Submission of ASIC on the draft law on the protection of minors from risks arising from the use of social networks Notification No. 2026/0185/FR (hereinafter referred to as "the notified draft").

We share the French Government's fundamental goal underlying the notified draft to ensure the online world is a safe and enriching place for children and teenagers. The safety of young users is a profound responsibility, and for years, the member companies of this association have demonstrated a longstanding commitment to this goal, investing heavily in creating innovative safety features and dedicated, age-appropriate experiences.

However, while the objective is shared, the proposed path is fundamentally at odds with both European strategic goals and EU law.

Article 1 of the notified draft proposes to introduce a new Section 3 bis, entitled *"Protection of minors online*", into French Law No. 2004-575 of 21 June 2004 on Confidence in the Digital Economy. As indicated by the French authorities in their notification, the notified draft aims to prohibit minors under the age of fifteen from accessing **social networks deemed harmful to children's development**, while making access **to all other social networks** conditional on parental authorisation. More specifically, the notified draft distinguishes between two categories of services provided by an online platform and incorporating the functionalities of an online social networking service (hereinafter the "**social networking services**") and sets out corresponding requirements for each category:

- **First, social networking services listed as likely to be harmful to the physical, mental or moral development of children due to the nature of their content or the recommendation systems they employ (blacklisted social networking services)**: intermediary services falling within this category **are prohibited to minors under the age of fifteen.** The list of such social networking services is established by order of the Minister responsible for Digital Affairs issued following an opinion from the French Regulatory Authority for Audiovisual and Digital Communication (hereinafter "**ARCOM**" / French Digital Service Coordinator). Services which, as notified by ARCOM, substantially reproduce the content or recommendation systems of any services on that list shall be treated as equivalent to the listed services.

- **Second**, **all other social networking services – i.e. all social networking services** NOT **listed as likely to be harmful to the physical, mental or moral development of children due to the nature of their content or the recommendation systems they employ (non-blacklisted social networking services)**: intermediary services falling within this category **are accessible to minors under the age of fifteen subject to demonstration of prior express consent of at least one legal guardian**. Upon providing consent, legal guardians must be afforded the opportunity to specify particular conditions and limitations governing the access of the minor under their care, pertaining to: the nature of content accessible through the service, the maximum daily duration of access to the service, and authorized time slots for use.

It follows from the foregoing that France is contemplating the adoption of national measures significantly restricting minors' access to online platforms. In substance, these measures amount to a twofold technical mandate: on the one hand, a general

mandate for the systematic implementation of age verification solutions concerning all social networking services (blacklisted or not) and on the other hand, a general mandate for the systematic implementation of parental control mechanism for the non-blacklisted social networking services. These mandates will apply, irrespective of the actual risk level established through a targeted risk assessment.

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At a time when the Member States and the EU institutions are urgently calling for a truly harmonized Single Market to boost EU competitiveness, the notified draft actively promotes Single Market fragmentation and introduces mandates that are in direct violation of the DSA, GDPR and EU fundamental rights, that need to be addressed in the context of the TRIS notification.

As further developed in this submission, we urge postponing the notified draft, in line with Article 6 of Directive (EU) 2015/1535, to allow the Commission to make progress on work it is undertaking at EU level in relation to minors' safety online and potential access restrictions, including through the Special Panel on child online safety. In the event that the Commission does not exercise its power to postpone the notified draft, we submit that it is incumbent upon the Commission to issue, at a minimum, a detailed opinion requiring France to amend the notified draft so as to remedy its incompatibility with EU law, as detailed herein.

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I. RISK OF OVERLAP WITH ONGOING EUROPEAN-LEVEL WORK ON DIGITAL MAJORITY

As a preliminary observation, it should be noted that, while certain Member States[1], including France, are considering national measures to restrict social media access for children, several initiatives are already underway at EU level pursuing the same objective of strengthening the protection of minors online. For the reasons set forth below, and depending on the exact timetable for its decision on the matter covered by the notified draft, the Commission should give careful consideration to issuing a blocking decision postponing adoption of the measure contemplated by the French legislator[2].

The approach adopted by France to date, as evidenced in the notified draft, encompasses measures including **the outright blacklisting of certain social networks**. Such measures are wholly absent from work currently under way at Commission level, thereby creating a demonstrable risk of substantial divergence from anticipated policy options, in addition to incompatibility with existing Union law (see below III. and IV.).

