

Comment on the European Commission’s Call for evidence for an initiative at the Digital Services Act – guidelines to enforce the protection of minors online (Ref. Ares(2024)5538916 – 31/07/2024)

The German Digital Opportunities Foundation¹ welcomes the European Commission’s initiative to issue guidelines on the protection of minors on the internet. These guidelines should provide recommendations and best practices to support online platform providers to reduce risks for children while ensuring a high level of protection for children. The guidelines should therefore be based on the Convention on the Rights of the Child and build on General Comment No.25 on children’s rights in relation to the digital environment. The best interests of the child must serve as a guiding principle for online platform providers to improve the protection of minors in their services.

While children use the services of online platform providers to stay in touch with family and friends, to play or engage, to learn or even to enjoy their leisure time, they are exposed to various risks that can lead to harm, e.g. solicitation by strangers, confrontation to explicit (sexual) content or commercial exploitation. Such risks can be increased by different dimensions of online activity. The ‘5C’ typology established by Livingstone and Stoilova is a comprehensive scheme to reflect these multiple dimensions. We encourage the European Commission to keep this model at the heart of the guidelines.

Against the background of the constantly evolving digital environment and the complexity of potential risks and harmful phenomena, the German federal legislator established the objective of personal integrity² in the second amendment of the Youth Protection Act in 2021. Although the term does not come with a final definition, an understanding of personal integrity has been established that includes the protection of physical and psychological integrity and personal data. In particular, the age-appropriate and future-open development as well as the informational and sexual self-determination of minors must be ensured. Conversely, processes or designs that exploit the inexperience and/or age of a child, economic exploitation and the commercial or other inadequate processing and dissemination of user data are contrary to the protection of personal integrity. This legal concept may also serve the European Commission’s guidelines to enforce the protection of minors online in order to adhere to the principle of the best interests of the child in digital environments.

Although the DSA, Art. 28, para 3 does not demand platform providers to collect additional data from their users, age assurance mechanisms can contribute to create age-appropriate digital environments for all users thus ensuring that persons of age can access adult content while children can enjoy their right to communicate with their peers without being at risk of sexual harassment and grooming. The VOICE³ study 2024 shows that children prefer measures of age verification that take their protection and their privacy into account. More than half of the children are open to the use of measures to verify their age, while some are concerned that the data required for this could also be used for other purposes. Therefore, it seems necessary to invest in the development of age verification methods that are reliable and accurate in verifying a user’s age, while respecting and protecting the user’s anonymity and privacy.

To evaluate whether children’s rights are properly taken into account by online platform providers, a Child Rights Impact Assessment tool should serve as the method of choice. This method will be able to

¹ <https://www.digitale-chancen.de/en/foundation/mission-statement-and-values> [24.09.2024]

² Krause, Torsten/Kretschmann, Yola/Yacob, Aaron (2022): On the Concept of Personal Integrity in the German Protection of Minors. <https://childrens-rights.digital/hintergrund/index.cfm/aus.11/key.1798/StartAt.1/page.1> [24.09.2024]

³ VOICE project (2024). Speaking up for change. Children’s and caregiver’s voices for safer online experiences. <https://kinderrechte.digital/transfer/assets/9375.pdf> [24.09.2024]

reflect whether the protection of children in the digital environment is enhanced by respecting or violating other children's rights, such as provision and participating. In addition, the CWA 18016 Age appropriate digital services framework⁴ will provide recommendations and best practices for creating platforms and services, which are child-friendly, safe and secure.

Berlin, 24.09.2024

⁴ CEN CENELEC (2023): Age appropriate digital services framework.
<https://kinderrechte.digital/transfer/assets/9291.pdf> [24.09.2024]