



/Digitalt Ansvar

Not just users, but rights holders: realising the DSA's promise for children with the guidelines on article 28

Together with the 28 undersigning organisations and experts from across Europe, we strongly support the draft guidelines on Article 28(1) of the Digital Services Act (DSA), which require platforms accessible to minors to ensure a high level of privacy, safety and security. These guidelines are crucial to ensure effective and robust implementation and enforcement, ultimately delivering on the DSA's promises of a safe and trusted online environment.

As human rights and child rights organisations, we commend the grounding of the guidelines in the principles and rights outlined in the UN Convention on the Rights of the Child, and elaborated in its General comment No.25. By outlining the need to assess privacy, safety and security measures against the full spectrum of children's rights and by considering their diversity and evolving capacities, the guidelines recognise children not merely as passive users of online platforms, but as rights holders. Accordingly, online platforms bear the responsibility for providing rights-respecting spaces.

Building on the current child rights framing of the guidelines and some of its provisions across various sections, we recommend further embedding the following as general principles under section 4:

- Explicitly recognise the diversity of children's needs and their differing experiences based on their age, gender identity, sexual orientation, migration status, disability status, family type or any other circumstances or conditions, highlighting the importance of the accessibility of any measures directed at them;
- Embed child participation in the design and evaluation of all measures that concern the privacy, safety and security of minors, ensuring that any measure is grounded and reflect their lived experiences;
- Detail considerations relating to age appropriate design as mentioned under section 4 and as referred to in several sections in a separate annex;

In terms of the measures proposed, we welcome the clear focus on the design of online platforms and the inclusion of safety, security and privacy by design as a general principle. Risks to children do not appear in a vacuum but are the result of poor design choices. These guidelines provide a solutions-oriented framework that requires companies to comprehensively redesign services from the registration process, establishing robust default settings, adapting recommender systems and providing effective and child-friendly reporting mechanisms. This is not about excluding children from online spaces, nor about placing full responsibility on guardians to monitor their children. We strongly support this approach.

To further strengthen the guidelines, we recommend adding further detail on the measures proposed, including specifications and benchmarks in a number of areas.

- a) Age assurance: for this tiered approach to be effective, the terms "high risk" and "medium risk" must be defined with clear benchmarks. Additionally, the assessment should be subject to external oversight, avoiding self-assessment by companies. The potential for age assurance to also complement age appropriate design should be clearly recognised.
- b) Default settings: clarify over which of the settings children should have control depending on their evolving capacity and ensure that children are not nudged towards lowering their settings.
- c) Commercial practices: consider not only the quality and type of advertisements being presented to children but also its volume, ensure that minors are not exposed to practices that rely on neuromarketing, emotional analytics and immersive advertising and clarify measures relating to cases of sharenting and child influencers.
- d) Recommender systems and moderation: the non-user profiling recommender system option should be made the default setting while ensuring that it remains child-friendly.
- e) Artificial Intelligence: The guidelines do not sufficiently address with specific measures the deployment of AI chatbots for children. Given their increasing presence on online platforms and the significant risks they pose to children's rights and healthy development, they should be addressed separately with dedicated measures. These should cover safeguards, transparency, prohibiting human-like features, avoiding being pushed or recommended to children and allowing the child to easily disengage from AI chatbots.

By setting a high compliance bar, the guidelines will redefine the online environment as one that recognises children, respects their rights and caters to their needs. These guidelines offer an opportunity for online platforms to demonstrate socially responsible and inclusive innovation that will not only benefit children but shape a better digital environment for all. Standards, such as the

CWA 18016 on 'Age Appropriate digital services framework' based on IEEE 2089, also have a critical role to play and must be adopted under Article 44 of the DSA.

These guidelines should be regarded not as the end of the road but rather the beginning of a new era that requires accountability and continued coordination with all stakeholders. The work of the European Commission on a code of conduct on age appropriate design should be continued. As for the guidelines, a clear review period of 2 years should also be established, while allowing for earlier review if required by technological, societal or regulatory developments. The role of Digital Services Coordinators in regard to article 28(1) should further be clarified, especially regarding their uptake of the guidelines, to ensure coordinated and coherent implementation and enforcement across the Union.

We remain dedicated to continued engagement with the European Commission, Digital Services Coordinators and online platforms to ensure that the DSA delivers on its promises for children.

Signatories:

1. 5Rights Foundation
2. Borns Vilkar
3. Bris
4. Children's Rights Alliance
5. Child Focus
6. ChildX
7. COFACE Families Europe
8. Defence for Children - ECPAT Netherlands
9. Digital Futures for Children
10. Digitalt Ansvar
11. ECPAT Austria
12. ECPAT International
13. Eurochild
14. FICE Croatia
15. Internet Watch Foundation
16. Mental Health Europe
17. Missing Children Europe
18. Save the Children
19. Telefono Azzurro
20. Terre des Hommes Netherlands
21. The Prince Couple's Foundation
22. The Smile of the Child, Greece
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