ECPAT International Response to the EDPB Guidelines on the Interplay between the Digital Services Act (DSA) and the General Data Protection Regulation (GDPR)

Brussels, October 2025

ECPAT International is the world's largest network dedicated to ending the sexual exploitation of children, with a membership of 142 civil society organisations in 115 countries. A cross-cutting theme of its work is the evolving relationship between digital technology and child sexual exploitation and abuse.

--

ECPAT International welcomes the European Data Protection Board's (EDPB) draft Guidelines 3/2025 on the interplay between the Digital Services Act (Regulation (EU) 2022/2065) and the General Data Protection Regulation (Regulation (EU) 2016/679).

The coherence of the DSA and GDPR is of vital importance for safeguarding children online. Children's rights to privacy, safety, and security are indivisible and must be prioritised in all cases of regulatory interpretation. This is fully in line with the UN Convention on the Rights of the Child and General Comment No. 25 (2021) on children's rights in relation to the digital environment.

We strongly support the EDPB's efforts to ensure that the GDPR's high level of protection is not weakened but reinforced through DSA enforcement, and we encourage the Guidelines to make explicit that children merit the highest level of protection (GDPR Recital 38).

General Observations

- **Children's rights as the benchmark**: The principle of the best interests of the child (UNCRC Art. 3) must guide the interpretation of proportionality and necessity across both frameworks.
- **Safety by design**: Data protection by design and default of GDPR Article 25 must be read together with DSA Article 28 on the protection of minors, obligating online platforms to establish measures that ensure a high level of privacy, safety, and security of minors and a child-appropriate service design.
- **Systemic accountability**: The DSA's obligations on systemic risk assessments (Articles 34–35) and independent audits (Article 37) should not be treated in isolation, but rather consistently connected with the GDPR's requirement to conduct data protection impact assessments (Article 35). Aligning these processes would ensure that platforms address risks to children's rights comprehensively, combining both systemic safety obligations and individual data protection safeguards.

Key Recommendations

1. Article 28 DSA – Protection of Minors

The EDPB should explicitly clarify that online platforms accessible to children must ensure the highest possible level of privacy, safety, and security in their services. In this regard, the obligations set out in Article 28 DSA on the online protection of minors must be firmly grounded in the GDPR's core principles governing the processing of personal data (Articles 5 and 6). While effective age assurance is necessary to safeguard children, invasive biometric or ID-based verification methods risk undermining the GDPR principles of proportionality and data minimisation (Articles 5 and 9). Instead, privacy-preserving solutions such as tokenisation, zero-knowledge proofs, and device-level checks should be encouraged. The EDPB should also stress that the "protective measures" required under Article 28(1) DSA must be realised through data protection by design, as required by Article 25 GDPR, to ensure child-appropriate defaults while avoiding exclusionary or overly restrictive "age-gating" practices.

2. Recommender Systems and Automated Decision-Making

Recommender systems (DSA Arts. 27, 38) significantly influence children's exposure to harmful content, including grooming communities. GDPR prohibits solely automated decisions that significantly affect users, including children (Article 22). The Guidelines should explicitly apply this to recommender systems. Platforms should provide minors with non-profiling-based recommender options (DSA Art. 38) as the default, presented neutrally and without manipulative nudging.

3. Systemic Risks and Risk Mitigation

DSA requires systemic risk assessment and mitigation (Arts. 34–35). These obligations should always be read alongside with the Data Protection Impact Assessment as defined in GDPR Art. 35. The EDPB should require that risk assessments explicitly cover potential and factual grooming, sexual exploitation, addictive design, and harmful online communities affecting children. Risk mitigation should be informed by engagement with child rights organisations, survivors, and academia, ensuring measures are proportionate and rights-respecting.

4. Deceptive and Addictive Design

DSA Art. 25 prohibits manipulative design ("dark patterns"), which must be enforced with GDPR Recital 39's fairness and transparency requirements. Children are particularly vulnerable to addictive features such as autoplay, infinite scroll, and nudging. The Guidelines should call for child-friendly interface defaults that prioritise wellbeing, aligned with GDPR Art. 5 (data minimisation, purpose limitation).

5. Advertising and Commercial Practices

DSA Art. 26 and GDPR Recital 38 both prohibit profiling of minors for commercial purposes. The EDPB should clarify that indirect profiling of children through family, peer, or contextual data is equally unlawful. The Guidelines should recommend stricter oversight of

advertisement placement to prevent exposure of minors to harmful or exploitative advertising, consistent with GDPR Arts. 6 and 9.

6. Governance and Regulatory Cooperation

We welcome the emphasis on cooperation, but stress the need to formalise structured collaboration between the European Data Protection Board (EDPB) and the European Board for Digital Services (EBDS), as foreseen under Article 61 of the DSA. To ensure coherence and avoid regulatory gaps, national Digital Services Coordinators (DSCs) and Data Protection Authorities (DPAs) should establish joint protocols that prevent forum-shopping or inconsistent enforcement, in line with the cooperation mechanisms under Articles 60–63 GDPR. Crucially, both supervisory bodies should integrate child rights expertise systematically into their oversight and decision-making, ensuring that the protection of minors remains central to regulatory practice.

7. Child Participation and Survivor Involvement

The Guidelines should explicitly require meaningful participation of children and survivors in the design, monitoring, and evaluation of DSA risk mitigation measures (DSA Arts. 34–35). This aligns with GDPR Recital 58, which stresses the need for information addressed to children in language they can understand.

Conclusion

The interplay between the DSA and GDPR offers a critical opportunity to raise the level of child protection across the EU digital environment. To achieve this, the EDPB should:

- Affirm that children merit the highest level of protection in all GDPR–DSA interactions (GDPR Recital 38).
- Clarify that obligations under DSA Article 28 on online protection of minors constitute a lawful basis for data processing (GDPR Art. 6(1)(c)).
- Require privacy-preserving, age-appropriate safety-by-design solutions (GDPR Art. 25; DSA Art. 28).
- Strengthen links between systemic risk assessments (DSA Arts. 34–35) and Data Protection Impact Assessments (GDPR Art. 35).
- Prohibit harmful recommender systems and profiling (GDPR Art. 22; DSA Art. 38).
- Ensure formalised cooperation between regulators (GDPR Arts. 60–63; DSA Arts. 49–50).

ECPAT International and its global network stand ready to provide evidence, technical expertise, and survivor-informed perspectives to support the EDPB and national authorities in the implementation of these Guidelines.