Indeed, the expert panel mandated by President von der Leyen, the recommendations of which are expected by summer 2026[3] to enable the Commission **to determine appropriate legislative or non-legislative action**, is charged with examining key issues concerning the online safety of children in consistency with the risk-based approach set forth in the DSA and the Guidelines on Article 28. These issues include, inter alia: the establishment of a harmonized EU-wide age limit for social media platforms, the implementation of **tailored** protections commensurate with age and **risk profiles**, and the adoption of educational measures designed to promote responsible social media usage. In this context, work at EU level has already resulted in the adoption by the Commission, on 29 April 2026, of a Recommendation on establishing a common framework for EU wide Age Verification technologies[4]. Furthermore, it is worth highlighting that President von der Leyen stated on 12 May 2026 that the Commission should "consider a social media delay" and indicated that, depending on the panel's conclusions, a legislative proposal could be presented as early as this summer[5].

In addition, mention should also be made of the work of the European Parliament, which on 26 November 2025, adopted its own-initiative resolution on the protection of minors online (2025/2060(INI))[6]. At the core of that resolution is a call for a harmonised EU "*digital*

[1] Including Greece, Austria, Denmark, Spain
[2] Article 6 (3) to 6 (5) of Directive (EU) 2015/1535
[3] European Commission, *Special panel on child safety online*, available at: https://digital-strategy.ec.europa.eu/en/policies/panel-child-safety-online
[4] European Commission, commission recommendation of 29 April 2026 on establishing a common framework for EU wide Age Verification technologies, accessible at : https://digital-strategy.ec.europa.eu/en/library/commission-sets-out-common-approach-eu-wide-age-verification-technologies
[5] Keynote address by President von der Leyen at the European Summit on Artificial Intelligence and Children, available at: https://ec.europa.eu/commission/presscorner/detail/en/speech_26_1060
[6] European Parliament, resolution of 26 November 2025 on the protection of minors online (2025/2060(INI)), available at: https://www.europarl.europa.eu/doceo/document/TA-10-2025-0299_EN.html. The text, steered by rapporteur Christel Schaldemose (S&D, Denmark) in the Internal Market and Consumer Protection Committee (IMCO), was approved by 483 votes in favour, 92 against and 86 abstentions.

minimum age" of 16 for access to social media, video-sharing platforms and AI companions, with access prohibited below the age of 13 and made subject to parental consent for users aged 13 to 16[7]. While non-legislative and not legally binding, the resolution sets out the European Parliament's political priorities and expressly calls on the European Commission to follow up through concrete **legislative** and enforcement measures.

It follows that there is a significant risk that national legislative measures, and foremost the French notified draft which is the subject of this submission, would overlap with ongoing or forthcoming EU harmonisation efforts in the same field. Divergent national approaches may also result in an uneven level of protection for minors online across the Union, while creating fragmentation and legal uncertainty for service providers.

II. RISKS OF INCOMPATIBILITY WITH THE DSA AND THE GDPR

The measures provided for in Article 1 of the notified draft raises serious compatibility concerns under EU law, in particular in relation to Regulation (EU) 2022/2065 (the Digital Services Act, hereinafter the "**DSA**")[8] and to Regulation (EU) 2016/679 (the General Data Protection Regulation, hereinafter the "**GDPR**")[9].

II.1. The measures provided for in Article 1 of the notified draft raise serious concerns under the DSA, as they undermine its full harmonization effect and conflict with the risk-based approach and the proportionality principle established by the DSA.

By way of preliminary observation, it should be noted that the notified draft clearly falls within the scope of the DSA. The DSA is intended to establish "*a targeted set of uniform, effective and proportionate mandatory rules"* at Union level applicable to providers of intermediary services of the information society offered within the territory of the European Union, including hosting services, among which online platforms providing online social networking services are expressly covered[10]. This understanding is further reflected in the position taken by the French *Conseil d'État* which, in its advisory opinion of 8 January 2026 on the notified draft as introduced before the *Assemblée nationale*, expressly recommended, "*in line with the intentions of the author of the proposal*", that further clarification be provided by relying on the definitions set out in Article 3 of the DSA, in particular as regards the notion of "*online platform*"[11]. Moreover, this is also reflected in the notified draft itself, which expressly refers to Chapter IV of the DSA with regard to enforcement powers.

