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Summary report of the targeted public consultation on protection of minors guidelines: summary of feedback received on the Commission's draft guidelines on Article 28(1) of Regulation (EU) 2022/2065

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SUMMARY OF FEEDBACK RECEIVED ON THE COMMISSION’S DRAFT GUIDELINES ON ARTICLE 28(1) OF REGULATION (EU) 2022/2065

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(10 July 2025)

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EXECUTIVE SUMMARY

This report presents an analysis of the feedback received during the European Commission’s targeted public consultation on the Draft Guidelines issued by the Commission to assist providers of online platforms in the application of Article 28(1) of Regulation (EU) 2022/2065 (the ‘Digital Services Act’). Article 28(1) requires providers of online platforms accessible to minors to put in place appropriate and proportionate measures to ensure a high level of privacy, safety, and security of minors, on their service. More than 330 respondents from all 27 EU member states and countries outside the EU participated in the targeted public consultation. A diverse range of stakeholders, including EU citizens, researchers, civil society organisations, trade associations and other representative organisations, providers of online platforms and public authorities provided comments on the Draft Guidelines.

- A majority of respondents shared positive views on the clarity and structure of the Draft Guidelines, and the novelty of the measures introduced.
- The appropriateness of the Draft Guidelines in ensuring a high level of privacy, safety, and security for minors was subject to mixed opinions. While many respondents found the measures useful, there were concerns that the measures were either too prescriptive or should have been even stronger.
- Further clarity was requested by respondents on the legal nature of the instrument, its scope and its interplay with other legislation and guidance relevant to the protection of minors. A number of respondents asked for a stronger focus on the positive rights of children and on the influence of AI on children’s rights.
- The Draft Guidelines recommend that providers conduct a risk review to determine which measures are appropriate and proportionate for them to implement, given factors such as the risk that their platform presents to minors and the nature of their platform. Several respondents asked for more clarity on how to conduct the risk review. Other respondents called for the risk review to include more stringent obligations on providers and to give greater consideration to children's participatory rights throughout the process.
- Age assurance was one of the most debated topics with diverging arguments presented on the various elements of it. Among other points, the discussions focused on whether the Draft Guidelines accurately identify the situations in which age verification and age estimation are appropriate.
- The sections in the Draft Guidelines on default settings, interface design and recommender systems were subjected to detailed suggestions on how different measures could be modified. The treatment of features such as ‘autoplay’, ‘infinite scroll’, ‘push notifications’ and ‘likes’, all received various (often contrasting) inputs from respondents.
- On aspects relating to commercial practices, there were several inputs relating to intermediate virtual currencies, loot boxes and random reward systems. Online child influencers, ‘sharenting’ and influencer marketing also received attention from respondents who wanted more detailed provisions related to these aspects.
- On moderation, the feedback revealed a tension between, on the one hand, moderation of content harmful to children, and, on the other hand, protecting users’ privacy rights and freedom of expression.
- Respondents generally supported user reporting and support mechanisms for minors, though some concerns were raised about potential misuse of these measures. Stronger and more harmonised tools

for guardians were requested, though there were concerns about authentication of guardians and privacy of minors from guardians.

1. INTRODUCTION

There has been much discussion and debate globally about the various risks and harms posed to children by their use of online platforms. Article 28 of the Digital Services Act (“the DSA”) addresses this aspect as follows:

“Article 28

Online protection of minors

- 1. Providers of online platforms accessible to minors shall put in place appropriate and proportionate measures to ensure a high level of privacy, safety, and security of minors, on their service.*
- 2. Providers of online platform shall not present advertisements on their interface based on profiling as defined in Article 4, point (4), of Regulation (EU) 2016/679 using personal data of the recipient of the service when they are aware with reasonable certainty that the recipient of the service is a minor.*
- 3. Compliance with the obligations set out in this Article shall not oblige providers of online platforms to process additional personal data in order to assess whether the recipient of the service is a minor.*
- 4. The Commission, after consulting the Board, may issue guidelines to assist providers of online platforms in the application of paragraph 1.”*

Article 28(4) empowers the Commission to issue guidelines to assist online platforms in their application of Article 28(1). On 31 July 2024, before drafting the guidelines, the Commission launched a call for evidence to obtain the views of a wide range of stakeholders on the scope and content of the guidelines.² The feedback period was from 31 July 2024 to 30 September 2024 and a total of 174 responses were received. The Commission drew on this feedback and desk research to develop the guidelines. The Commission also relied on the expertise of the European Centre of Algorithmic Transparency throughout the processes. Moreover, the Commission consulted with young people, including Better Internet for Kids youth ambassadors and organised focus groups with children in seven Member States, with the support of the Safer Internet Centres.

The Commission published the draft guidelines on 13 May 2025 (“the Draft Guidelines”), for targeted public consultation.³ The Draft Guidelines contain 9 Sections and 1 Annex. Sections 1 to 3 include the introduction, scope and structure of the Draft Guidelines. Section 4 sets out the general principles. Sections 5 to 8 set out the main measures that the Commission considers that such providers should put in place to ensure such a high level of privacy, safety and security. These include Risk review (section 5), Service design (section 6), Reporting, user support and tools for guardians (section 7) and Governance (section 8).

² European Commission. (31 July 2024). ‘Commission launches call for evidence for guidelines on protection of minors online under the Digital Services Act’. <https://digital-strategy.ec.europa.eu/en/news/commission-launches-call-evidence-guidelines-protection-minors-online-under-digital-services-act>.

³ European Commission. (13 May 2025). ‘Commission seeks feedback on the guidelines on protection of minors online under the Digital Services Act’. <https://digital-strategy.ec.europa.eu/en/library/commission-seeks-feedback-guidelines-protection-minors-online-under-digital-services-act>.

Section 9 details how the guidelines will be subjected to review and Annex 1 discusses the typology of risks faced by children in the online environment.

The targeted public consultation on the Draft Guidelines contained a survey (“the Consultation Survey”) that the respondents could answer to convey their opinion on the general and specific parts of the Draft Guidelines and also the possibility to upload documents.

2. METHODS AND STRUCTURE OF THIS REPORT

Following the introduction in Section 1, this Section 2 outlines the structure of the report and the methodology applied. Section 3 provides an overview of the respondents who participated in the targeted public consultation. Section 4 summarises the general comments received from the respondents. Sections 5 to 9 analyse the feedback provided by the respondents on the specific provisions in the Draft Guidelines, beginning with risk review (Section 5) and culminating in review of the guidelines (Section 9). Section 10 is the conclusion of this report. For ease of reference, the structure of this report is reflective of the structure of the Draft Guidelines.

The analysis in this report is based on the answers to the questions posed in the Consultation Survey and the attachments sent by respondents. The feedback documents are referenced illustratively and not exhaustively, i.e. not each and every feedback received in response to a survey question is referenced. Thus, even where several respondents have voiced similar opinions regarding an issue, only indicative references are provided. The examination is primarily descriptive in nature. Given the number of responses received and the diverse range of views presented, it is not possible to touch upon each and every one of the aspects conveyed by the respondents. However, all key points of discussion are included in this report, including those which solicited conflicting views among respondents and those where multiple respondents sought a modification of the Draft Guidelines. This report focuses on topics that are relevant to the Draft Guidelines and does not provide any detailed analysis of topics of a more general nature that relate to, for example, other aspects of the DSA.

3. OVERVIEW OF RESPONDENTS

The targeted public consultation took place from 13 May 2025 to 15 June 2025 and a total of 331 responses to the Consultation Survey were provided by the various respondents.⁴ Figure 1 provides an overview of the respondents.

⁴ Given the open nature of the targeted consultation, which allowed participation from a wide range of individuals and entities without restrictions, the figures presented should be interpreted as indicative rather than definitive representations of stakeholder views. For example, identical responses could have been submitted by multiple participants, and equal numerical weight is given to both individual EU citizens and large business associations representing many members.



Figure 1: Nature of Respondents

Respondents who completed the Consultation Survey included 287 respondents from all 27 member states in the European Union (“EU”) and 44 respondents from countries outside the EU. Of the 287 respondents from within the EU, the countries with the largest groups of respondents were Belgium (51), Germany (38), Ireland (37), France (24) and Spain (19).

4. GENERAL COMMENTS ON THE DRAFT GUIDELINES

The present section of the report discusses the comments received on the general principles outlined in the Draft Guidelines, while feedback pertaining to specific sections and recommendations are dealt with under the respective Sections 5 to 8.

(i) Clarity, Appropriateness and Novelty

In the Consultation survey issued by the Commission for the purpose of the targeted public consultation, specific questions were posed regarding:

- (i) the clarity of the structure of the Draft Guidelines,
- (ii) the appropriateness of the Draft Guidelines in ensuring a high level of privacy, safety and security for minors on the provider’s service, and
- (iii) the novelty of the Draft Guidelines. i.e. whether the measures addressed therein are already being implemented by the providers.

- a. Clarity: 252 respondents answered the question “Overall, how clear is the structure of the proposed guidelines?”,⁵ as depicted in Figure 2 below:

⁵ Respondents who omitted to answer the survey question and who answered ‘I do not know’ are excluded from the total ‘n’ numbers of all the parameters discussed in this report.

