Ryan’s videos may be considered artistic expression, it’s important to question whether his role as a commercial influencer dilutes his ability to engage freely in these activities. Does the pressure of creating content for profit hinder his ability to freely engage in spontaneous, creative, and self-expressive activities outside of the coordinated filming schedule?

¹⁶⁸ Convention on the Rights of the Child art 28; see CRC Committee, *General comment no. 1 (2001)* (n 165) para 6.

¹⁶⁹ Convention on the Rights of the Child art 13.

¹⁷⁰ Refer to CRC Committee, *General comment no. 12 (2009)* (n 65) para 5.

¹⁷¹ Refer to CRC Committee, *General comment no. 13 (2011)*, *The right of the child to freedom from all forms of violence* (UN 18) para 34.

Article 13(2) allows for certain restrictions on expression, but these must be prescribed by law, be necessary to protect the rights of others, or to preserve national security or public order.¹⁷² In Ryan's case, the commercial nature of his activities suggests that the line between protecting his right to express himself freely and exploiting this right for financial gain may be difficult to draw. There is an inherent tension between the child's evolving capacity to manage personal expression and the exploitation of their image and creativity for profit. Here, State intervention could be necessary to ensure that Ryan's role as an influencer does not undermine his right to participate in free expression in a manner that is not exploitative or harmful to his developmental well-being.

Moreover, Ryan's right to freedom of expression should also be assessed in relation to the responsibility of the State to protect children from harmful exploitation through media.¹⁷³ In this context, while Ryan's role as an influencer could arguably enhance his exposure to diverse ideas and platforms, it is essential to determine whether this exposure is sustainable, safe, and truly supportive of his overall well-being. The State's responsibility here is twofold: to safeguard his right to expression and to ensure that any restriction or encouragement aligns with his best interests and does not result in exploitation.

In conclusion, Ryan Kaji's role as an influencer likely provides him with unprecedented opportunities for creative expression, but the nature of this role—coupled with the commercial pressures involved—raises concerns about the authenticity of his self-expression. As a result, Ryan's right to freely express himself under Article 13 may be compromised by external influences, including parental guidance and commercial imperatives that may hinder his ability to enjoy true freedom of expression in a manner consistent with the CRC's child-centered approach to rights.

4.4. Regulatory Oversight: The State's Role in Digital Childhood Protection

The case of Ryan Kaji raises an awareness towards the State's response towards his parents' parental guidance aligning with his evolving capacities as a kid in his middle childhood.

4.4.1. Article 3(1): State's duty to ensure child's best interests in policy and law

Article 3(1) of the CRC requires that "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."¹⁷⁴ This provision establishes the best interests of the child as a guiding principle in all decisions and actions that affect children, positioning it as the cornerstone of child protection and welfare policies. While the CRC applies this principle across various domains—family law, social services, and education—it also places a significant duty on States to integrate this framework into national laws, policies, and practices that impact children.

¹⁷² Convention on the Rights of the Child art 13(2).

¹⁷³ Refer to CRC Committee, *General comment no. 12 (2009)* (n 65) paras 19–20, the Committee notes that these rights are mutually reinforcing: the child must be able to form and express views freely, and have those views given due weight and States must ensure safe and enabling environments where children feel empowered to express their views without fear, and where they are protected from possible harm or exploitation when doing so.

¹⁷⁴ Convention on the Rights of the Child art 3(1).

In the context of digital childhoods, the State's obligation to uphold the best interests of the child becomes particularly crucial. As the internet and social media platforms increasingly dominate children's lives, commercial interests can easily conflict with the child's best interests. The State's duty, therefore, is to enact policies and legal frameworks that ensure the protection of children from harm, exploitation, and undue commercialisation.¹⁷⁵ While parents are primarily responsible for guiding and protecting their children, the State must intervene through appropriate laws and regulations to ensure parents' actions do not infringe upon the child's rights and are aligned with the best interests principle.

In the case of Ryan Kaji, where his family-run business model involves commercialising his image and online presence, the State's duty under Article 3(1) must ensure that his best interests are safeguarded, not only in the private sphere of the family but also in the broader commercial and public domains. The State should ensure that laws regulating digital content creation by children integrate provisions that guarantee the child's developmental rights, protection from excessive commercialisation, and ensuring access to education and leisure.¹⁷⁶ Furthermore, States are also obligated to monitor and enforce regulations on child influencer labour and digital participation, ensuring that these do not compromise the child's right to development, leisure, and rest as outlined in other CRC provisions like Article 6 and Article 31.¹⁷⁷

The best interests principle under Article 3(1) must be interpreted dynamically to address the rapidly changing landscape of digital technology and child labour online. In the Ryan Kaji case, it is critical that legal frameworks explicitly balance the child's developmental rights against the economic interests of digital platforms, advertisers, and influencers. The State must ensure that policies are adaptable, that children's digital rights are protected, and that child participation in commercialised activities does not expose them to exploitation or harm. This means establishing clear laws that not only regulate parental conduct but also regulate the corporations and third-party institutions involved in commercialising children's content.

In sum, the State's duty under Article 3(1) is to integrate the best interests of the child as a foundational principle in policy, legislation, and enforcement. This requires not only reactionary legal frameworks but also proactive measures that protect children's rights in digital environments and ensure that their involvement in commercial or public spheres does not jeopardize their well-being, education, or development.