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[7] European Parliament, resolution of 26 November 2025 on the protection of minors online (2025/2060(INI)), point 28

[8] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)

[9] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

[10] Recitals 4 to 8 DSA

[11] Conseil d'Etat, Advisory opinion, Draft bill aimed at protecting minors from the risks to which they are exposed through the use of social media, 8 January 2026 : http://conseil-etat.fr/avis-consultatifs/derniers-avis-rendus/a-l-assemblee-nationale-et-au-senat/avis-sur-une-proposition-de-loi-visant-a-proteger-les-mineurs-des-risques-auxquels-les-expose-l-utilisation-des-reseaux-sociaux

First, the measures provided for in Article 1 of the notified draft undermine the full harmonisation effect of the DSA[12]. By reason of the full harmonization effect of the DSA, and in order to preserve the integrity of the Single Market for digital services, Member States are precluded from adopting national measures implementing the provisions of that Regulation, or measures that overlap with, conflict with, or impose stricter or more detailed requirements than those provisions[13].

If, as stated in the guidelines adopted by the Commission on measures to ensure a high level of privacy, safety and security for minors online pursuant to Article 28(4) of the DSA, Member States may introduce national laws which, in compliance with Union law, prescribes a minimum age to access certain products or services offered and/or displayed in any way on an online platform, including specifically defined categories of online social media services[14], the Commission expressly clarified that national measures for minimum age access **must not** result in the imposition of additional obligations on online platforms[15]. In that respect, most recently, the Commission restated that although Members States may introduce national laws which, in compliance with Union law, prescribe a minimum age to access certain products or services offered and/or displayed in any way on an online platform, such national measures **cannot** impose additional obligations on online platforms, **including** age verification obligations. This is because such obligations would undermine the full harmonisation effect of the DSA, given that the objectives pursued by those measures overlap with those already addressed by that Regulation[16].

With respect to the measures contemplated by France as reflected in the notified draft, there can be little doubt that their effect amounts to **a general mandate for the systematic implementation of age verification solutions**, notwithstanding that **no such general obligation is prescribed by the DSA**. Indeed, it follows from the wording of the notified draft - together with the explanatory statement of the amendment tabled before the *Assemblée nationale* [17] - that all social networking services, including those not considered likely to harm the physical, mental or moral development of minors (the non-blacklisted

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[12] Recital 9 DSA

[13] CJEU, Court, 7 Feb. 1973, Case C-39/72, *Commission v Italy*; CJEU, Court, 14 July 2011, Cases C-4/10 and 27/10, *Bureau national interprofessionnel du cognac v Gust. Ranin Oy*.
That interpretation was reiterated very recently by the Commission in its response to the French authorities following the notification of the draft law entitled "*Draft Law aimed at reducing the environmental impact of the textile industry*" (Notification No. 2025/0336/FR), accessible at: https://technical-regulation-information-system.ec.europa.eu/fr/notification/27032

[14] European Commission, Guidelines on measures to ensure a high level of privacy, safety and security for minors online, pursuant to Article 28(4) of Regulation (EU) 2022/2065, 7 October 2025, point 37 (d) accessible at: https://digital-strategy.ec.europa.eu/en/library/commission-publishes-guidelines-protection-minors

[15] European Board Digital Services Working Group 6 – Protection of Minors Ninth meeting, 9 September 2025, online meeting: *"Spain asked about the interaction between national age restrictions and DSA obligations. The Commission clarified that the DSA is a maximum harmonization regulation: member states can set social policy measures for minimum age access, **but** not additional obligations on online platform as compliance and enforcement fall under DSA rules."*

[16] European Commission, commission recommendation of 29 April 2026 on establishing a common framework for EU wide Age Verification technologies, point 21

[17] Amendment No. 37, tabled on 22 January 2026 and adopted on 26 January 2026 by the Assemblée nationale at first reading, available at: https://www.assemblee-nationale.fr/dyn/17/amendements/2341/AN/37 "*By setting this minimum age at 15, the amendment reflects this approach, **as platforms will be required to implement age-verification mechanisms to ensure the effective enforcement of this measure**."*

social networking services), would in practice be required to implement age-verification mechanisms.

In addition to the age verification solutions, it is important to highlight that the notified draft will have the effect of creating an obligation for non-blacklisted social networking services to **systematically implement parental control mechanism**. Again, **no such general obligation is prescribed by the DSA**. This directly results from the provisions of the notified draft subjecting access to these services to the collection of prior express consent of at least one legal guardian and requiring that upon providing consent, legal guardians must be afforded the opportunity to specify particular conditions and limitations governing the access of the minor under their care, pertaining to: the nature of content accessible through the service, the maximum daily duration of access to the service, and authorized time slots for use.

Second, the introduction of such additional obligations on social networking services conflicts with the risk-based approach and the proportionality principle resulting from the DSA. While the DSA requires platforms to implement enhanced measures for the protection of minors online, it favors a risk-based approach[18], allowing providers to determine, in light of the risks of minors' exposure to harmful content, the appropriate measures to be put in place.

