



**Subject: Children’s rights in the Artificial Intelligence Act**

02 May 2022

Dear Members of the European Parliament and Council of Ministers of the EU,

Artificial Intelligence (AI) systems are increasingly integrated into products and services used by or affecting children, without taking account their specific vulnerabilities and rights, and routinely exposing them to a wide range of risks.<sup>1</sup>

We – representing more than 2000 children’s rights organisations as well as parents’ and mental health stakeholder associations, and speaking on behalf of some 200 million children, parents and mental health professionals in the EU – urge you to remedy this situation and ensure children’s rights (as set out in the UN Convention on the Rights of the Child and elaborated in UNCRC General comment No. 25 as regards the digital environment<sup>2</sup>) are guaranteed across all AI systems likely to interact with or impact on children.

The AI Act offers a vision of what a responsible digital world looks like, aiming to ensure technology is developed and used in conformity with Union values and with a high level of protection for health, safety and fundamental rights – with particular attention for children. It builds on the global consensus that digital services that interact with or otherwise effect children must be designed with them in mind.

However, the absence of ex-ante risk assessments to determine which AI systems are high-risk for children is a critical weakness in the draft Act that will leave children exposed to a wide range of systems that negatively impact on their rights, health and safety. The risk associated with children interacting with AI systems is always substantially higher than when adults are concerned.

In addition, it will not be possible to meet one of the objectives of the Act (to prohibit practices that “exploit vulnerabilities of specific vulnerable groups such as children or persons with disabilities in order to materially distort their behaviour in a manner that is likely to cause them or another person psychological or physical harm”) without taking children’s developmental capacities, vulnerabilities, and lack of autonomy into account in the enforcement process.

We thus urge you in your scrutiny and amendment of the AI Act to:

1. Require a child risk assessment and, if necessary, child risk mitigation measures for all AI systems likely to interact with children or impact on children.<sup>3</sup> This process can be

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<sup>1</sup> See for example 5Rights’ [Disrupted Childhood](#) report or the interactive microsite [riskyby.design](#).

<sup>2</sup> UNCRC General Comment No. 25 (2021) on children’s rights in relation to the digital environment: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation>

<sup>3</sup> For an AI system to be “likely to be interact with or impact on children”, the possibility of this happening needs to be more probable than not. Whether a service is “likely to interact with children” will depend upon whether the content and design of the system is likely to appeal to children, and any measures in place to restrict or discourage their

specific to risks posed to children and need not entail a general risk management process as prescribed for AI systems more broadly considered "High-Risk".

2. Operationalise the ban on AI that exploits the vulnerabilities of children by applying the precautionary principle to the assessment of relevant systems, shifting the burden of proof from the child victim to the provider or operator of the AI system, and giving the Regulator a proactive duty to investigate AI systems on behalf of children, based on a clear criteria with a clear process.

Childhood is a time of experimentation and personal growth, and while no environment is entirely risk free, technology environments in which children socialise, learn and play must be designed in a way that minimises risk and gives children the privacy, safety and security to which they are entitled.

This basic principle has for far too long been ignored in the digital world, and children have paid an unacceptable price. We are counting on you to re-establish the primacy of children's rights, and lay the groundwork for a better digital future for all.

Sincerely yours,

  
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Kidron  
Chair, 5Rights  
Foundation

  
Victor Petuya  
President, European  
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Guillaume Landry  
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Eylah Kadjar,  
Secretary General ad  
interim of Terre des  
Hommes

  
Aagje Ieven  
Secretary General,  
Missing Children  
Europe

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access to the service. It does not entail a requirement of age assurance or monitoring of users. See: <https://ico.org.uk/for-organisations/guide-to-data-protection/ico-codes-of-practice/age-appropriate-design-a-code-of-practice-for-online-services/services-covered-by-this-code/#code4> Alternative language is that of the OECD Recommendation on Children in the Digital Environment and Guidelines for Digital Service Providers, which applies to services "where it is reasonably foreseeable they will be accessed or used by children".