4.4.2. Article 6: State's duty to ensure children's right to development

Article 6 of the CRC establishes a child's right to life, and to the "survival and development" to the maximum extent possible.¹⁷⁸ This provision underscores the State's duty to create an environment that not only ensures survival but also holistic development

¹⁷⁵ See CRC Committee, *General comment no. 16 (2013)* (n 73) paras 19, 25–28, 44; see also *General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment* (n 13) para 94.

¹⁷⁶ See CRC Committee, *General Comment No. 25 (2021)* (n 13) paras 13, 42, 94.

¹⁷⁷ *ibid.*

¹⁷⁸ Convention on the Rights of the Child art 6.

across physical, mental, emotional, social, and educational dimensions¹⁷⁹. The right to development is integral to a child's ability to reach their full potential, ensuring they are supported in their pursuit of personal goals, exploration of interests, and engagement with the world around them.

When applied to the case of Ryan Kaji, a child influencer, it becomes evident that commercial obligations inherent in his role may infringe on his right to a balanced and developmentally appropriate childhood experience. Ryan's daily life is heavily shaped by his status as a public figure whose family is managing his brand for profit. From unboxing toys to filming strategically curated content, much of his time is consumed by commercial objectives rather than developmental activities that are critical to a child's well-being, such as unstructured play, learning, and rest¹⁸⁰. This dynamic interferes with his ability to fully enjoy the developmental rights guaranteed under Article 6, as his right to development is increasingly shaped by external pressures to perform, create, and maintain a profitable brand image.

The State's duty to ensure a child's right to development is particularly urgent in contexts where children's involvement in digital labour and content creation intersects with their right to education, leisure, and mental well-being. Development involves the creation of an environment that promotes both individual autonomy and collective participation, which can be obstructed when children are pressured to commercialise their image at a young age.¹⁸¹ This pressure, whether stemming from parents, platforms, or external commercial interests, can place children in exploitative conditions where their well-being is sacrificed for economic benefit.

Moreover, the State's role is not just reactive but also proactive in ensuring that children's right to development is respected in all contexts¹⁸², including the digital space. The State must legislate for, regulate, and enforce frameworks that protect children from exploitation in commercial enterprises, particularly those related to digital content creation. This is not only to preserve children's best interests (Article 3(1)) but also to ensure that their developmental rights are not compromised by the demands of the digital economy. This would require legal safeguards such as limits on children's working hours, compensation mechanisms, and restrictions on the types of content children can be involved in to ensure that they have sufficient space to develop their interests, pursue education, and engage in free play.¹⁸³

In Ryan's case, while his participation in content creation could, in theory, provide opportunities for personal and social development, the commercialisation of his image and the pressures of maintaining a profitable channel arguably interfere with his right to a childhood that fosters holistic development. His daily activities are largely defined by parental decisions to manage his business rather than self-directed development. It is

¹⁷⁹ *ibid* 6(2); see CRC Committee, *General comment no. 20 (2016)* (n 68) para 15.

¹⁸⁰ See *Chapter 2*.

¹⁸¹ See the concept of development in Noam Peleg and John Tobin, 'The Rights to Life, Survival, and Development' in John Tobin (ed), *The UN Convention on the Rights of the Child* (1st edn, Oxford University Press 2019) 223-226.

¹⁸² *ibid* 196.

¹⁸³ CRC Committee, *General comment no. 17 (2013)* (n 156) 32, 34, 55.

critical to question whether such interference is in line with the spirit of Article 6, which demands that the child's evolving capacities be supported through an environment that encourages growth without exploiting their potential for economic gain.

In this context, State intervention becomes crucial. The State must ensure that any policy or law relating to digital childhood protection not only prioritises the child's best interests (Article 3(1)) but also gives adequate weight to their right to development (Article 6). The goal should be to establish regulations that balance commercial obligations with developmental rights, ensuring that children can engage in digital economies without sacrificing their physical, emotional, and social growth.

4.4.3. Article 32: Protection from economic exploitation – are current laws sufficient?

Article 32 of the CRC provides a critical safeguard against economic exploitation, ensuring that children are protected from work that is likely to harm their health, education, or development.¹⁸⁴ Specifically, it obliges States to prevent and regulate child labour and restricts any form of work that interferes with the child's education or leisure. In the case of children involved in digital economies¹⁸⁵, particularly those functioning as content creators or influencers, Article 32 becomes increasingly relevant as it addresses the fine line between acceptable participation in commercial activities and exploitative labour conditions.

Ryan Kaji's case provides a focal point for exploring the application of Article 32 in the digital age. Ryan's commercial work is inextricably linked to his digital presence, with family-led businesses often blurring the lines between entertainment and economic activity.¹⁸⁶ While the content he produces is not traditional child labour, it falls into a grey area, where monetisation and exposure take precedence over the child's developmental needs and enjoyment of childhood. Despite the financial success and public acclaim Ryan has gained from his online presence, questions arise as to whether his participation constitutes economic exploitation, especially considering the potential for exploitation of his image, time, and energy for profit.

Article 32 does not prohibit all forms of work for children, but it seeks to protect them from exploitative conditions that hinder their development or infringe on their rights.¹⁸⁷ The CRC Committee has interpreted this article to include the responsibility of States to ensure that children's work does not interfere with their health, education, or personal development, emphasising the need to prevent work from becoming exploitative, excessively demanding, or harmful.¹⁸⁸ In Ryan's case, although his digital labour may not resemble conventional child labour (such as factory work or street vending), the pressure to generate content, maintain a consistent online presence, and engage in commercial

¹⁸⁴ Convention on the Rights of the Child art 32.