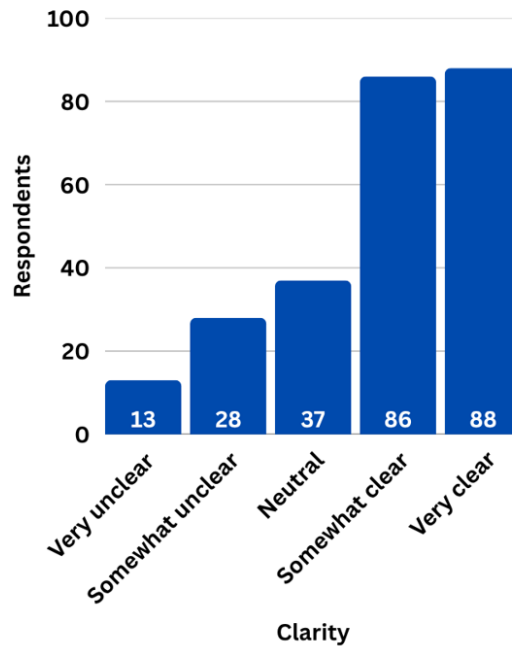


Figure 2: Responses on Clarity of Draft Guidelines

Thus, a high number of respondents had a favourable opinion of the clarity in the structure of the Draft Guidelines. Certain respondents stated that the Draft Guidelines could be improved by adding more visual presentation such as flowcharts and diagrams,⁶ by including a table of contents,⁷ and by adding more examples of how the measures can be implemented in practice.⁸

- b. Appropriateness: 251 respondents answered the question “Overall, how appropriate are the proposed measures to ensure a high level of privacy, safety and security for minors on platforms accessible to minors (as defined in the guidelines)?”, as depicted in figure 3 below:

⁶ Policia Judiciaria, Portugal (Public authority).

⁷ Wikimedia Foundation, Inc., Other (Company/business).

⁸ Ministry of Economic Affairs and Communications, Estonia (Public authority).

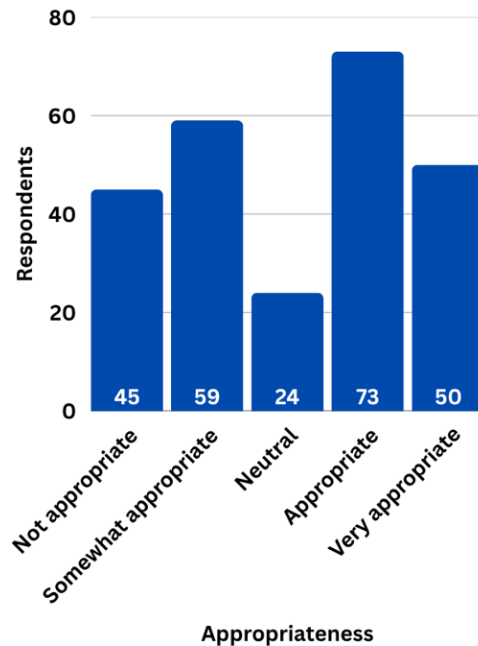


Figure 3: Responses on Appropriateness of Draft Guidelines

There are relatively mixed views from the respondents on the appropriateness of the Draft Guidelines, though, overall, most respondents either had a neutral or favourable response. Several respondents considered the guidelines to be a useful tool for ensuring a high level of privacy, safety and security for minors online.⁹ However, concerns were raised by some respondents, especially regarding age assurance and how it could impact privacy and other rights and freedoms of minors and adults.¹⁰ In addition, while certain respondents said that they felt that some measures in the Draft Guidelines were too prescriptive in nature,¹¹ other respondents felt that the measures weren't strong enough.¹² Certain companies and business associations felt that the Draft Guidelines may have a disproportionate impact on relatively small and medium-sized platforms¹³ and on platforms which are not that relevant for minors and pose low risk to minors¹⁴ (editorial forums and communities of digital newspapers and magazines).¹⁵

- c. Novelty: 235 respondents answered the question “Overall, to what extent do you think online platforms accessible to minors already comply with the recommended measures set out in these

⁹ Federal Office for the Enforcement of Children's Rights in Digital Services (KidD/BzKJ), Germany (Public authority); Österreichisches Bundesministerium für Bildung / Austrian Ministry of Education- Group IT and Digitalisation, Austria (Public authority); 5Rights Foundation, Belgium (Non-governmental organisation).

¹⁰ European Digital Rights (EDRi), Belgium (Non-governmental organisation); Electronic Frontier Foundation, Other (Non-governmental organisation).

¹¹ Snap BV (legal representative of Snap Group Limited), Netherlands (Company/business).

¹² KidsUnplugged, Belgium (Non-governmental organisation); Ombudsman for Children and Adolescents, Grand-Duchy of Luxembourg, Luxembourg (Public authority); Eurochild, Belgium (Non-governmental organisation).

¹³ European Association of Communications Agencies, Belgium (Business association); Middle Tech Europe, Belgium (Business association).

¹⁴ European Tech Alliance, Belgium (Business association).

¹⁵ MVFP Medienverband der freien Presse e.V., Germany (Business association).

guidelines?". In this regard, a large number of respondents felt that platforms do not currently comply with the recommended measures at all (40 = 17.2%)¹⁶ or that platforms only slightly comply with these measures (98 = 41.7%). 62 respondents (26.4%) expressed the view that there is moderate compliance, whereas 28 respondents (11.9%) said platforms were largely compliant and 7 respondents (3%) said platforms were fully compliant. This highlights the novelty of some or many of the measures proposed in the Draft Guidelines, according to many of the respondents.

Some business associations felt that many of the recommended measures are already implemented by some platforms.¹⁷ Other respondents felt that although some of the recommended measures are currently being implemented, the totality of the measures in the Draft Guidelines provides a higher standard of protection to children than what is present in the online environment today.¹⁸ Some respondents expressed concern that some providers of online platforms only use token measures to protect children,¹⁹ other respondents said that they thought that the business models of some providers rely on user engagement and that this prevents these providers from implementing more meaningful protections.²⁰

(ii) Completeness, Challenges and Suggestions

The Consultation Survey asked respondents to comment on:

- (i) whether any important aspects are not complete in the Draft Guidelines,
- (ii) the challenges expected in implementing the Draft Guidelines, and
- (iii) any suggestions to improve the Draft Guidelines.

Some of the salient points that were discussed regarding these aspects are as follows:

- a. Terminology and Interpretation: Some respondents raised concerns about the Draft Guidelines' use of broad terms such as 'proportionate' and 'effective'.²¹ However, this report notes that given the wide range of different types of platforms to which the Draft Guidelines apply, certain broad terms are necessary to allow for flexibility and context specific application by providers. Further, certain respondents felt that a lack of transparency by the platforms can make it difficult to assess implementation.²²
- b. Legal Nature: Clarification was requested on whether the guidelines are voluntary or mandatory.²³ Certain respondents asked it to be emphasised in the Draft Guidelines that the instrument is flexible and voluntary, and is to be applied depending on the nature of the platform.²⁴ Several companies said that the Draft Guidelines should not be seen as a prescriptive legal requirement but as guidance

¹⁶ The percentages are rounded to the first decimal point in this report.

¹⁷ eco - Verband der Internetwirtschaft e.V., Germany (Business association).

¹⁸ Anonymous, France (EU citizen).

¹⁹ Louise Holly, Digital Transformations for Health Lab, Other (Academic/research institution).

²⁰ CyberSafeKids and the campaign Gen Free: Free to be Kids, Ireland (Non-governmental organisation)

²¹ Defence for Children – ECPAT, Netherlands (Non-governmental organisation).

²² Digital Opportunities Foundation / Stiftung Digitale Chancen, Germany (Non-governmental organisation).

²³ die medienanstalten ALM GbR, Germany (Public authority).

²⁴ DIGITALEUROPE, Belgium (Business association); Krajowa Izba Radców Prawnych, Poland (Trade union).

on measures that can be implemented by platforms based on their given context.²⁵ According to respondents, this is because a one-size-fits-all approach will not work owing to the big diversity in services provided by online platforms accessible to minors.²⁶

In this regard, Section 2 of the Draft Guidelines states that *“By adopting these guidelines, the Commission indicates that it will apply these guidelines to the cases described therein and thus that it imposes a limit on the exercise of its discretion whenever applying Article 28(1) of Regulation (EU) 2022/2065. As such, these guidelines may therefore be considered a significant and meaningful benchmark on which the Commission will base itself when applying Article 28(1) of Regulation (EU) 2022/2065 and determining the compliance of providers of online platforms accessible to minors with that provision. Nevertheless, adopting and implementing measures set out in these guidelines, either partially or in full, shall not automatically entail compliance with that provision.”*²⁷

- c. Scope of Regulated Platforms: There was substantial discussion on which entities are governed by the Draft Guidelines, especially as to the interpretation by the Draft Guidelines of Recital 71 of the DSA concerning ‘accessible to minors’.²⁸ Respondents sought clarification on the situations in which services can be considered ‘not accessible to minors’.²⁹ Guidance was also sought on other aspects of Recital 71, i.e. when a *“service should be considered as “directed at minors” or at which point it should be regarded as “predominantly used by minors”*.³⁰ Respondents also sought clarification on when a platform can be aware that some of its users are children. In this regard, the Draft Guidelines give certain examples of such situations, for instance when research undertaken by the platform reveals that it is used by minors. Some respondents suggested that the Draft Guidelines explicitly include situations where credible and independent third-party evidence indicates the presence of minors on a platform, as a basis for establishing the platform’s awareness of child users.³¹
- d. Interplay with other Regulatory Frameworks: Several respondents wanted further specifications on the interplay between the Draft Guidelines and other EU and national laws.³² Respondents asked, for example, what the interplay would be between the Draft Guidelines and the age verification requirements under the Audiovisual Media Services Directive (Directive 2010/13/EU) (“AVMSD”) or the data protection requirements under the General Data Protection Regulation (Regulation (EU) 2016/679) (“GDPR”).³³ One consumer representative organisation stated that the Draft Guidelines should not provide recommendations on practices governed by other laws such as

²⁵ Google, Ireland (Company/business); TikTok Technology Limited, Ireland (Company/business); Snap BV (legal representative of Snap Group Limited), Netherlands (Company/business).

²⁶ Freiwillige Selbstkontrolle Multimedia-Diensteanbieter (FSM e.V.), Germany (Non-governmental organisation); Wikimedia Foundation, Inc., Other (Company/business).

