Analysis of the Guidelines to Article 28.1 of the Digital Services Act

Guidelines adopted on 14 July 2025

Introduction

The European Commission's guidelines on Article 28.1 of the Digital Services Act (DSA) mark a significant advancement in recognising and addressing the specific needs of children and young people in digital environments. These comprehensive guidelines establish a robust framework grounded in children's rights, risk-based approaches, and meaningful child participation.

They serve as a practical benchmark for platform providers and as an interpretive tool for Digital Services Coordinators (DSCs) and national authorities. While they do not establish new obligations, they clarify how existing requirements under Article 28 should be interpreted and operationalised.

Crucially, the guidelines explicitly acknowledge that the design and features of online platforms may create risks for minors and exacerbate existing ones – a fundamental recognition that shifts focus from individual user behaviour to platform responsibility. Celebrating this milestone achievement, this document analysis the final version of the guidelines in regard of 5Rights recommendations - notably our report on a High level of privacy, safety and security. It identifies key strengths alongside areas where further development could enhance protection for children online.

Scope and application

The guidelines apply to online platforms accessible to minors under three scenarios:

- Platforms whose terms and conditions permit minor usage

- Services directed at or predominantly used by minors

- Platforms where providers are aware that some recipients are minors

Importantly, platforms cannot claim exemption by merely stating in their terms that minors are prohibited if no effective measures prevent access (§6). In line with Article 19 of the DSA, micro and small enterprises are exempted unless designated as Very Large Online Platforms (VLOPs).

Key principles and approaches

Children's Rights Mainstreaming

The guidelines are grounded in the recognition of children's rights as enshrined in the Charter of Fundamental Rights and the UN Convention on the Rights of the Child, as elaborated in General comment no. 25, and stress that all children's rights must be considered, with particular attention to accessibility, non-discrimination and children's evolving capacities. The risk review process serves as a Child Rights Impact Assessment (CRIA) (§22), requiring providers to assess and mitigate harms holistically and in consultation with children, experts and stakeholders.

Privacy, safety and security by design principles

The guidelines provide clear acknowledgment that risks are linked to the design of online platforms, establishing platform responsibility for implementing appropriate measures rather than relying solely on reactive measures. Consequently, the guidelines establish privacy, safety and security by design as general principles, requiring high standards in the design, operation and management of organisations, as well as in products and services from the start (§17c).

Complementing this approach, the guidelines also codify age-appropriate design principles that must align with children's developmental, cognitive and emotional needs (§17d). Services must be suitable for children considering their rights and wellbeing as well as their diversity and account for children's evolving capacities.

Meaningful child participation

The guidelines establish explicit requirements to include the perspective of children in risk review processes (§19); the design, implementation and evaluation of age restrictions and age assurance methods (§35); the testing and adaptation of recommender systems (§65a) and in monitoring and evaluation activities (§89b).

This aims at ensuring a real consideration of children's voices and recognition of their online experience, particularly as companies must foster a culture of child participation in the design and functioning of their platforms and services (§84d). It explicitly recognises that only with children's active participation can company design for them.

Enhanced transparency and public accountability

The guidelines provide for several transparency requirements, such as public availability of risk review outcomes (§21), publication of assessment results determining age assurance appropriateness and proportionality (§32), content moderation metrics and platform responses (§73), and independent review opportunities for evaluations (§89a). This establishes solid public oversight mechanisms and enables external scrutiny of platform regarding child protection measures. Meaningful transparency is crucial for trust and ongoing scrutiny and improvement of online safety measures.

Risk-based age assurance approach

The guidelines emphasise the distinction between age assurance as a tool for restriction and as a foundation for age-appropriate design and experiences (§25-27).

The guidelines follow a risk-based approach and require platforms to conduct assessments determining whether age assurance measures are appropriate and proportionate, or whether the same level of protection can be achieved through other less far-reaching measures (§31). The guidelines also include strong data protection emphasis, crucial to safeguard children and everyone's privacy. They acknowledge that lower accuracy of age estimation does not equate to lower impact on fundamental rights and freedoms, as less accurate methods may process more personal data than more accurate ones (§33).

The guidelines recommend the use of age assurance methods to restrict access or 'when national rules set a minimum age to access certain services such as defined categories of online social media services'. This could lead to fragmented approaches across the European Union, which encompass risks regarding effectiveness and proportionality.

Robust default settings and child-friendly recommender systems

The guidelines mandate excellent and comprehensive default privacy and safety settings that ensure safe, age-appropriate experiences for minors. By default, children can only interact with previously accepted accounts, have their activities hidden from public view and cannot have their content downloaded by others (§57b).

Crucially, geolocation, camera and microphone access are disabled by default, along with features that contribute to excessive use such as video autoplay and push notifications, particularly during core sleep hours (§57b).

Platforms must regularly update these settings against emerging risks and cannot encourage children to change these protective defaults, while providing child-friendly explanations and easy pathways to return to safer settings (§57 and §58).

Recommender systems must prioritise explicit user-provided signals and can only rely on implicit engagement-based signals when in the best interests of the child (§65e-g). Recommender systems must be regularly tested and adapted to ensure a high level of privacy, safety and security and must prioritise parameters and metrics related to accuracy, diversity, inclusivity and fairness (§65a-b). Children must have the opportunity to reset their recommended feeds (§66a).

Stronger AI safeguards for children

The guidelines include significantly strengthened provisions addressing AI-related risks compared to initial drafts, reflecting key concerns raised by 5Rights together with child rights organisations and experts. AI tools must be designed with children's evolving capacities in mind and only made available after a thorough risk assessment (§61e). Such tools should not be activated automatically, nor should minors be encouraged or enticed to use them. Clear, visible warnings must inform children when they are interacting with AI, and these features must not be promoted, suggested, or used to nudge minors toward commercial content (§61f).

The Guidelines also require technical safeguards to prevent AI from generating or spreading harmful content, and to support detection of illegal content (§72h).

Importantly, AI-based support tools must not replace human interaction as the main support mechanism for children (§78b).

Conclusion

The Article 28.1 guidelines represent a landmark achievement in children's digital rights, establishing a comprehensive, rights-based framework that prioritizes child participation and transparent accountability. Following the consultation process, the guidelines successfully mainstream children's rights considerations across digital platform operations and create unprecedented transparency requirements.

While celebrating this significant win, continued advocacy and monitoring will be essential to address implementation challenges and refine areas needing development. The guidelines notably provide little guidance as to the varied needs of children under 18 critical to ensure an age-appropriate approach to design. Further, the guidelines rely on companies making several assessments as to the best interests of the child while previous research demonstrated companies' self-serving interpretation of the concept. The need for non-profiling based recommender systems for instance might require a more straightforward approach from the European Commission (§66c-d). It will also be critical to ensure that any age assurance solution should be harmonised at the EU level and serve to ensure children benefit from the safety measures tailored to them. They should always be complementary to other measures, proportionate and child right respecting.

The success of these guidelines will ultimately depend on robust enforcement by the European Commission and Digital Services Coordinators, meaningful implementation by platforms, and continued engagement with children and civil society. In this context, the one-year review provides a crucial opportunity to assess real-world effectiveness and address emerging gaps.