¹⁸⁵ See CRC Committee, *General comment no. 17 (2013)* (n 156) para 34; see also *General Comment No. 25 (2021)* (n 13) paras 42, 94.

¹⁸⁶ See Chapter 2.

¹⁸⁷ Convention on the Rights of the Child para 32; see CRC Committee, *General comment no. 17 (2013)* (n 156) para 34.

¹⁸⁸ See CRC Committee, *General comment no. 17 (2013)* (n 156) para 34.

partnerships presents unique forms of exploitation, particularly when it is financially driven and not fully in line with his personal or developmental needs.

While Article 32 is a fundamental safeguard against child labour, current laws—both domestic and international—are ill-equipped to address the unique challenges of the digital economy¹⁸⁹. Traditional child labour laws have been largely developed in the context of industrial and agricultural work, often overlooking the specific issues children face in the digital content creation sector.¹⁹⁰ The absence of explicit regulations for digital child labour, including child influencers, exposes gaps in existing legal protections.¹⁹¹ Furthermore, advertising standards and child protection laws related to digital spaces are often inconsistent and may not fully address the unique vulnerabilities that children face in online environments.

To adequately protect children like Ryan Kaji from economic exploitation, legal frameworks must evolve to address the unique challenges posed by digital economies. States must regulate child participation in digital labour by establishing clear guidelines on working hours, content creation, and the involvement of minors in advertising.¹⁹² This includes limiting working hours for child influencers to ensure sufficient time for leisure, education, and rest, ensuring transparency regarding the income generated by children, and implementing mechanisms to guarantee fair compensation while establishing saving protocols for minors.¹⁹³ Additionally, parental and third-party oversight should be mandated to ensure that the child's participation in online content creation does not negatively affect their physical or emotional development.

Moreover, international frameworks such as the International Labour Organization's Convention No. 182 on the Worst Forms of Child Labour¹⁹⁴ could be adapted to cover digital exploitation, ensuring that global standards are aligned with the evolving nature of child participation in the digital world.

In conclusion, Article 32 of the CRC provides a crucial protection against economic exploitation, but current laws and policies are inadequate to fully address the risks faced by children in digital labour markets. The Ryan Kaji case illustrates how children's involvement in digital economies can lead to economic exploitation that may not be adequately regulated or safeguarded under existing child labour laws. It is imperative that States update their laws to ensure comprehensive protections for children involved in digital content creation, in line with their developmental rights and best interests, as outlined in Articles 6 and 3 of the CRC.

¹⁸⁹ Siewert (n 117) 24–25.

¹⁹⁰ *ibid* 3.

¹⁹¹ *ibid* 4.

¹⁹² *ibid* 24–25.

¹⁹³ See CRC Committee, *General comment no. 16 (2013)* (n 73) paras 19, 25–28, 44; see also *General Comment No. 25 (2021)* (n 13) para 94.

¹⁹⁴ Convention No. 182 on the Worst Forms of Child Labour (Adopted 17 June 1999, entered into force 19 November 2000) 2133 UNTS 161.

4.4.4. Article 12: Right to be heard – did Ryan has a say in decisions?

Article 12 of the CRC establishes the child's right to be heard in all matters affecting them, including in legal proceedings, administrative decisions, and broader policy settings.¹⁹⁵ This right ensures that children are not passive recipients of decisions made by adults but active participants in matters that influence their lives. The CRC acknowledges that children, depending on their age and maturity, should have the opportunity to express their views freely, and these views should be given appropriate weight in accordance with their evolving capacities.

The case of Ryan Kaji, a child YouTuber, raises critical questions about the extent to which Ryan has been able to exercise this right. While his parents are the primary decision-makers regarding his participation in the digital content creation business, it is important to assess whether Ryan's views were considered in any substantive way. While it is clear that Ryan is a public figure whose image is central to the success of the family brand, the commercial nature of his role raises concerns about whether he has genuinely been given the opportunity to voice his opinions about his involvement in content production and whether these opinions are given weight.

In line with General Comment No. 12, which elaborates on Article 12, the right to be heard includes children's participation in decisions concerning their education, work, and family life.¹⁹⁶ In Ryan's case, his participation in content creation, his online persona, and his role in commercial agreements should be viewed through this lens. Has Ryan, despite his young age, had a say in how he engages with his audience, the types of content he produces, and the long-term consequences of his digital labour? While it is likely that his parents have made decisions in his best interests, the integrity of his right to be heard hinges on whether he was involved in decisions in a meaningful way and whether his voice was truly considered, especially as his brand has grown in scope and profitability.

There is also the issue of Ryan's evolving capacities. Given his age, it may be difficult to determine the extent to which he is capable of fully understanding the consequences of his actions. However, even at a young age, children should have the opportunity to express their views in matters affecting them, including their participation in digital content creation. States are obliged under Article 12 to ensure that children's voices are actively solicited and respected, even in contexts where their understanding might be limited. If Ryan was not meaningfully consulted or allowed to express his preferences regarding his digital labour and public exposure, it could represent a violation of his right to be heard under the CRC.

Moreover, the commercial pressures associated with Ryan's brand may present a barrier to his free expression. Parents and business managers have the potential to shape not only the content Ryan creates but also the manner in which he engages with it, potentially limiting his agency in decision-making. This underscores the importance of State intervention in ensuring that children's rights to participation are not overridden by adult business interests.

¹⁹⁵ Convention on the Rights of the Child art 12.