²⁷ Lines 114-122, Draft Guidelines

²⁸ Lines 53-81, Draft Guidelines.

²⁹ Anitec-Assinform, Italy (Business association); Adigital (Asociación Española de la Economía Digital), Spain (Business association).

³⁰ Swedish Games Industry (Dataspelsbranschen), Sweden (Business association); Unterhaltungssoftware Selbstkontrolle (USK), Germany (Non-governmental organisation).

³¹ Danish Ministry of Digital Affairs, Denmark (Other).

³² Freiwillige Selbstkontrolle Multimedia-Diensteanbieter (FSM e.V.), Germany (Non-governmental organisation).

³³ Meta Platforms Ireland Ltd., Ireland (Company/business).

the Unfair Commercial Practices Directive (Directive 2005/29/EC) (“UCPD”).³⁴ Certain media organisations referred to the AVMSD and asked, for example, that it be specified that the guidelines will not affect the requirements and enforcement of national laws based on the AVMSD,³⁵ and for obligations of video sharing platforms under Article 28b of the AVMSD to be specifically emphasised in the Draft Guidelines.³⁶ This is particularly because some of these entities would fall under the scope of the AVMSD even if outside the DSA as the AVMSD does not have an exemption for small and micro enterprises like the DSA.³⁷ Further, two Digital Services Coordinators (“DSCs”) asked for clarity on the role that DSCs will play in applying the guidelines for enforcement of the obligations under Article 28(1).³⁸

In this regard, Section 3 of the Draft Guidelines state that *“Article 28(1) of Regulation (EU) 2022/2065 should also be seen in the light of other Union legislation and non-binding instruments which aim to address the risks to which minors are exposed online (12). Those instruments also contribute to achieving the objective of ensuring a high level of privacy, safety and security of minors online, and thus complement the application of Article 28(1) of Regulation (EU) 2022/2065. These guidelines should not be understood as interpreting those instruments.”*³⁹

- e. Emphasising Children’s Rights and Mandating CRIAs: A number of respondents asked for more emphasis in Section 4 on the following aspects: the rights of children to participate and express themselves,⁴⁰ the varying needs of children and the differences in their experiences depending on age,⁴¹ the benefits to children from accessing digital environments,⁴² and promoting media education and literacy.⁴³ There were also calls for making child rights impact assessments (“CRIA(s)”) mandatory and ongoing.⁴⁴ It was suggested that making CRIAs the beginning point of the risk review and making the 5Cs framework complementary to the CRIA could promote children’s rights while also providing more clarity on risk classification and assessment (see Section 5(i)).⁴⁵

In this regard, protection of children’s rights is one of the general principles set out in Section 4 of the Draft Guidelines, which references the European Charter of Fundamental Rights (“the Charter”) and the United Nations Convention on the Rights of the Child (“the UNCRC”). The Charter includes in its Article 24 the rights of children (including the right to freely express their views) and the obligations of authorities and institutions to consider the best interests of children in actions concerning them. The UNCRC contains provisions relating to the participatory rights of children

³⁴ Swedish Consumer Agency, Sweden (Public authority).

³⁵ die medienanstalten ALM GbR, Germany (Public authority).

³⁶ European Board For Media Services, Belgium (Other).

³⁷ Ibid.

³⁸ Coimisiún na Meán, Ireland (Public authority); Autorità per le Garanzie nelle Comunicazioni – AGCOM, Italy (Public authority).

³⁹ Lines 100-105, Draft Guidelines.

⁴⁰ Children's Rights Alliance, Ireland (Non-governmental organisation).

⁴¹ 5Rights Foundation, Belgium (Non-governmental organisation).

⁴² Toy Industries of Europe (TIE), Belgium (Business association).

⁴³ Österreichisches Bundesministerium für Bildung/ Austrian Ministry of Education- Group IT and Digitalisation, Austria (Public authority).

⁴⁴ ECPAT International, Netherlands (Non-governmental organisation).

⁴⁵ Centre for Democracy and Technology Europe, Belgium (Non-governmental organisation).

(e.g. Article 12), evolving capacities of children (Article 5) and need to provide children access to media and information (Article 17). Specifically, regarding the participatory aspect, Section 8.1 of the Draft Guidelines also states that “*a culture of child participation in the design and functioning of the platform*” shall be promoted by online platforms.⁴⁶ As regards CRIAs, it is stated in the Draft Guidelines in the context of conducting risk assessments under Section 5 that tools to be used for CRIAs can help with the risk assessments.⁴⁷

- f. Focusing more on AI: Several respondents mentioned that the guidelines ought to have delved further into the effects of artificial intelligence (“AI”) employed by online platforms on children.⁴⁸ There are some parts of the Draft Guidelines that specifically address AI systems. However, respondents asked for more to be done in this regard,⁴⁹ including a separate section dedicated to AI.⁵⁰ For instance, according to some respondents, AI chatbots pose significant risks to minors⁵¹ and should not have any manipulative design and should be disabled by default.⁵²

5. RISK REVIEW

With respect to Sections 5 to 8 of the Draft Guidelines, the Consultation Survey asked the Respondents:

- (i) Appropriateness of what the guidelines has stated on the topic;
- (ii) Whether the recommended measures adversely affect privacy, security and safety of minors;
and
- (iii) Whether the recommended measures adversely affect any other children’s rights.

These same questions were asked for the topics covered under Sections 6 to 8 as well, and, for the sake of brevity, will not be reproduced in each section.

Section 5 of the Draft Guidelines states that providers should conduct a review grounded in the best interests of the minor.⁵³ Aspects such as the likelihood of minors using the platform, the risks posed by the platform to minors (based on the 5Cs typology contained in Annex I) and the effects on children’s rights of the measures implemented by platforms to mitigate the risks should be identified.⁵⁴

In Response to the question about appropriateness of the risk review, 116 respondents answered as shown in Figure 4 below:

⁴⁶ Lines 885-891, Draft Guidelines.

⁴⁷ Lines 200-203, Draft Guidelines.

⁴⁸ Kateryna Vitenko, Belgium (EU citizen).

⁴⁹ Hellenic Ministry of Digital Governance, Greece (Public authority).

⁵⁰ 5Rights Foundation, Belgium (Non-governmental organisation).

⁵¹ Simone van der Hof, Leiden University, Netherlands (Academic/research institution).

⁵² Danish Ministry of Digital Affairs, Denmark (Other).

⁵³ Lines 196-197, Draft Guidelines.

⁵⁴ Lines 179-195, Draft Guidelines.

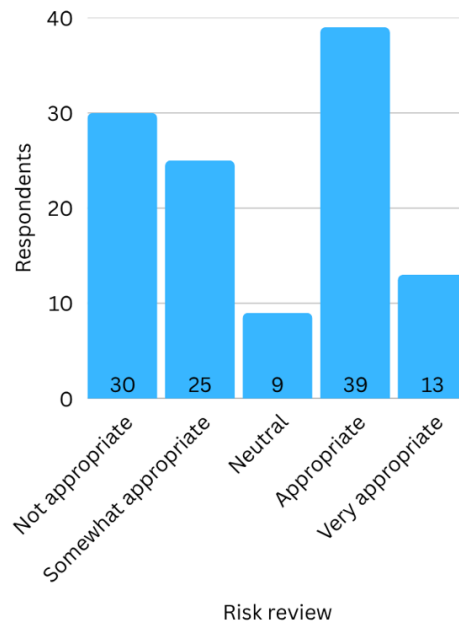


Figure 4: Responses on Appropriateness of Risk review measures

Thus, there were relatively mixed views among the respondents regarding the risk review aspect. Some of the main points of discussion are set out in this Section.

(i) Risk classification and mitigation

Respondents sought more detail and clarity on the criteria to classify risks and the indicators to be used for this,⁵⁵ and on the interplay between the various risks.⁵⁶ More explanation of terms such as ‘high risk’ and ‘medium risk’, and how platforms should weigh the risks was requested.⁵⁷ This is particularly because the Draft Guidelines link the appropriateness of age assurance to risk levels,⁵⁸ and thus interpretation of the risk levels is relevant to understand whether and which age assurance measures should be applied.⁵⁹ On the principle of the ‘best interests of the child’, which is meant to guide the risk review, some NGOs identified the potential risk of platforms misinterpreting this concept, and therefore, in their view, further guidance is needed and express reference should be made to UNCRC General Comments Nos. 14 and 25.⁶⁰

Furthermore, respondents suggested that practical tools on how to conduct risk reviews,⁶¹ and having an orientation for online platforms on this aspect⁶² can be helpful. In this regard, the Draft Guidelines state that

⁵⁵ Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection (BMASGPK), Austria (Public authority).

⁵⁶ Meta Platforms Ireland Ltd., Ireland (Company/business).

⁵⁷ Ministry of Economic Affairs and Communications, Estonia (Public authority).

⁵⁸ Eva Lievens, Ghent University, Belgium (Academic/research institution).

⁵⁹ Simone van der Hof, Leiden University, Netherlands (Academic/research institution).

⁶⁰ Centre for Democracy and Technology Europe, Belgium (Non-governmental organisation); Save the Children, Belgium (Non-governmental organisation); COFACE Families Europe, Belgium (Non-governmental organisation).

⁶¹ Sandra Troia, Italy (EU citizen).