In this respect, the Commission clarified, in its Guidelines under Article 28, that before deciding whether to put in place any access restrictions based on age, supported by age assurance methods, providers of online platforms accessible to minors should always conduct an assessment to determine whether such a measure is appropriate to ensure a high level of privacy, safety and security for minors on their service and whether it is proportionate, or whether such a high level may be achieved already by relying on other less far reaching measures. The Commission specified that such an assessment should ensure that any restriction to the exercise of fundamental rights and freedoms of the recipients, especially minors, is proportionate.

Accordingly, under the DSA, age verification is only one measure among others and is not mandatory. Providers remain responsible for selecting the measures most appropriate in light of the risks identified. It should be noted that if the European Commission clarified, in its Guidelines under Article 28, that the use of access restrictions supported by age-verification methods constitutes an appropriate and proportionate measure to ensure a high level of privacy, safety and security for minors where national or EU law imposes a minimum age for access to certain products or services offered by platforms[19], it does not amount to a general obligation to implement age-verification systems.

With respect to the measures contemplated by France as reflected in the notified draft, as explained above, their effect amounts to a twofold technical mandate: on the one hand, a **general mandate** for the systematic implementation of age verification solutions concerning all social networking services (blacklisted or not) and on the other hand, a

[18] Article 28 DSA ; Article 35 DSA

[19] Guidelines on measures to ensure a high level of privacy, safety and security for minors online, pursuant to Article 28(4) of Regulation (EU) 2022/2065, point 37

general mandate for the systematic implementation of parental control device for the non-blacklisted social networking services. These mandates will apply, **regardless of the actual risk level** as determined by an ad hoc risk assessment.

II.2. The introduction of such additional obligations on social networking services is liable to result in large-scale data collection, raising serious concerns under both the DSA and the GDPR. The notified draft would, in practice, require social networking services (blacklisted or not) to organize the large-scale collection of directly identifiable personal data, going significantly beyond the categories of data currently processed. This would concern, first, any user whether adult or minor, and, second, adults exercising parental authority over any identified minor seeking access to social networking services not included on the list established by the Minister responsible for Digital Affairs. Moreover, for the non-blacklisted social networking services, it would entail the collection of particularly **intrusive categories of personal data**, including information evidencing the parent-child relationship, as well as the identity of the adults or adults holding parental responsibility for the minor concerned.

Accordingly, the notified draft raises significant concerns regarding its compatibility with the principles of proportionality and data minimization under the GDPR[20], which require controllers to collect only the personal data strictly necessary in light of the purposes of the processing. That proportionality is all the more questionable given that, in practice, the age-verification obligations arising under the notified draft would apply across all social networking services, irrespective of the actual level of risk they generate. More significantly, the **parental authorization obligations** would apply to non-blacklisted social networking services, that accordingly, are presumed **not** to present risks liable to harm the physical, mental or moral development of minors. Such measures therefore carry **a significant risk of exceeding what is strictly necessary and proportionate.**

Furthermore, the notified draft appears to be incompatible with Article 28 of the DSA, which expressly provides that "*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*". The notified draft would therefore appear to require precisely the type of additional personal data processing that Article 28 of the DSA seeks to prevent.

Consequently, the notified draft conflicts with both the DSA and the GDPR.

[20] Article 5 (1) GDPR

III. RISKS OF INTERFERENCE WITH MINORS' FREEDOM OF EXPRESSION AND INFORMATION ONLINE

As a preliminary observation, it should be emphasised that around 97% of young people in the EU use the internet daily[21]. Moreover, social media platforms have also become young people's top source for information on political and social issues: in a Flash Eurobarometer survey in 2025, 65 % of respondents aged between 15 and 24 said social media was their main source of information[22]. A similar trend can be observed in France: according to ARCOM's barometer, social networking services, video platforms and AI tools have now become the main point of access to information for 54% of persons under the age of 25[23].

Accordingly, any limitations on minors' access to social networking services must be carefully calibrated and proportionate, in order to ensure that the objective of protecting minors is pursued **without unduly restricting their access to information and freedom of expression**, as expressed in the EU Charter of Fundamental Rights[24] and the Better Internet for Kids strategy[25]. In this context, the Commission, in its Guidelines on Article 28, requires providers of online platforms, when assessing the measures to be implemented in order to ensure a high level of protection for minors, to ensure that any restriction on the exercise of the fundamental rights and freedoms of recipients of the service, in particular minors, is **proportionate**[26].