¹⁹⁶ See CRC Committee, *General comment no. 12 (2009)* (n 65) para 8.

In conclusion, Ryan Kaji's case presents a complex intersection of parental responsibility, child labour, and the right to be heard, where his role in the family business might prevent him from fully enjoying the right to meaningful participation in decisions affecting his digital presence and his future wellbeing. As such, the State's role in ensuring Ryan's right to be heard becomes crucial, particularly in regulating the digital spaces in which children, like Ryan, engage.

4.5. Reflections: Evaluating Compliance: Has the State Met Its Duties Under the CRC?

4.5.1. Understanding the Role of the State in the Private Sphere

The CRC sets out a comprehensive framework for the protection of children's rights, including their right to survival, development, and protection from harm. Central to this framework is the principle that children should be nurtured in environments that foster their development, with the involvement of both parents and the State in safeguarding these rights. Article 5 of the CRC provides that parents have the primary responsibility for providing guidance and direction consistent with their child's evolving capacities¹⁹⁷. At the same time, Article 18 places an obligation on States to support parents in their responsibility to raise and protect their children, ensuring that they are given appropriate assistance in their role.¹⁹⁸

However, while Article 5 affirms parental autonomy, it also implicitly calls for a balancing act between parental guidance and State oversight, particularly in cases where commercial interests intersect with the child's developmental needs. The CRC recognizes that children's rights are universal, and the State must intervene when parental decisions or actions compromise the child's rights or well-being.¹⁹⁹ This becomes particularly important in cases where the parental role becomes intertwined with commercial goals, as seen in the case of Ryan Kaji, where the family's business is based on monetizing Ryan's digital presence.

One of the core challenges in implementing CRC principles in the private sphere is determining the role of the State in overseeing family decisions when they are commercially driven. Ryan Kaji's family model is a prime example of a situation where the lines between parental decision-making and business decisions are blurred. Ryan's parents are not only caregivers but also managers of his brand, making decisions that impact his public life, financial future, and personal development. This situation raises the critical question: how can the State intervene without infringing on family privacy?

The State's role is particularly difficult to define when it comes to families that operate within the digital economy, where traditional family roles and parental guidance intersect with new digital and commercial pressures. There is a delicate balance between respecting parental autonomy, as guaranteed by Article 5, and ensuring that the child's best interests and right to development are upheld, as required by Articles 6 and 3(1). The introduction of commercial interests within the private sphere further complicates

¹⁹⁷ Convention on the Rights of the Child art 5.

¹⁹⁸ Convention on the Rights of the Child art 18.

¹⁹⁹ See CRC Committee, *General comment no. 14 (2013)* (n 91) para 31.

this balance, especially when children's images, time, and labour are commodified for profit.

Thus, this chapter will explore the State's responsibility in these complex scenarios, examining how it can ensure the fulfillment of children's rights in commercial family models, like Ryan Kaji's situation. It will reflect on the difficulties the State faces in regulating parental guidance and ensuring that the child's development is not compromised by commercial exploitation. The legal and regulatory mechanisms necessary to balance these competing interests will also be critically examined, to assess whether current laws and practices are sufficient to protect children like Ryan.

4.5.2. Parental Autonomy vs. State Intervention: The Regulatory Dilemma

As established before, Article 5 of the CRC recognises parents as the primary duty bearers in guiding their children in accordance with their evolving capacities.²⁰⁰ While this provision protects family autonomy in matters of education, care, and upbringing, it is not absolute. The CRC also requires that such autonomy operate within the limits of the child's best interests under Article 3(1),²⁰¹ particularly when parental decisions impact core rights such as development, leisure, and education.

In monetised family settings like that of Ryan Kaji, where parental decision-making is entangled with brand management and financial outcomes, this balance becomes difficult to maintain.²⁰² As digital economies increasingly normalise children's participation in content creation and brand promotion, the distinction between caregiving and commercial oversight begins to blur.²⁰³

The central regulatory dilemma lies in determining when parental decisions, though seemingly protective or opportunity-driven, cross the threshold into exploitation. This is particularly problematic when family-based digital labour prioritises engagement metrics or sponsorship deals over the child's evolving needs. As Tobin and Varadan argue, such environments may shift parenting from a child-centred orientation to a business model that risks instrumentalising children.²⁰⁴

Accordingly, the State's responsibility under Article 3(1) is not limited to public institutions but extends into private family domains when a child's rights are structurally endangered.²⁰⁵ The challenge is to develop proportionate regulatory frameworks that do not unduly interfere with legitimate parental autonomy, yet provide clear boundaries to prevent commercial exploitation and developmental harm. This is especially urgent

²⁰⁰ Convention on the Rights of the Child art 5; see Section 4.2.1.

²⁰¹ *ibid* 3(1).

²⁰² *Refer to* Daly (n 146) 173–175.

²⁰³ Kojok (n 5) 8.

²⁰⁴ Tobin and Varadan (n 59) 177–179.

²⁰⁵ CRC Committee emphasizes the obligation under Article 3(1) is not limited to public and private social welfare institutions, courts, administrative authorities and legislative bodies, but pertains to all actions concerning children—including those in private family settings—when their rights are at stake in *General comment no. 14 (2013)* (n 91) para 3.

where the commodification of childhood is embedded in everyday life and disguised as play, learning, or self-expression.