⁶² Federation of German Consumer Organisations / Verbraucherzentrale Bundesverband e.V. (vzbv), Germany (Consumer organisation).

additional guidance or tools may be issued by the Commission to support providers in conducting such reviews.⁶³

(ii) Harmonisation with other risk assessment obligations

The Draft Guidelines specify that *“For providers of VLOPs (and VLOSEs) this risk review should be carried as part of the general assessment of systemic risks under Article 34 of Regulation (EU) 2022/2065, which oftentimes will complement and go beyond the risk assessment pursued in accordance with the present guidelines.”*⁶⁴ With respect to the same, certain providers and their associations contended that to the extent that there are existing risk-assessment procedures mandated by Article 34 of the DSA that address children, a separate assessment should not be required.⁶⁵ Respondents also asked for clarity as to how systemic risks relate to the risk levels mentioned in the Draft Guidelines.⁶⁶

(iii) Demands for Stronger Measures

Certain respondents argued for stronger measures in relation to the risk review.⁶⁷ The Draft Guidelines state that the review should be conducted whenever providers make significant changes to their online platforms and that the providers should consider publishing the results of the review.⁶⁸ Respondents asked for the publication of the results to be mandatory⁶⁹ and for clarity on what constitutes ‘significant changes’.⁷⁰ It was also requested that the Draft Guidelines specify that the review is to be conducted periodically,⁷¹ and be executed in cooperation with independent experts in the field of child safety (among other relevant stakeholders).⁷² Concerns were raised that providers may downplay the risks posed by their platforms, and hence, measures such as mandatory submission of the risk review to the supervisory authorities should be there.⁷³

(iv) Safeguarding and Emphasising Positive Rights

In general, a number of respondents wanted the risk review section to emphasise the positive aspects that access to online platforms can provide to children,⁷⁴ especially the participatory rights of children.⁷⁵ This was on account of the concern that platforms would look more at the negative aspects while conducting the risk review to avoid liability, which could in turn lead to the exclusion of children. The Draft Guidelines state in this regard that one of the points to be identified during the risk review is the potential positive and

⁶³ Lines 200-203, Draft Guidelines.

⁶⁴ Lines 204-207, Draft Guidelines.

⁶⁵ LinkedIn Ireland Unlimited Company, Ireland (Company/business); Meta Platforms Ireland Ltd., Ireland (Company/business); DIGITALEUROPE, Belgium (Business association).

⁶⁶ Simone van der Hof, Leiden University, Netherlands (Academic/research institution).

⁶⁷ E.g. for social media platforms to be treated as high risk by default - Danish Ministry of Digital Affairs, Denmark (Other).

⁶⁸ Lines 198-199, Draft Guidelines.

⁶⁹ Hellenic Ministry of Digital Governance, Greece (Public authority); Commission nationale consultative des droits de l'homme (CNCDH), France (Other).

⁷⁰ Policia Judiciaria, Portugal (Public authority); The Danish Consumer Council, Denmark (Consumer organisation); ECPAT Deutschland e.V., Germany (Non-governmental organisation).

⁷¹ Hellenic Ministry of Digital Governance, Greece (Public authority).

⁷² Gesellschaft für Freiheitsrechte, Germany (Non-governmental organisation).

⁷³ Federal Office for the Enforcement of Children's Rights in Digital Services (KidD/BzKJ), Germany (Public authority).

⁷⁴ Laura Vandenbosch, University Leuven, Belgium (Academic/research institution).

⁷⁵ Children's Rights Alliance, Ireland (Non-governmental organisation).

negative effects on children’s rights of any proposed measure, because rights relating to child participation and expression could be adversely affected.⁷⁶ Furthermore, certain respondents said that the risk review should analyse the effects on all users and not just children, since the measures can have an impact on the fundamental rights of adult users as well.⁷⁷

6. SERVICE DESIGN

Section 6 of the Draft Guidelines covers various design elements aimed at fulfilling the obligations under Article 28(1). These measures are divided into seven categories, beginning with age assurance (Section 6.1) and ending with moderation (Section 6.7). The discussion under these different sections is presented below.

6.1. Age Assurance

The Draft Guidelines include a detailed section on age assurance and this is the section that has received the most feedback. The Draft Guidelines start by detailing age assurance concepts (Section 6.1.1) before providing guidance on how to determine whether to implement age assurance measures (Section 6.1.2). Thereafter, the discussion is on which methods of age assurance are to be employed (Section 6.1.3) and how to assess the effectiveness of such methods (Section 6.1.4). Briefly put, the Draft Guidelines state that the providers should assess whether age assurance is an appropriate and proportionate method for ensuring a high level of privacy, safety and security, and whether other measures listed in the guidelines can be used as an alternative to age assurance.⁷⁸ This is to ensure proportionality in any restrictions to the exercise of fundamental rights and freedoms.⁷⁹

The Draft Guidelines proceed to outline situations where different types of age assurance are considered acceptable. Age verification is considered an appropriate and proportionate measure when (i) EU or national law prescribes a minimum age to access certain products or services (e.g. sale of alcohol, access to pornographic or gambling content), (ii) terms and conditions or contractual requirements stipulate a user to be at least 18 years, because of identified risks to minors (even when no age limit is legally mandated), and (iii) other situations where providers have identified high risks to minors’ privacy, safety and security that cannot be mitigated by less intrusive measures.⁸⁰ Age estimation is considered an appropriate and proportionate measure when (i) terms and conditions or contractual requirements require a user to have a minimum age which is lower than 18 years (e.g. 16 years), showing the “*provider’s assessment of when the online platform is safe and secure for minors to use*”, and (ii) providers have identified at least medium risks to minors, which cannot be mitigated by less restrictive measures.⁸¹ It is also stated that self-declaration is not considered an appropriate method of age assurance to fulfil the obligations under Article 28(1).⁸²

There were several contrasting viewpoints aired by the respondents regarding age assurance, and the salient ones are as follows:

⁷⁶ Lines 190-195, Draft Guidelines.

⁷⁷ Gesellschaft für Freiheitsrechte, Germany (Non-governmental organisation).

⁷⁸ Lines 231-237, Draft Guidelines.

⁷⁹ Lines 238-239, Draft Guidelines.

⁸⁰ Lines 247-262, Draft Guidelines.

⁸¹ Lines 277-289, Draft Guidelines.

⁸² Lines 352-356, Draft Guidelines.

(i) Requirement for Age Assurance

There was substantial discussion and diverging views from the respondents regarding the need to implement age assurance. With respect to the appropriateness of the measures concerning age assurance in the Draft Guidelines, 156 respondents answered as depicted in Figure 5 below:

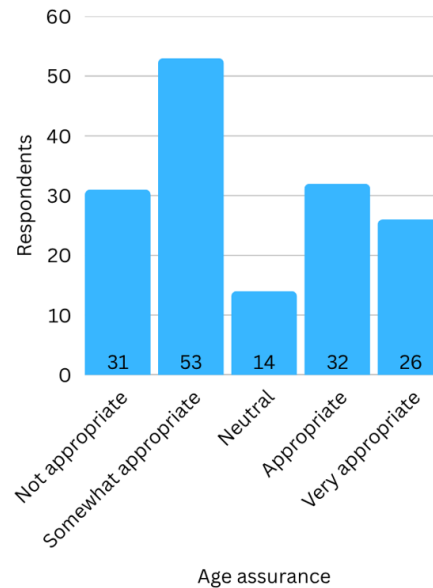


Figure 5: Responses on Appropriateness of age assurance measures

Thus, the overall trend leaned in favour of disagreeing with the appropriateness of age assurance measures. Respondents voiced opposition to mandating age assurance, citing the possibility of potential infringement of the rights of minors and adults, such as freedom of expression and privacy.⁸³ According to some civil society organisations (“CSO(s)”), placing the age assurance section at the forefront of the recommended measures in the Draft Guidelines should be avoided since it gives the impression that age assurance is seen as the primary measure for fulfilling the obligations under Article 28(1), and this could lead to exclusion of children.⁸⁴ Concerns were raised that considering age assurance an appropriate and proportional measure could be privacy intrusive to all users and could exclude users from platforms (e.g. due to lack of an ID document) thereby affecting their rights and freedoms.⁸⁵

However, several respondents supported age assurance as a useful tool for online protection of minors.⁸⁶ In fact, some respondents argued for further strengthening of the age assurance recommendations by, for instance, mandating age verification for social media platforms⁸⁷ and for all platforms that are not for minors

⁸³ Jacopo Franchi, Italy (EU citizen).

⁸⁴ Eurochild, Belgium (Non-governmental organisation); European Digital Rights (EDRi), Belgium (Non-governmental organisation).

⁸⁵ Sophie Stalla-Bourdillon, Brussels Privacy Hub, LSTS, VUB, Belgium (Academic/research institution); Amnesty International, Other (Non-governmental organisation); Electronic Frontier Foundation, Other (Non-governmental organisation).

⁸⁶ Federal Office for the Enforcement of Children's Rights in Digital Services (KidD/BzKJ), Germany (Public authority).

⁸⁷ Danish Ministry of Digital Affairs, Denmark (Other).

(regardless of whether there is a high risk).⁸⁸ Two public authorities asked that age assurance be required as a default for all platforms (subject to exceptional exemptions).⁸⁹ One public authority expressed conditional support for age verification, cautioning that the current practical limitations of such tools should not result in disproportionate impacts on privacy or user access.⁹⁰

(ii) *Clarity on risk levels, terms and conditions and other aspects*

As the Draft Guidelines associate the appropriateness of age verification and age estimation with high risk and medium risk situations respectively, certain respondents requested more clarity on how this assessment of risk levels is to be made.⁹¹ This ties in with a similar issue under the risk classification section discussed in this report (*see* Section 5(i)). One business association highlighted that the high vs medium risk classification might be difficult to operationalise given the complex digital landscape, and also asked for a third category on low or limited risk to be included.⁹² As regards assessing the effectiveness of age assurance methods, one respondent asked for the Draft Guidelines to specify that effectiveness should be analysed by providers based on the effectiveness of the whole age assurance process, as more than one method may be employed in the process.⁹³ Other respondents said that the age assurance section required more clarity on how to assess the effectiveness of age assurance systems and should contain benchmarks and standards on the same.⁹⁴

Another aspect highlighted by respondents is whether age verification is required when the terms and conditions specify the platform is for users 18 years or older. According to some respondents, the Draft Guidelines should not equate a platform having an 18+ restriction in the terms and conditions with the risks it poses to minors.⁹⁵ Such an age restriction in the terms and conditions might be present for e-commerce platforms, but requiring age verification would not be proportionate to the actual risk that children face from such platforms.⁹⁶ Similarly, one respondent opined that a minimum age below 18 should not imply that the platform is unsafe for younger users, as the age limit may reflect relevance rather than safety concerns.⁹⁷ Finally, certain respondents argued that the requirement for age verification where there is a legally prescribed minimum age to ‘access’ certain products or services should be interpreted as actual purchase or delivery (and not merely viewing the same) in the context of the sale of products in online marketplaces.⁹⁸

⁸⁸ Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection (BMASGPK), Austria (Public authority).