With respect to the measures contemplated by France as reflected in the notified draft, it must first be observed that their practical effect is to establish **a general prohibition on unconditional access to social networking services by minors**, the latter being defined in particularly broad terms as online platforms incorporating the functionalities of an online social networking service. Accordingly, under no circumstance contemplated by the draft text may a minor access a social network **freely and without conditions**: access to blacklisted services **is outright prohibited**, while access to all other services – i.e. social networking services NOT listed as likely to be harmful to the development of children - **remains subject to prior parental consent**.

Not being limited to specific categories of social networking services likely to be harmful to the physical, mental or moral development of children, the measures are not specific enough and consequently **manifestly disproportionate**. Such an interference with

[21] Eurostat, "97% of young people in the EU use the internet daily", 15 July 2025, available at: https://ec.europa.eu/eurostat/web/products-eurostat-news/w/edn-20250715-1

[22] European Parliament, Social Media Survey 2025, available at: https://europa.eu/eurobarometer/surveys/detail/3592

[23] ARCOM, Digital Barometer – 2026 Edition, https://www.arcom.fr/se-documenter/etudes-et-donnees/etudes-bilans-et-rapports-de-larcom/barometre-du-numerique-edition-2026

[24] Article 24 EU Charter of Fundamental Rights

[25] European Commission, Communication from the Commisssion to the European Parliament, the Council, the European economic and social committee and the Committee of the regions, A Digital Decade for children and youth: the new European strategy for a better internet for kids (BIK+), 11 May 2022, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2022:212:FIN

[26] Guidelines on measures to ensure a high level of privacy, safety and security for minors online, pursuant to Article 28(4) of Regulation (EU) 2022/2065, point 32

minors' freedom of expression and information online cannot be justified as it fails to meet the test applicable under CJEU/ECHR case law[27]. France does not provide any evidence that a general mandate covering any and all social networking services would be necessary to tackle actual harm - this would indeed require demonstrating that all services at stake are actually harmful to minors and that no less restrictive alternatives are available. The overly restrictive nature of the measures results from the blanket restrictions imposed to minors: the fact that no platform with social functionalities will be accessible to minors freely and without conditions, thereby evidencing its disproportionate character. Finally, the very fact that the measures are not limited to specific categories of services legitimately raises concerns that they will encourage minors, unable to exercise their freedom of information and communication, to circumvent them, thereby directly undermining their effectiveness.

Consequently, the notified draft risks imposing a disproportionate interference with minors' freedom of expression, including their freedom to communicate and to seek and receive information.

Rather than penalizing minors' access to information through blanket bans, lawmakers should identify and mitigate the specific features and functionalities raising concern across services. This features-based approach is further complemented by the fact that the digital content itself is already stringently regulated through a comprehensive EU framework -including the DSA, the AVMSD, the CSAM Regulation, and the Terrorist Content Online (TCO) Regulation - rendering broad access restrictions redundant and legally excessive. By targeting specific features rather than broad service types, regulators can more effectively protect young users while preserving their fundamental rights to explore and learn in safe, age-appropriate digital environments.

IV. RISK OF DISCRIMINATORY SCOPING AND LEGAL UNCERTAINTY

As mentioned above, the notified draft regulates access by minors under fifteen to platforms incorporating the "functionalities of an online social networking service". However, the text fails to define which specific features trigger the law's application. This ambiguity extends the law's scope far beyond traditional social networks to any online platform with unspecified commonalities, leaving operators in severe legal uncertainty.

The notified draft does not establish objective, precise and foreseeable criteria for determining when an online platform is deemed to incorporate the functionalities of an online social networking service, which creates legal uncertainty for providers and a material risk of inconsistent or discriminatory enforcement.

Crucially, relying on a list of targeted providers to determine scope does not remedy this uncertainty, as such a list is inherently subject to change and, in any event, only relates to

[27] ECHR, 26 April 1979, Sunday Times vs. The United Kingdom, n° 6538/74, §45, CJUE, *Promusicae v. Telefónica* (C-275/06, 2008), CJUE, *Scarlet Extended v. SABAM* (C-70/10, 2011) and CJUE, *UPC Telekabel Wien* (C-314/12, 2014)

services banned and not those for which parental consent is required. Instead, it creates a risk of discriminatory treatment.

Furthermore, as social networking features are spread across diverse digital services, limiting these rules only to "online platforms" creates an uneven playing field. Without objective, precise, and predictable categorization criteria, comparable online services may face unjustified different regulatory burdens. This may notably result in situations where certain video-sharing platform providers, already subject to EU-level obligations concerning the protection of minors under the AVMSD Directive, become subject to additional national requirements solely because they are deemed to incorporate undefined "social networking functionalities", while other functionally comparable services remain outside the scope of the notified draft.