4.5.3. Article 5 and the Limits of Parental Guidance in a Commercialised Family Model

This section builds on the earlier critique of Article 5²⁰⁶ by examining how parental guidance may become structurally distorted when situated within a monetised family enterprise. In Ryan Kaji's case, the dual role of his parents as both caregivers and business managers positions the child not just as a dependent, but also as a commercial asset—one whose public image and labour directly generate income.²⁰⁷

Such convergence of care and commerce raises concerns about the extent to which parental decisions can consistently prioritise the child's best interests²⁰⁸, especially when those decisions are shaped by branding strategies, sponsorship obligations, and audience engagement metrics. While parents may act with good intentions, the pressures of maintaining an influential online presence risk subordinating developmental rights to commercial objectives.

Particularly affected are Ryan's rights under Article 6 (development) and Article 31 (rest and leisure)²⁰⁹, which may be compromised by structured filming schedules and brand commitments that limit unstructured play or downtime. As noted in General Comment No. 17, genuine play and leisure must be self-directed and free from instrumentalisation—a condition difficult to uphold in profit-oriented environments.²¹⁰

Although Article 5 recognises the autonomy of parents²¹¹, it also presupposes that such autonomy operates within limits set by the child's evolving capacities and rights. Where family life becomes a platform for commercial activity, the State must act to ensure that parental guidance does not inadvertently become a form of regulated labour.²¹²

To safeguard children in such contexts, States should consider introducing targeted regulations: for example, limitations on working hours for child influencers, income transparency measures, and content review procedures that prioritise the child's well-being over platform algorithms or financial gain.²¹³ Such interventions should be framed not as intrusions into family life, but as support mechanisms that reinforce Article 5's original purpose—ensuring that guidance genuinely promotes the child's long-term development and protection.

²⁰⁶ See section 4.2.1.

²⁰⁷ See Chapter 2.

²⁰⁸ Tobin and Varadan (n 59) 179.

²⁰⁹ Convention on the Rights of the Child arts 6, 31.

²¹⁰ CRC Committee, *General comment no. 17 (2013)* (n 156) para 2.

²¹¹ Convention on the Rights of the Child art 5.

²¹² CRC Committee, *General comment no. 16 (2013)* (n 73) para 18.

²¹³ See CRC Committee, *General comment no. 16 (2013)* (n 73) paras 19, 25–28, 44; see also *General Comment No. 25 (2021)* (n 13) para 94.

4.5.4. Implementing Article 5: The State's Role in Overseeing Parental Guidance

As previously discussed, Article 5 of the CRC affirms the role of parents as primary caregivers responsible for guiding their children in a manner consistent with their evolving capacities.²¹⁴ However, in commercialised family environments—such as that of Ryan Kaji, where parents manage their child's public image and content creation—the limits of parental discretion are tested against the child's developmental rights under Articles 6 and 31.²¹⁵

The core challenge lies in how the State can monitor and regulate parenting decisions that occur within the private family sphere but have public and commercial consequences.²¹⁶ While digital labour may appear benign, decisions about children's participation in monetised content often intersect with commercial imperatives, potentially compromising rights to rest, leisure, and holistic development.²¹⁷

This regulatory dilemma is especially acute in the digital context, where blurred boundaries between home, work, and public exposure complicate enforcement. The absence of clear legal frameworks governing child influencer labour leaves children vulnerable to structural forms of exploitation—particularly where family privacy norms shield potentially harmful practices from oversight.²¹⁸ In such settings, States must address the legal vacuum by establishing safeguards to prevent economic exploitation, uphold children's privacy rights, and ensure that digital participation is both voluntary and developmentally appropriate.²¹⁹

Nevertheless, any State intervention must be proportionate and mindful of parental autonomy. The CRC does not authorise indiscriminate interference but requires States to act when the child's best interests are at risk—especially when parental decisions are shaped more by financial gain than by developmental need.²²⁰ As such, regulatory strategies should focus on enabling oversight without dismantling legitimate parental rights.

In Ryan's case, this means creating and enforcing tailored regulations—such as limits on working hours, income safeguards, and data protection measures—to ensure children are not treated as commercial assets.²²¹ These measures should be supported by independent monitoring mechanisms that ensure families are acting in the child's best interests, while preserving the private integrity of family life.

²¹⁴ Convention on the Rights of the Child art 5; see Section 4.2.1.

²¹⁵ *ibid* 6, 31.

²¹⁶ Daly (n 137) 173-175.

²¹⁷ CRC Committee, *General comment no. 17 (2013)* (n 156) paras 23–30.

²¹⁸ CRC Committee, *General comment no. 25 (2021)* (n 13) para 53, 56, 96.

²¹⁹ Siewert (n 117) 24–25.

²²⁰ CRC Committee, *General comment no. 14 (2013)* (n 91) paras 36-39, 71.

²²¹ Peleg and Tobin (n 181) 186–236.

4.5.5. The Ryan Kaji Case: A Reflection on State Responsibilities

Ryan Kaji's case highlights the regulatory challenges of applying CRC principles to commercialised family environments. As both caregivers and brand managers, Ryan's parents exercise decision-making power over his digital persona, content production, and commercial engagements. While these actions may be motivated by a desire to support his development, the overlay of financial interests complicates the assessment of whether such decisions align with the child's rights.²²²

As discussed, Article 5 affirms the role of parents as the primary guides of their child's development in accordance with their evolving capacities.²²³ Yet when the family structure serves as a vehicle for digital labour, children like Ryan may face compromised access to rights under Articles 6, 28, 31, and 12, including development, education, leisure, and participation.²²⁴ Content creation schedules and brand obligations may crowd out unstructured play, rest, and meaningful educational experiences, which are fundamental aspects of a holistic childhood.