⁸⁹ Hellenic Ministry of Digital Governance, Greece (Public authority); Coimisiún na Meán, Ireland (Public authority); Autorità per le Garanzie nelle Comunicazioni – AGCOM, Italy (Public authority).

⁹⁰ Ministry of Economic Affairs and Communications, Estonia (Public authority).

⁹¹ Snap BV (legal representative of Snap Group Limited), Netherlands (Company/business); Children's Rights Alliance, Ireland (Non-governmental organisation).

⁹² European Tech Alliance, Belgium (Business association).

⁹³ TikTok Technology Limited, Ireland (Company/business).

⁹⁴ Homo Digitalis, Greece (Non-governmental organisation); Centre for Democracy and Technology Europe, Belgium (Non-governmental organisation).

⁹⁵ Amazon, Luxembourg (Company/business); Centre for Information Policy Leadership (CIPL), Belgium (Other).

⁹⁶ Eurochild, Belgium (Non-governmental organisation); Handelsverband Deutschland e.V., Germany (Business association).

⁹⁷ LinkedIn Ireland Unlimited Company, Ireland (Company/business).

⁹⁸ Bitkom e.V., Germany (Business association); Amazon, Luxembourg (Company/business).

(iii) Age verification vs Age estimation

While certain respondents were in favour of more preference being given to age verification than age estimation,⁹⁹ others were opposed to excluding age estimation for some situations, such as when platforms are only for adult users.¹⁰⁰ Certain respondents were in favour of mandating age verification rather than age estimation, even when the age requirement was for users below 18 years.¹⁰¹ Ultimately, according to some respondents, the question of when to use age verification and age estimation ties in with the effectiveness of any given method and there may be situations where age estimation is permissible but might not be accurate or robust enough to be appropriate.¹⁰²

However, some respondents opposed the implication in the Draft Guidelines that age verification is superior to age estimation, as estimation can provide a better outcome than verification, depending on how it is implemented.¹⁰³ In this regard, one public authority asked for age estimation to be acceptable for adult sites (e.g. accessing pornographic content), for instance, by using a safety margin (or age buffer) in the age limit¹⁰⁴. Certain companies argued that age estimation may be proportionate for high-risk services to avoid exclusion of minors.¹⁰⁵

(iv) Contentions on methods of Age Assurance

Regarding the different methods of age assurance discussed in the Draft Guidelines, there were several views advanced. At the outset, several entities suggested that the Draft Guidelines should not contain prescriptive requirements on when specific age assurance methods should be implemented, but should leave it to the platforms to contextually determine the appropriate and proportionate age assurance methods.¹⁰⁶ One company requested more guidance through specific examples and methodologies on the age assurance technologies that will be proportionate given the privacy implications.¹⁰⁷ Additionally, the following points were raised regarding specific age assurance methods:

- a. EU Digital Identity Wallet and EU age verification solution: The Draft Guidelines see the EU Digital Identity (“EUDI”) Wallet as a safe and privacy friendly method of age verification and note that the Commission is working on an EU age verification solution¹⁰⁸ to act as an example and benchmark while EUDI is being operationalized.¹⁰⁹ It is stated that while other age verification methods may be used, these other methods should have a level of verification equivalent to the EU age verification solution.¹¹⁰ Respondents said that these EU based solutions should be seen as one

⁹⁹ Hellenic Ministry of Digital Governance, Greece (Public authority); Simone van der Hof, Leiden University, Netherlands (Academic/research institution).

¹⁰⁰ die medienanstalten ALM GbR, Germany (Public authority).

¹⁰¹ Hellenic Ministry of Digital Governance, Greece (Public authority).

¹⁰² Eva Lievens, Ghent University, Belgium (Academic/research institution).

¹⁰³ Age Verification Providers Association, Other (Business association).

¹⁰⁴ Arcom (Autorité de régulation de la communication audiovisuelle et numérique), France (Public authority).

¹⁰⁵ Snap BV (legal representative of Snap Group Limited), Netherlands (Company/business).

¹⁰⁶ TikTok Technology Limited, Ireland (Company/business); Age Check Certification Scheme (ACCS), Other (Other); Match Group, Other (Company/business).

¹⁰⁷ Microsoft, Ireland (Company/business).

¹⁰⁸ Also referred to as ‘mini-wallet’ by some respondents.

¹⁰⁹ Lines 268-271, Draft Guidelines.

¹¹⁰ Lines 274-276, Draft Guidelines.

of the acceptable age verification solutions and not the primary method.¹¹¹ A few respondents highlighted that minors of different ages may not possess identification documents in all member states and could thus face digital exclusion.¹¹² Further, respondents asked for more clarity as to how other methods could be seen as equivalent to the EU age verification solution,¹¹³ and said that it was too early to consider such solutions as a benchmark with practical rollout.¹¹⁴

- b. Age estimation and profiling: Several respondents raised concerns about the use of AI-based methods, including online behavioural analysis for age estimation, as these could be privacy invasive.¹¹⁵ The concern was that extensive data collection would be justified on the grounds of age estimation,¹¹⁶ including processing of sensitive data.¹¹⁷ However, one company acknowledged the use of machine learning-based models to conduct age estimation in its services¹¹⁸ and another company argued in favour of the Draft Guidelines recognising such methods as a valid form of age estimation.¹¹⁹
- c. Use of third parties: The Draft Guidelines specify that the provider of an online platform is responsible for ensuring the effectiveness of their age assurance methods, even where third parties at the operating system or device level are used to implement age assurance.¹²⁰ One CSO mentioned that there should be more elaboration on the due diligence measures that providers should employ before engaging third parties.¹²¹
- d. Self-declaration for low-risk scenarios: Several respondents asked the Draft Guidelines to include a statement that self-declaration can be an effective measure in lower risk situations, especially when combined with other technical safeguards (e.g. strong default settings).¹²² According to respondents, this is because self-declaration can be more privacy-friendly and appropriate for smaller providers.¹²³

¹¹¹ Anitec-Assinform, Italy (Business association); euCONSENT ASBL, Belgium (Non-governmental organisation); Amazon, Luxembourg (Company/business).

¹¹² Children's Rights Alliance, Ireland (Non-governmental organisation); Snap BV (legal representative of Snap Group Limited), Netherlands (Company/business).

¹¹³ Age Check Certification Scheme (ACCS), Other (Other); Age Verification Providers Association, Other (Business association).

¹¹⁴ TikTok Technology Limited, Ireland (Company/business); Ministry of Economic Affairs and Communications, Estonia (Public authority).

¹¹⁵ Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection (BMASGPK), Austria (Public authority); Simone van der Hof, Leiden University, Netherlands (Academic/research institution); Sophie Stalla-Bourdillon, Brussels Privacy Hub, LSTS, VUB, Belgium (Academic/research institution).

¹¹⁶ Association For Computing Machinery, Belgium (Non-governmental organisation).

¹¹⁷ Electronic Frontier Foundation, Other (Non-governmental organisation).

¹¹⁸ Google, Ireland (Company/business).

¹¹⁹ Snap BV (legal representative of Snap Group Limited), Netherlands (Company/business).

¹²⁰ Lines 357-362, Draft Guidelines.

¹²¹ Centre for Democracy and Technology Europe, Belgium (Non-governmental organisation).

¹²² Middle Tech Europe, Belgium (Business association); AFNUM (Alliance française des industries du numérique), France (Business association); Anitec-Assinform, Italy (Business association).

¹²³ SaferInternet4Kids (Greek Safer Internet Center), SafeLine (Greek Hotline), Foundation for Research and Technology-Hellas (FORTH), Greece (Academic/research institution).

- e. Other methods: Certain respondents asked for the Draft Guidelines to recognise specific methods of age assurance such as payment card-based validation,¹²⁴ verified parental attestation,¹²⁵ and facial age estimation.¹²⁶ Some respondents argued in favour of mandating age assurance at the device level instead of at the platform level on the grounds that it is more effective.¹²⁷ This view was opposed by certain companies and regulators, stating that the responsibility should ultimately be that of the platform.¹²⁸

6.2. Registration

The Draft Guidelines mention certain measures that providers should implement when users register, such as explaining the benefits of registration and ensuring that it is easy for minors to log out and have their accounts deleted.¹²⁹ The responses regarding registration mostly related to comments associated with age assurance. 70 respondents answered the question on the appropriateness of registration measures, with the opinions being - Not appropriate (21 = 30%), Somewhat appropriate (12 = 17.1%), Neutral (9 = 12.8%), Appropriate (17 = 24.3%) and Very appropriate (11 = 15.7%), conveying mixed views. Certain respondents asked for the inclusion of a recommendation that providers assume unregistered users are minors and set up their settings accordingly.¹³⁰ Other respondents pointed out the data security threats related to registration.¹³¹

6.3. Account Settings

The Draft Guidelines state in Section 6.3.1 that default settings should be used to meet the obligations of Article 28(1) and to this end, *inter alia* several aspects such as autoplay of videos and hosting live streams should be off by default.¹³² Further, minors should not be nudged to alter their settings to lower levels of privacy, safety and security.¹³³ Section 6.3.2 provides that certain features and functionalities be removed for minors, for instance ensuring “*that minors cannot be easily found or contact by accounts they have not previously accepted as contacts*”.¹³⁴

With respect to the appropriateness of these measures, 97 respondents answered the question of which the responses were - Not appropriate (10 = 10.3%), Somewhat appropriate (30 = 30.9%), Neutral (13 = 13.4%), Appropriate (23 = 23.7%) and Very appropriate (21 = 21.6%). On one hand, certain respondents suggested that further measures be included under the features that should be off by default, e.g. having a minor’s

¹²⁴ Mastercard Europe, Belgium (Company/business).

