

On the European Commission's guidelines on DSA Article 28(1)

Together with the 39 undersigning organisations and experts from all over Europe, we welcome the European Commission's work on guidelines on Article 28(1) of the Digital Services Act (DSA) requiring platforms accessible to children to “put in place appropriate and proportionate measures to ensure a high level of privacy, safety, and security of minors”. We thus present these minimum principles and elements that the guidelines should consider and include.

The guidelines are key for DSA implementation and enforcement. To protect and promote children's rights, they should **provide clear and concrete guidance to online platforms on how to comply with their obligations, as well as support Digital Service Coordinators in the coherent and coordinated application of article 28(1) at national level. The guidelines should be developed with the meaningful participation of children, and be based on principles and provisions of the UNCRC and guidance from General comment No. 25 on children's rights in the digital environment**, as well as existing frameworks like the Irish Fundamentals for a Child-Oriented Approach to Data Processing, the Dutch Children's Code, the Swedish guide on rights of children and young people on digital platforms, the CNIL Recommendations, the ICO's Children's Code, or the concept of personal integrity of minors in the German Youth Protection Act, as well best practices and highest available standards like CEN-CENELEC Workshop Agreement 18016 Age appropriate digital services framework, among others.

Based on such instruments and principles, the guidelines should **provide guidance for companies to ensure a high level of privacy, safety and security**, and notably:

- Provide a framework to help platforms ask the right questions, notably to assess if they are likely to be accessed by children, and how to evaluate with a **child rights impact assessment** if they provide a high level of privacy, safety and security for children.
- Provide that, based on that assessment, privacy-preserving, proportionate, effective, inclusive, age appropriate and secure **age assurance** is in place for platforms that do not to ensure a high level of privacy, safety and security for children, by design and default.
- Provide guidance on **measures and features** to achieve that high level of privacy, safety and security, addressing as a minimum the following elements.
 - Prioritise the best interests of the child when designing and developing services;
 - Avoid persuasive design techniques such as intermittent reward systems, gambling-like features or endless scrolls;
 - Ensure data minimisation so that children's data is not unduly collected, disclosed, reuse or shared;
 - Ensure default high privacy and security settings, including limiting exposure of children's accounts to harmful contacts and content as well as removing illegal ones;
 - Provide log-in functionalities / authentication mechanisms in line with a child's capabilities;
 - Provide transparent, fair, age-appropriate, and effectively applied and enforced terms and conditions, including effective content moderation;

- Avoid uses of data that may be detrimental to children’s rights or in any way unlawful, as well as profiling, recommender systems, dark patterns and nudging;
- Ensure potentially problematic functionalities such as geolocation, microphone and camera are off-by-default;
- Provide privacy-preserving parental controls in line with children’s rights;
- Provide age-appropriate and effective reporting and redress mechanisms.
- Recommend that companies put in place **specific functions, roles and responsibilities dedicated to the protection and participation of minors**, to ensure that actions and measures are coordinated, carried out and evaluated based on adequate children’s rights expertise;
- Provide that companies re-assess and evaluate their compliance to the guidelines regularly, recommending them to do so with the meaningful participation of children.

In addition, the guidelines should recommend to regulators **measures to ensure the prioritisation of children’s rights in their enforcement action and its adequate resourcing**. In line with the establishment of a working group on the protection of minors in the Digital Services Board, and to maximise its potential for cooperation and exchange of best practices, the guidelines should require Digital Services Coordinators to: (i) dedicate specific functions, roles and responsibilities to the protection of minors; (ii) provide them with adequate expertise and resources for the task; (iii) ensure they effectively liaise with counterparts; and (iv) ensure that they are an effective and inclusive contact point for children, other citizens or civil society organisations to engage with the authority on the protection of minors, as well as for companies to be advised on compliance.

Implemented and enforced robustly, the DSA can inform the development of technology that protects and empowers children. With an outcome-based and child-rights approach, the guidelines can set a high bar for companies to comply, as well as the flexibility to innovate and invest in respecting and promoting children’s rights in the design of their services.

Signatories

Organisations

1. 5Rights Foundation
2. A Little Lining Comes (Germany)
3. Børns Vilkår (Denmark)
4. Bris – Barnens Rätt i Samhället (Sweden)
5. Digitalt Ansvar / Digital Accountability (Denmark)
6. CCDH – Centre for Countering Digital Hate
7. Center for Missing and Exploited Children (Serbia)
8. COFACE Families Europe
9. Deutsches Kinderhilfswerk e.V. (Germany)
10. ECPAT International
11. ECPAT Hungary-Hintalovon Foundation (Hungary)
12. Eurochild
13. FICE (Croatia)
14. Instituto de Apoio à Criança (Portugal)
15. Mental Health Europe

16. Missing Children Europe
17. MyData
18. Novi put (Bosnia and Herzegovina)
19. Pancyprian Coordinating Committee for the Protection and Welfare of Children (Cyprus)
20. Pomoc Deci (Serbia)
21. Prins Carl Philips och Prinsessan Sofias Stiftelse (Sweden)
22. Red Barnet – Save The Children (Denmark)
23. Telefono Azzurro (Italy)
24. Terre des Hommes Netherlands
25. The Smile of the Child (Greece)
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Individual Experts

27. Professor Simone van der Hof, Professor of Law and Digital technologies, Leiden University; member of the special group on an EU Code of conduct on age-appropriate design
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Resources

5Rights Foundation, Eurochild and European Parliament Intergroup on Child Rights (2024), *A High Level of Privacy, Safety & Security for Minors – A best practices baseline for the implementation of the Digital Services Act for children*, available at <https://5rightsfoundation.com/resource/5rights-launches-tool-to-support-dsa-enforcement-for-children/>