The State's responsibility, under Article 3(1), is to ensure that the child's best interests remain a primary consideration in all decisions affecting them, whether in the public or private sphere.²²⁵ This includes intervening where parental decisions—however well-intentioned—result in harm or structural exploitation. In cases such as Ryan's, Article 6 also imposes a duty to ensure the child's full development is not hindered by market forces embedded in the domestic sphere.²²⁶

To meet these obligations, States should develop robust regulatory frameworks tailored to digital labour contexts. These could include limits on working hours for child influencers, financial safeguards (e.g., compulsory earnings trusts for minors), transparency and oversight of content involving children, and psychological and educational assessments for ongoing participation.²²⁷

An additional consideration is Ryan's right to be heard under Article 12.²²⁸ Despite his central role in the family enterprise, it remains unclear whether his views are solicited or considered in decisions shaping his labour, exposure, and identity. States must develop participatory mechanisms—such as independent child advocates or media ombuds services—to ensure that children meaningfully contribute to decisions about their commercial presence.²²⁹

Ultimately, the Ryan Kaji case underscores the need for States to balance respect for parental autonomy with the duty to protect children's rights in digital economies.

²²² Daly (n 137) 175-176.

²²³ Convention on the Rights of the Child art 5.

²²⁴ *ibid* arts 6, 12, 28, 31.

²²⁵ *ibid* art 3(1); see CRC Committee, *General comment no. 14 (2013)* (n 91) 14, 17, 25, 30.

²²⁶ Convention on the Rights of the Child art 6.

²²⁷ See CRC Committee, *General comment no. 25 (2021)* (n 13) para 79, 95–96; see also Siewert (n 117) 24–25.

²²⁸ Convention on the Rights of the Child art 12.

²²⁹ UN CRC, *General comment no. 12 (2009)* (n 65) paras 18-21.

Regulatory silence risks normalising exploitative structures under the guise of family life. Legal frameworks must therefore evolve to safeguard children's evolving capacities, development, and agency, while preventing financial interests from overriding their best interests.

4.6. Conclusion

The case of Ryan Kaji offers a powerful test of the CRC's capacity to respond to the evolving dynamics of childhood in commercial digital environments. By applying a child rights framework to a monetised family model, this chapter has illustrated how parental guidance, child development, and State responsibility interact in ways that expose regulatory shortcomings.

Although the CRC identifies parents as the primary duty bearers in guiding children,²³⁰ it also places corresponding obligations on the State to support parents²³¹ and to ensure that the best interests of the child remain a primary consideration in all relevant actions.²³² In practice, however, the fusion of domestic life and commercial enterprise—as seen in Ryan's case—creates a legal grey area where traditional deference to family autonomy risks undermining children's rights.²³³

Ryan's rights to development, rest and leisure, education, and meaningful participation²³⁴ may be compromised—not through overt harm, but through the normalisation of structured digital labour at home. Despite parental good intentions, the commercial logic embedded in content creation can inadvertently marginalise a child's evolving capacities and individual agency.²³⁵ While Article 32 prohibits economic exploitation,²³⁶ current regulatory frameworks remain insufficient to govern child participation in influencer economies, especially those driven by family-led enterprises.

Thus, this chapter finds that while the CRC offers a robust normative foundation, its protective strength in digital contexts depends on how States interpret and enforce its provisions in spaces where private life overlaps with market activity.²³⁷ As digital childhoods increasingly blur the lines between play, labour, and expression, interpretive evolution and legislative innovation become essential to safeguarding children's rights in the 21st century.

Chapter 5 will build on this analysis by critically evaluating whether the CRC's normative architecture adequately accounts for the specific vulnerabilities of children in middle childhood. It will consider how legal, institutional, and policy reform can bridge the gap between existing child rights theory and contemporary practice in digital environments.

²³⁰ Convention on the Rights of the Child arts 5, 18(1).

²³¹ *ibid* 18(2).

²³² *ibid* 3(1).

²³³ Daly (n 137) 173-175.

²³⁴ Convention on the Rights of the Child arts 6, 12, 28, 31.

²³⁵ Lansdown and Tobin (n 155) 1195–1222.

²³⁶ Convention on the Rights of the Child art 32.

²³⁷ Tobin and Varadan (n 59) 177–179.

Chapter 5: Conclusions and Recommendations

This final chapter reflects on whether and how the CRC sufficiently recognises and upholds the rights of children like Ryan Kaji in monetized domestic contexts, and what gaps remain in law, policy, and implementation. It evaluates whether current child rights mechanisms, especially Article 5 and Article 18, can meaningfully respond to challenges posed by digital family enterprises.