¹²⁵ Apple, Ireland (Company/business).

¹²⁶ Yoti, Other (Company/business).

¹²⁷ Hammy Media Ltd, Cyprus (Company/business); Aylo Freesites Ltd., Cyprus (Company/business); Ecommerce Europe, Belgium (Business association).

¹²⁸ Google, Ireland (Company/business); Arcom (Autorité de régulation de la communication audiovisuelle et numérique), France (Public authority); Confederation of Industry, Czechia (Business association).

¹²⁹ Lines 363-378, Draft Guidelines.

¹³⁰ Federal Office for the Enforcement of Children's Rights in Digital Services (KidD/BzKJ), Germany (Public authority).

¹³¹ Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection (BMASGPK), Austria (Public authority).

¹³² Line 406, Draft Guidelines.

¹³³ Lines 430-431, Draft Guidelines.

¹³⁴ Lines 453-454, Draft Guidelines.

personal feed only “*display content from accounts that the minor actively follows*”.¹³⁵ With respect to the default deactivation of filters that can have detrimental effects on body image, self-esteem, and mental health,¹³⁶ one consumer organisation argued that such filters should not be available to minors at all.¹³⁷ The Draft Guidelines state that push notifications should always be off during core sleep hours.¹³⁸

On the other hand, some respondents called into question the practicality and necessity of the recommended measures. In their view, the measures on account settings should not be prescriptive and platforms should be left to determine them based on their given features and risks.¹³⁹ Regarding specific features, certain companies argued against having autoplay and push notifications off by default,¹⁴⁰ and contended that features contributing to ‘excessive use’ (e.g. ‘likes’ or ‘reactions’) should not be specified for being off by default without further evidence on the same.¹⁴¹ One respondent advanced that ‘ephemeral content’ that is portrayed as contributing to excessive use,¹⁴² can also have positive aspects such as being privacy preserving and encouraging minors to express themselves.¹⁴³ Apprehension was also raised regarding whether there was any correlation between the ‘is typing’ function and excessive use of platforms.¹⁴⁴

Further, the Draft Guidelines provide that the default settings should prevent recording of content uploaded or shared by the minor to the platform by others, through downloading or taking screenshots.¹⁴⁵ Technical feasibility of this was questioned by one respondent.¹⁴⁶ Some respondents highlighted that disabling this functionality might prevent situations where children take screenshots of problematic content to report the same to authorities and organisations.¹⁴⁷ As regards the requirement in the Draft Guidelines on limiting the ability for non-contacts to find minors’ accounts,¹⁴⁸ one company and one public authority said it may not be appropriate in all settings, such as for professional networks or when other minors want to contact other minors not in their contacts.¹⁴⁹

6.4. Online interface design and other tools

The Draft Guidelines lists out in Section 6.4 certain design measures that providers should implement, including preventing exposure to design features that can lead to excessive use¹⁵⁰ and providing effective time management tools.¹⁵¹ This is to allow minors to take control of their online experiences. 83 respondents

¹³⁵ Bundesministerium für Bildung, Familie, Senioren, Frauen und Jugend, Germany (Public authority).

¹³⁶ Lines 422-423, Draft Guidelines.

¹³⁷ Bundesarbeitskammer Österreich, Austria (Consumer organisation).

¹³⁸ Lines 407-408, Draft Guidelines.

¹³⁹ Microsoft, Ireland (Company/business); Google, Ireland (Company/business); Meta Platforms Ireland Ltd., Ireland (Company/business); DIGITALEUROPE, Belgium (Business association).

¹⁴⁰ Google, Ireland (Company/business).

¹⁴¹ TikTok Technology Limited, Ireland (Company/business).

¹⁴² Lines 414-416, Draft Guidelines.

¹⁴³ Centre for Information Policy Leadership (CIPL), Belgium (Other).

¹⁴⁴ Anonymous, France (EU citizen).

¹⁴⁵ Lines 400-401, Draft Guidelines.

¹⁴⁶ KidsUnplugged, Belgium (Non-governmental organisation).

¹⁴⁷ Swedish Agency for the Media, Sweden (Public authority); European Digital Rights (EDRi), Belgium (Non-governmental organisation).

¹⁴⁸ Lines 453-457, Draft Guidelines.

¹⁴⁹ LinkedIn Ireland Unlimited Company, Ireland (Company/business); Ministry of Economic Affairs and Communications, Estonia (Public authority).

¹⁵⁰ Lines 484-492, Draft Guidelines.

¹⁵¹ Lines 494-500, Draft Guidelines.

answered the question on the appropriateness of these measures, as Not appropriate (23 = 27.7%), Somewhat appropriate (12 = 14.5%), Neutral (10 = 12%), Appropriate (24 = 28.9%) and Very appropriate (14 = 16.9%). One respondent asked for more stringent measures to be introduced, such as a ban on all ‘for you’ feeds for minors.¹⁵² Respondents asked for stronger language on ‘persuasive design features’¹⁵³ and the explicit inclusion of ‘streaks’ under virtual rewards.¹⁵⁴

However, companies and business associations wanted a more flexible and risk-based approach to determine which design features should be employed, and voiced opposition to any outright bans because they consider certain features like autoplay important for user experience.¹⁵⁵ One business association said that features such as infinite scroll and scarcity can have different impacts based on the given platform, and can be useful, e.g. when employed by online retailers for consumers.¹⁵⁶ One respondent raised concerns that the broad language in the Draft Guidelines on design features aimed at engagement may blur the line between such features and those that simply make a game compelling and enjoyable.¹⁵⁷

6.5. Recommender systems and search features

The Draft Guidelines identify the impact that recommender systems have on the experiences of minors online and propose several measures for recommender systems and search features in Section 6.5. Among others, in Section 6.5.1 providers are asked to “*ensure that recommender systems do not rely on the ongoing collection of behavioural data*”¹⁵⁸ and to implement measures to prevent a minor from being repeatedly exposed to risky content.¹⁵⁹ Section 6.5.2 includes measures on user control and empowerment, *inter alia* requiring providers to allow minors the option to reset their recommended feeds on a permanent basis.¹⁶⁰ Regarding the appropriateness of the measures, 95 respondents answered as follows - Not appropriate (5 = 5.3%), Somewhat appropriate (22 = 23.2%), Neutral (7 = 7.4%), Appropriate (47 = 49.5%) and Very appropriate (14.7%). The respondents were thus mostly agreeable to the measures.

Certain respondents asked for the measures to be strengthened, for example by stating that implicit engagement-based signals based on behavioural data should not be used at all, and by making explicit user-provided signals the sole or main parameters for personalising content.¹⁶¹ It was suggested that the Draft Guidelines recommend that any recommender systems that rely on implicit user-based signals should be off by default.¹⁶² Other respondents asked the Draft Guidelines to make it explicit that platforms should

¹⁵² KidsUnplugged, Belgium (Non-governmental organisation).

¹⁵³ David Rodenas Pico, Spain (EU citizen).

¹⁵⁴ SaferInternet4Kids (Greek Safer Internet Center), SafeLine (Greek Hotline), Foundation for Research and Technology-Hellas (FORTH), Greece (Academic/research institution).

¹⁵⁵ Confederation of Industry, Czechia (Business association); AFNUM (Alliance française des industries du numérique), France (Business association).

¹⁵⁶ Ecommerce Europe, Belgium (Business association).

¹⁵⁷ PEGI s.a., Belgium (Business association).

¹⁵⁸ Lines 535-538, Draft Guidelines.

¹⁵⁹ Lines 551-556, Draft Guidelines.

¹⁶⁰ Lines 579-580, Draft Guidelines.

¹⁶¹ Children's Rights Alliance, Ireland (Non-governmental organisation); Federation of German Consumer Organisations / Verbraucherzentrale Bundesverband e.V. (vzbv), Germany (Consumer organisation).

¹⁶² Simone van der Hof, Leiden University, Netherlands (Academic/research institution); Eurochild, Belgium (Non-governmental organisation).

enable personalisation by, for example, providing deliberate prompts to minors to understand their interests.¹⁶³

However, some respondents stated that the current measures might be too strongly worded, especially since recommender systems could use behavioural data along with other criteria to provide relevant content to the user.¹⁶⁴ *Google* and some business associations pointed out that recommender systems and their personalisation through engagement signals also have positive aspects such as enhanced user experience and showing developmentally beneficial content.¹⁶⁵ One company asked for the prescriptive language to be removed on the ground that it deviates from the risk-based approach in Articles 34 and 35 of the DSA.¹⁶⁶ It was also pointed out by some respondents that content recommender systems and product recommender systems have different implications, and the platforms should be allowed to assess their own risks and implement relevant measures.¹⁶⁷

Certain respondents raised a concern that measures requiring protection of minors from risky content “*could lead to overblocking and restrictions of the freedom of expression and access to information*”¹⁶⁸ and that adequate safeguards are needed.¹⁶⁹ It was mentioned that further, the language on preventing exposure to content promoting ‘unrealistic beauty standards’¹⁷⁰ should be removed as it would be practically difficult to implement and could result in arbitrary content censorship.¹⁷¹

6.6. Commercial practices

Section 6.6 of the Draft Guidelines addresses protection of minors from economically exploitative practices. The recommended measures include preventing exposure of minors to hidden or disguised advertising¹⁷² and avoiding the use of intermediate virtual currencies.¹⁷³ 80 respondents answered the question on the appropriateness of the commercial practices measures, with the opinions being - Not appropriate (9 = 11.2%), Somewhat appropriate (25 = 31.2%), Neutral (8 = 10%), Appropriate (25 = 31.2%) and Very appropriate (13 = 16.2%). This reflects the relatively mixed views from the respondents with a slightly favourable view of the measures overall.

Certain respondents wanted this part of the Draft Guidelines to be further strengthened, e.g. by ensuring the restriction on excessive or unwanted spending¹⁷⁴ “*by setting standard spending limits for children's accounts and deactivating in-game purchases by de-fault*”.¹⁷⁵ Several respondents contended that measures relating to commercially exploiting children as content creators, i.e. sharenting and child influencers, should

¹⁶³ Amnesty International, Other (Non-governmental organisation).

¹⁶⁴ Ministry of Economic Affairs and Communications, Estonia (Public authority).

¹⁶⁵ Google, Ireland (Company/business); eco - Verband der Internetwirtschaft e.V., Germany (Business association); Anitec-Assinform, Italy (Business association).

¹⁶⁶ TikTok Technology Limited, Ireland (Company/business).

¹⁶⁷ Amazon, Luxembourg (Company/business); Ecommerce Europe, Belgium (Business association).

¹⁶⁸ Electronic Frontier Foundation, Other (Non-governmental organisation).

¹⁶⁹ Panoptikon Foundation, Poland (Non-governmental organisation).

¹⁷⁰ Lines 551-556, Draft Guidelines.

¹⁷¹ Centre for Democracy and Technology Europe, Belgium (Non-governmental organisation).

¹⁷² Lines 644-652, Draft Guidelines.

¹⁷³ Lines 654-657, Draft Guidelines.

¹⁷⁴ Lines 661-665, Draft Guidelines.

¹⁷⁵ Federation of German Consumer Organisations / Verbraucherzentrale Bundesverband e.V. (vzbv), Germany (Consumer organisation).

also have been addressed.¹⁷⁶ Certain respondents suggested that the Draft Guidelines look not only at the nature of the advertisement, but also at the volume.¹⁷⁷ Respondents raised the issue of AI-driven advertisements and wanted platforms to explain how the various potential biases in such advertisements will be addressed.¹⁷⁸

Regarding marketing by influencers, providers emphasised that platforms can only deal with marketing by influencers by providing the requisite transparency tools.¹⁷⁹ Other respondents also stated that the Commission should be careful not to inadvertently imply that marketing by influencers is always a hidden or disguised commercial practice, as this would only be the case where they conduct undisclosed product placements.¹⁸⁰

Clarity was also sought by respondents on aspects such as the meaning of ‘loot-boxes’ and ‘gambling-like features’.¹⁸¹ One regulator contended that loot boxes and random reward mechanisms are similar to games of chance and that the language in Section 6.6 should make it clear that these elements should not be accessible to minors even if there is separation or friction created with purchasing them.¹⁸² However, certain business associations in the gaming sector contended that restrictions on in-app purchases, loot boxes, and virtual currencies in the Draft Guidelines should be applied proportionately depending on whether platforms have already implemented robust protective measures through parental controls.¹⁸³ It was argued against any implication that the design measures discussed in this section are always manipulative.¹⁸⁴ Specifically regarding intermediate virtual currencies and random rewards, it was contended that these features are part of the fictional world created by video games to make the universe authentic and enhance the narrative for the players.¹⁸⁵ One respondent also stated that the Draft Guidelines should not ban these features but should propose safety measures on how they should be used.¹⁸⁶

6.7. Moderation

Section 6.7 of the Draft Guidelines deals with measures to moderate risks from content and behaviour online, including by defining what content is considered harmful for minors,¹⁸⁷ and considering human review for content that is viewed substantially more than average.¹⁸⁸ 76 respondents answered the question on the appropriateness of moderation measures, with the results reported as Not appropriate (18 = 23.7%),

¹⁷⁶ Ombudsman for Children and Adolescents, Grand-Duchy of Luxembourg, Luxembourg (Public authority); Eurochild, Belgium (Non-governmental organisation).

¹⁷⁷ 5Rights Foundation, Belgium (Non-governmental organisation).

¹⁷⁸ Tanja Petelin, De La Ville and S. Jehel, The ENUMINE research project consortium, France (Academic/research institution).

¹⁷⁹ Anitec-Assinform, Italy (Business association); AMETIC, Spain (Business association).

¹⁸⁰ Advertising Information Group (AIG), Other (Business association); European Advertising Standards Alliance (EASA), Belgium (Other).

¹⁸¹ Federal Office for the Enforcement of Children's Rights in Digital Services (KidD/BzKJ), Germany (Public authority); Bundesarbeitskammer Österreich, Austria (Consumer organisation).

¹⁸² Dirección General de Ordenación del Juego (Ministerio de Derechos Sociales, Consumo y Agenda 2030), Spain (Public authority).

¹⁸³ European Games Developer Federation (EGDF), Sweden (Business association).

¹⁸⁴ Video Games Europe, Belgium (Business association); Swedish Games Industry (Dataspelsbranschen), Sweden (Business association).

¹⁸⁵ Video Games Europe, Belgium (Business association).

¹⁸⁶ PEGI s.a., Belgium (Business association).

¹⁸⁷ Lines 684-690, Draft Guidelines.

¹⁸⁸ Lines 699-701, Draft Guidelines.

Somewhat appropriate (14 = 18.4%), Neutral (9 = 11.8%), Appropriate (25 = 32.9%) and Very appropriate (10 = 13.2%), reflecting mixed opinions and a slightly negative view overall.

Certain respondents highlighted the need for more specific measures regarding moderation. Measures recommended by respondents included prevention of out-linking, i.e. allowing links to direct users to other platforms which may have less moderation;¹⁸⁹ automatic moderation based on the nature of content;¹⁹⁰ stronger moderation teams and response times to flagged content;¹⁹¹ and blurring of private messages with age-inappropriate content.¹⁹² There were also calls for increasing the requirement for human moderation and making the requirement more prescriptive.¹⁹³ Respondents highlighted that the Draft Guidelines should clearly differentiate between illegal content and harmful content and define different types of content through a common taxonomy.¹⁹⁴ Further, the risks from extreme and violent content (other than explicit and sexual content) should be emphasised more in the guidelines, according to one respondent.¹⁹⁵

Clarifications in language were sought by respondents to emphasise in the Draft Guidelines that the moderation requirements should not amount to any obligation to generally monitor content on platforms.¹⁹⁶ One CSO raised privacy concerns regarding the moderation measures and argued that any scanning tools used for moderation should be carried out locally, on-device, without any information being shared with third parties.¹⁹⁷ A company expressed a reservation that the Draft Guidelines suggest giving precedence to human review and content moderation in some situations, which may not always be practical when considering the range of harms and risks faced online by minors and other users, while ensuring their privacy.¹⁹⁸ According to one respondent, consensual sexual content between minors should not to be impacted by content moderation.¹⁹⁹

7. REPORTING, USER SUPPORT AND TOOLS FOR GUARDIANS

Section 7 of the Draft Guidelines is separated into three sections on user reporting, feedback and complaints (Section 7.1), support measures for users (Section 7.2) and tools for supervision by guardians (Section 7.3).

7.1. User reporting, feedback and complaints

This section outlines measures that can enable minors to report and provide feedback on aspects of online platforms that may negatively affect them. The measures include the implementation of mechanisms that can allow minors to report content and activities that may be violative of the platform's terms and conditions,²⁰⁰ and prioritising the reports and complaints submitted by minors and providing them with a

¹⁸⁹ Autoriteit online Terroristisch en Kinderpornografisch Materiaal (ATKM), Netherlands (Public authority).

¹⁹⁰ Sebastian Nielsen, Sweden (EU citizen).

¹⁹¹ KidsUnplugged, Belgium (Non-governmental organisation).

¹⁹² Federation of German Consumer Organisations / Verbraucherzentrale Bundesverband e.V. (vzbv), Germany (Consumer organisation).

¹⁹³ Save the Children, Denmark (Non-governmental organisation).

¹⁹⁴ Simone van der Hof, Leiden University, Netherlands (Academic/research institution); INHOPE, Netherlands, (Non-governmental organisation); .

¹⁹⁵ Autoriteit online Terroristisch en Kinderpornografisch Materiaal (ATKM), Netherlands (Public authority).

¹⁹⁶ Ministry of Economic Affairs and Communications, Estonia (Public authority); eco - Verband der Internetwirtschaft e.V., Germany (Business association).

¹⁹⁷ European Digital Rights (EDRi), Belgium (Non-governmental organisation).

¹⁹⁸ Microsoft, Ireland (Company/business).

¹⁹⁹ Commission nationale consultative des droits de l'homme (CNCDH), France (Other).