5.1. Findings

This sub-chapter distills the core analytical insights from Chapters 3 and 4, assessing whether current legal frameworks—particularly under the CRC—adequately protect children like Ryan Kaji in monetised digital family settings. The findings highlight three central tensions, as follows:

First, the line between parental autonomy and State oversight becomes blurred in digital labour contexts. In Ryan’s case, parents functioned as both caregivers and commercial managers, merging parenting with profit-making. Under Article 5 CRC, such guidance is only valid if it supports the child’s evolving capacities.²³⁸ However, without enforceable mechanisms in the private family sphere, as outlined in Article 16 CRC and further discussed by Sutherland, State intervention is limited unless overt harm is proven, creating a normative vacuum.²³⁹

Second, this vacuum also contributes to the conflict between children’s right to privacy and their exposure to commercial exploitation. Article 16 protects privacy, yet Ryan’s digital identity—shaped by branding and prepared content participation—was commodified through parental choices.²⁴⁰ This raises concerns under Article 32, which prohibits economic exploitation.²⁴¹ Existing regulatory efforts like COPPA and FTC rules focus on platforms rather than empowering children as rights-holders.²⁴² Article 18 CRC obliges States to assist parents, but in practice, families navigate complex commercial landscapes without adequate institutional support.²⁴³

Third, the principle of evolving capacities—central to Article 5 CRC and often invoked in interpretations of Article 12²⁴⁴—is often overlooked. Although parents may claim participation is voluntary, the structured and monetised nature of such work undermines authentic autonomy.²⁴⁵ Lansdown contends that evolving capacities should enable agency, not justify control.²⁴⁶ When

²³⁸ *ibid* 164–166.

²³⁹ Sutherland (n 70) 451–452.

²⁴⁰ Convention on the Rights of the Child art 16.

²⁴¹ *ibid* art 32.

²⁴² ‘Google and YouTube Will Pay Record \$170 Million for Alleged Violations of Children’s Privacy Law’ (n 27); For further discussion see ‘Reimagining COPPA: Safeguarding Children’s Privacy in the Digital Age’ (*Columbia Undergraduate Law Review*, 22 December 2024) <<https://www.culawreview.org/journal/reimagining-coppa-safeguarding-childrens-privacy-in-the-digital-age>> accessed 30 June 2025.

²⁴³ Convention on the Rights of the Child art 18; Tobin and Seow (n 94) 678.

²⁴⁴ Lundy, Tobin, and Parkes caution against conflating Article 5’s evolving capacities with the presumption of capacity in Article 12, which is framed as an independent right not contingent on adult-centric assessments of competence, see Laura Lundy, John Tobin and Aisling Parkes, ‘The Right to Respect for the Views of the Child’ in John Tobin (ed), *The UN Convention on the Rights of the Child* (1st edn, Oxford University Press 2019) 401–402.

²⁴⁵ Guzman (n 19) 102.

²⁴⁶ Lansdown (n 61) 4.

children's behaviour is curated for public consumption, their rights to expression, play, and development are compromised, particularly in the absence of safeguards for consent or withdrawal.

In sum, while the CRC's framework—anchored in Articles 5, 18, and 3(1)—offers a solid conceptual basis, it falls short in regulating the realities of child influencer labour. Article 3(2) places a positive duty on States to ensure children's care and protection, yet the lack of oversight in domestic digital contexts allows commercial imperatives to erode the CRC's protective intent.

5.2. Identifying Gaps and Challenges

5.2.1. Middle Childhood: A Forgotten Zone

Although the CRC recognises that childhood is a period of progressive development, its institutional focus remains skewed toward early childhood and adolescence. The CRC Committee has issued General Comments for children aged 0–5 and adolescents yet middle childhood, typically defined as ages 6 to 12, has received little attention.²⁴⁷ This silence reflects a deeper structural issue: the CRC has not evolved in step with the shifting roles children play in today's digital and commercialised environments. As a result, legal instruments often lack the nuance to address the specific vulnerabilities and capacities of this age group.

Middle childhood is a crucial stage of development.²⁴⁸ Article 5 of the CRC, which affirms the duty of parents to provide direction and guidance to the child in the exercise of their rights in accordance with their evolving capacities, highlights that a child's autonomy is not consistent across all stages of childhood.²⁴⁹ Therefore, it is essential to advocate for greater attention to the rights of children in middle childhood to ensure that their unique needs, contexts, and experiences are properly addressed.

Ryan Kaji's case exemplifies this regulatory gap. Beginning his digital career during middle childhood, he occupied a space where he was neither fully dependent nor presumed capable of adult-like agency. Despite the commercial scale of his involvement, the CRC offers no targeted interpretive guidance for assessing consent, privacy, or protection from exploitation in such contexts.²⁵⁰ Consequently, children in this stage are frequently overlooked in procedural safeguards, like the participatory rights of Article 12, or in assessments under Article 5 meant to reflect evolving capacities.²⁵¹

²⁴⁷ As already discussed in Chapter 3, the Committee's General Comments highlight the need for age-sensitive interpretations of evolving capacities, including during middle childhood; see also Aoife Daly and Amy Walsh, '5. Children's Rights Law in Middle Childhood' in Jonathan Todres and Ursulla Kilkelly (eds), *Children's Rights and Children's Development: An Integrated Approach* (New York University Press 2025) 132.

²⁴⁸ For a more nuanced understanding of middle childhood, see, generally Josephine Grant, '4. Middle Childhood Development' in Jonathan Todres and Ursulla Kilkelly (eds), *Children's Rights and Children's Development: An Integrated Approach* (New York University Press 2025) 107–131

²⁴⁹ Daly and Walsh (n 246) 134; see also Varadan (n 60) 306–338.

²⁵⁰ Marco Del Giudice, Romina Angeleri and Valeria Manera, 'The Juvenile Transition: A Developmental Switch Point in Human Life History' (2009) 29 *Developmental Review* 1 3–4.

²⁵¹ Varadan (n 72) 145–148.

In the absence of age-specific benchmarks, States often rely on broad legal thresholds, such as "under 13," which fail to capture developmental differences between a 6-year-old and a 12-year-old. This lack of precision risks both overprotection, which stifles agency, and underprotection, which leaves children vulnerable—especially in digital spaces where the lines between play and labour are increasingly blurred.