²⁰⁰ Lines 735-739, Draft Guidelines.

timely and age-appropriate response.²⁰¹ In the Consultation Survey answers on the appropriateness of these measures, 78 respondents answered and opined that it is - Not appropriate (4 = 5.1%), Somewhat appropriate (25 = 32.1%), Neutral (5 = 6.4%), Appropriate (29 = 37.2%) and Very appropriate (15 = 19.2%). Thus, the majority of the respondents were amenable to the appropriateness levels. Some respondents asked for specific response times to be mandated for reports from minors²⁰² and for permitting non-registered users to file the various reports discussed in this section as well.²⁰³ One respondent suggested that reporting in an anonymous or confidential manner should be allowed for those who are deterred from reporting due to fear of repercussion.²⁰⁴

Certain companies argued that the priority required to be given for reports from minors²⁰⁵ may not be the correct approach since the focus should be on the nature and severity of the content reported and not on the identity of the reporter.²⁰⁶ They stated that such a prioritisation based on the user could lead to more serious content such as terrorism content or child sexual abuse material being relatively deprioritised.²⁰⁷ One company raised a concern that the measures in the section allowing any user to report content they deem inappropriate or undesirable for minors²⁰⁸ and allowing minors to provide feedback on aspects they find uncomfortable²⁰⁹ could be misused and can affect freedom of expression, apart from being difficult to implement.²¹⁰

7.2. User support measures

The Draft Guidelines provide certain measures that can be implemented by providers to assist and support minors during their engagement in online platforms, including having support tools allowing minors to seek help when encountering inappropriate content,²¹¹ and providing minors the ability to restrict users who can comment on the minors' content.²¹² 57 respondents answered the question on the appropriateness of the user support measures, with the opinions being Not appropriate (3 = 5.3%), Somewhat appropriate (19 = 33.3%), Neutral (4 = 7%), Appropriate (20 = 35.1%) and Very appropriate (11 = 9.3%). Thus, there was a slightly positive outlook on these measures. There were relatively few inputs on this section. Some respondents asked for more elaborate guidance relating to the interaction of AI with children,²¹³ which has been dealt with in Section 4(ii)(f) of this report.

²⁰¹ Lines 786-789, Draft Guidelines.

²⁰² Jacopo Franchi, Italy (EU citizen).

²⁰³ Sebastian Nielsen, Sweden (EU citizen).

²⁰⁴ Save the Children, Belgium (Non-governmental organisation); Verónica Donoso, EU Kids Online (EUKO), Other (Academic/research institution).

²⁰⁵ Lines 786-789, Draft Guidelines.

²⁰⁶ Meta Platforms Ireland Ltd., Ireland (Company/business); TikTok Technology Limited, Ireland (Company/business); Snap BV (legal representative of Snap Group Limited), Netherlands (Company/business).

²⁰⁷ Ibid.

²⁰⁸ Lines 739-742, Draft Guidelines.

²⁰⁹ 745-755, Draft Guidelines.

²¹⁰ Microsoft, Ireland (Company/business).

²¹¹ Lines 802-807, Draft Guidelines.

²¹² Lines 830-835, Draft Guidelines.

²¹³ Children's Rights Alliance, Ireland (Non-governmental organisation).

7.3. Tools for guardians

Tools for guardians are considered in the Draft Guidelines as a mechanism “to help guardians manage their minor’s online activity, privacy, safety and well-being”.²¹⁴ It is stated that these tools should be easy to use and must not be disproportionate to the minors’ rights to privacy and access.²¹⁵ The question on the appropriateness of these measures was answered by 71 respondents as follows - Not appropriate (6 = 8.5%), Somewhat appropriate (22 = 31%), Neutral (8 = 11.3%), Appropriate (21 = 29.6%) and Very appropriate (14 = 19.7%). This indicates that respondents held relatively mixed opinions, with a slight overall leaning in favour of the measures. Certain respondents asked for stronger measures to be implemented, such as mandating tools for guardians to have screen time regulation and spending limits, and allowing accessibility of the tools to guardians who are not users of the platforms.²¹⁶ There were also calls for creating a harmonised system for the various tools for guardians to make it easier for guardians to use and to ensure interoperability.²¹⁷

Some respondents expressed concern about the potential misuse of such tools by guardians.²¹⁸ The Draft Guidelines try to mitigate this by stating that minors should be notified of any such monitoring by guardians²¹⁹ and that the tools should not disproportionately impact the right to access of minors.²²⁰ Concerns were also raised by respondents regarding how platforms would authenticate whether a given person was in fact a guardian,²²¹ and how such determinations would be made in instances where there are multiple guardians (e.g. divorced parents who have opposing views).²²² Clarifications were sought by business associations to state that tools for guardians at the device level and at the platform level are complementary in nature.²²³

8. GOVERNANCE

Section 8 of the Draft Guidelines acknowledges good platform governance as an important part of fulfilling Article 28(1) obligations. This section addresses governance in general (Section 8.1), terms and conditions (Section 8.2), monitoring and evaluation (Section 8.3) and transparency (Section 8.4).

8.1. Governance (general)

This section lays down certain general measures for platform governance such as recommending that providers foster a culture of privacy, safety and security for minors on the platform, including by encouraging child participation in the design and operation of the platform.²²⁴ 67 respondents answered the question on the appropriateness of general governance measures, with the opinions being - Not appropriate (3 = 4.5%), Somewhat appropriate (17 = 25.4%), Neutral (8 = 11.9%), Appropriate (26 = 38.8%) and Very

²¹⁴ Lines 841-842, Draft Guidelines.

²¹⁵ Lines 853-854, Draft Guidelines.

²¹⁶ Bundesarbeitskammer Österreich, Austria (Consumer organisation).

²¹⁷ Autoriteit online Terroristisch en Kinderpornografisch Materiaal (ATKM), Netherlands (Public authority); DIGITALEUROPE, Belgium (Business association); Samsung Electronics, Other (Company/business).

²¹⁸ Anonymous, Belgium (Non-EU citizen); Anonymous, Germany (EU citizen).

²¹⁹ Lines 856-859, Draft Guidelines.

²²⁰ Lines 853-854, Draft Guidelines.

²²¹ Sebastian Nielsen, Sweden (EU citizen).

²²² Olivier Blazy, France (EU citizen).

²²³ AFNUM (Alliance française des industries du numérique), France (Business association).

²²⁴ Lines 885-891, Draft Guidelines.

appropriate (13 = 19.4%), showing a generally positive view among respondents. Though there was limited feedback on this section, business associations did suggest that these requirements should not be prescriptive for all platforms but should depend on the nature of the platform.²²⁵

8.2. Terms and conditions

These measures *inter alia* require platforms to specify in the terms and conditions regarding harmful content and behaviour,²²⁶ and to make it easy to find and search the terms and conditions.²²⁷ Fewer respondents answered the question on the appropriateness of terms and conditions measures, i.e. 29 respondents, with the opinions being Not appropriate (3 = 10.3%), Somewhat appropriate (5 = 17.2%), Neutral (2 = 6.9%), Appropriate (13 = 44.8%) and Very appropriate (6 = 20.7%). There was limited participation regarding these measures. There were requests to have potential spending limits based on age to be required to be prescribed in the terms and conditions.²²⁸ One company wanted more guidance on the interplay between these measures and Article 14 of the DSA dealing with terms and conditions.²²⁹

8.3. Monitoring and evaluation

This section deals with regular monitoring and evaluation by providers of the effectiveness of measures implemented to comply with Article 28(1)²³⁰ and regular consultation with stakeholders regarding the design and evaluation of the platform.²³¹ 42 respondents answered the question on the appropriateness of the measures in this section and opined as follows - Not appropriate (5 = 11.9%), Somewhat appropriate (8 = 19%), Neutral (3 = 7.1%), Appropriate (17 = 40.5%) and Very appropriate (9 = 21.4%). There was less feedback on this section, with some respondents asking for clear time frames with respect to the periodicity of monitoring and evaluation.²³² Further, there were calls for clarifying the role of academic researchers as the ‘relevant stakeholders’²³³ to be consulted by providers.²³⁴

8.4. Transparency

The section on transparency sets out how providers should convey to the minors in an accessible and easy-to-understand manner various types of information including the several aspects discussed in the Draft Guidelines, such as age assurance,²³⁵ recommender systems²³⁶ and reporting mechanisms.²³⁷ 52 respondents answered the question on the appropriateness of transparency measures, with the opinions being Not appropriate (4 = 7.7%), Somewhat appropriate (13 = 25%), Neutral (5 = 9.6%), Appropriate (20 = 38.5%) and Very appropriate (10 = 19.2%). There was little new feedback regarding this section. Some respondents

²²⁵ DIGITALEUROPE, Belgium (Business association); Confederation of Industry, Czechia (Business association).

²²⁶ Lines 929-932, Draft Guidelines.

²²⁷ Line 937, Draft Guidelines.

²²⁸ Bundesarbeitskammer Österreich, Austria (Consumer organisation).

²²⁹ TikTok Technology Limited, Ireland (Company/business).

²³⁰ Lines 947-952, Draft Guidelines.

²³¹ Lines 953-959, Draft Guidelines.

²³² Federal Office for the Enforcement of Children's Rights in Digital Services (KidD/BzKJ), Germany (Public authority).

²³³ Lines 953-959, Draft Guidelines.

²³⁴ Laura Vandenbosch, University Leuven, Belgium (Academic/research institution).

²³⁵ Lines 979-981, Draft Guidelines.

²³⁶ Lines 986-988, Draft Guidelines.

²³⁷ Lines 999-1000, Draft Guidelines.

sought more transparency obligations regarding the publication of outcomes of complaints and reports,²³⁸ and inclusion of information on placement-based advertising in advertising libraries.²³⁹

9. REVIEW

Section 9 of the Draft Guidelines states that the Commission will review the document as necessary and encourages the various stakeholders to provide their opinion on the document. As regards the potential review by the Commission of the final guidelines, certain respondents sought a fixed timeline for periodic review.²⁴⁰ It was also requested that a time period for providers to implement the measures in the guidelines (at least six months) be provided.²⁴¹

10. CONCLUSION

To conclude, the present report has undertaken an examination of the various views received during the targeted public consultation on the Draft Guidelines, with an attempt to be as exhaustive as possible. The diverse and often contrasting arguments of the respondents on several aspects underscore the complexity of today's digital environment and the varied risks and opportunities it presents for children.

²³⁸ Collective Shout, Other (Non-governmental organisation).

²³⁹ Goga Oana Inria, France (Academic/research institution).

²⁴⁰ Eva Lievens, Ghent University, Belgium (Academic/research institution); Catalan Audiovisual Council, Spain (Public authority); Ministry of Economic Affairs and Communications, Estonia (Public authority).

²⁴¹ TikTok Technology Limited, Ireland (Company/business).