Although the CRC acknowledges developmental progression in principle, its failure to elaborate middle childhood in practice leaves key actors—lawmakers, courts, platforms, and parents—without clear guidance.²⁵² This gap enables fragmented, ad hoc decisions and opens the door to exploitative norms, particularly in the fast-evolving influencer economy.

It would be both timely and valuable for the CRC Committee to consider developing a dedicated General Comment, or at the very least, an interpretive addendum, that specifically addresses the rights and protections for middle childhood.²⁵³ Such guidance could clarify how to assess evolving capacities in commercial contexts, uphold meaningful participation without overburdening the child, and distinguish between appropriate digital engagement and covert economic exploitation.

5.2.2. Regulatory Dilemma: When Parenting Becomes Business

The rise of family-run influencer enterprises like *Ryan's World* underscores a regulatory dilemma: the transformation of the home from a space of care into a site of digital labour.²⁵⁴ Within this setting, parents may assume managerial roles while children become the subjects of monetised content,²⁵⁵ often without the protections afforded under conventional labour laws.

Although Article 16 affirms family privacy and Article 5 supports parental discretion, the child's monetised role raises concerns under Article 32, which obliges States to prevent economic exploitation. As discussed in Chapter 3, framed as family bonding, such digital labour often escapes oversight due to its informal, private nature. This invisibility creates structural vulnerability. Parental authority, presumed benevolent, operates within a legal "zone of discretion." Yet when children's images, routines, and behaviours become commercial assets, the risks of commodification rise—particularly in the absence of binding contracts, working-hour limits, or independent oversight.

The State's hesitation to intrude on family autonomy has led to a *de facto* deregulation of child digital labour. Although Article 3(1) mandates that a child's best interests be a primary consideration, governments often lack the legal tools to intervene when those interests are compromised in private settings. As a result, child influencer labour remains largely unregulated, even as it generates substantial income and long-term visibility risks for children.

²⁵² CRC Committee, *General comment no. 5 (2003)* (n 150) para 12.

²⁵³ Daly and Walsh (n 194).

²⁵⁴ Kojok (n 5) 8.

²⁵⁵ Livingstone and Blum-Ross (n 38) 52–55.

To address this, States should consider recognising digital child labour as a distinct regulatory category. Reforms could include mandatory registration of earnings, judicial oversight of contracts, working-hour limits tailored to content creation, and safeguards in accordance with Article 28 and Article 31 CRC.

Domestic legislation might draw on protections from the entertainment industry, while adapting to the decentralised, algorithm-driven nature of today's digital economy.

5.2.3. Fragmented Oversight and Forum Shopping

The rise of child influencers reveals the fragmented nature of current regulation. Labour and media law are often siloed, leaving monetised family content outside effective oversight. Within the home, commercial involvement of children typically escapes oversight.²⁵⁶

This fragmentation enables forum shopping, as families and platforms exploit inconsistent legal standards across jurisdictions. Weak coordination between child labour, advertising, and data protection laws leads to gaps in protecting children's rights under Articles 16, 31, and 32 CRC.²⁵⁷

Platforms play a central role in shaping how children participate in digital content but are rarely held accountable for child-specific protections. While reforms like YouTube's "made for kids" label mark some progress, they are largely compliance-driven responses to data privacy laws like COPPA—not proactive strategies to prevent overexposure or exploitation.²⁵⁸

To close these gaps, States should establish robust accountability frameworks. These should include age-verification, monetisation transparency, default privacy protections, and independent oversight of high-risk content involving children.

5.3. Conclusion

Ryan Kaji's case exposes a normative gap in child rights law—not due to neglect, but due to misalignment. The CRC was not designed for a world where childhood can be branded and monetised. As the boundaries between home, labour, and identity blur, the law must evolve to centre not only on parental rights, but on children's lived digital realities.

This thesis examined the question: *To what extent does the State's response to guidance provided by parents of child influencers align with their obligations under Article 5 of the CRC?* While Article 5 offers a strong relational framework for balancing parental authority with children's autonomy, its application in commercialised digital contexts remains limited. In theory, the CRC supports evolving capacities; in practice, States tend to defer to parents, rely on platforms, and act only after harm occurs.

²⁵⁶ Verdoodt (n 42) 459–461.

²⁵⁷ Convention on the Rights of the Child arts 16, 31, and 32.

²⁵⁸ 'Google and YouTube Will Pay Record \$170 Million for Alleged Violations of Children's Privacy Law' (n 27).

Ryan's case shows how parental guidance, when entangled with monetisation, can shift from supporting rights to serving economic ends. In such cases, evolving capacities are neither properly assessed nor protected. This commercialisation of domestic life raises a deeper question: can a child's identity be both protected and commodified under the same legal framework?

The evidence suggests that Article 5—alongside Articles 18 and 3(1)—currently falls short in addressing these challenges. Middle childhood remains legally underexplored; family-as-business models lack oversight; and fragmented governance enables avoidance of accountability.

To address this, the CRC must be updated through doctrinal guidance and national reforms that reflect digital-era realities. This includes recognising digital labour as labour, establishing protections for children in monetised family content, and equipping parents to guide without exploiting.

In conclusion, the child influencer economy demands a recalibration of legal assumptions—one that sees children not only as vulnerable, but as economically visible and entitled to dignity, protection, and voice in the environments that shape their development.

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