

CCIA Europe Submission to TRIS Notification Procedure

Concerns regarding the Austrian draft law amending the EU's Audiovisual Media Services Act and the KommAustria Act

October 2026

Introduction

The Computer & Communications Industry Association (CCIA Europe) welcomes the opportunity to contribute to [TRIS notification procedure 2026/0405/AT](#), regarding the Austrian draft law amending the Audiovisual Media Services Act and the KommAustria Act (hereinafter referred to as the Austrian draft law). The Austrian draft law aims to enhance Austria's existing framework to protect minors by prohibiting access to certain video-sharing platforms (VSPs) for users under the age of 14.

CCIA Europe shares the Austrian Government's overall goal of ensuring the online world is a safe and enriching space for children. Our Members remain focused on strengthening safety settings, improving age-assurance tools, and providing age-appropriate experiences.

Nevertheless, the Association is concerned that the proposed Austrian law promotes fragmentation, introduces mandates that conflict with EU law – namely the Digital Services Act (DSA)¹ and the Audiovisual Media Services Directive (AVMSD)² and its country-of-origin principle, and disproportionately affects fundamental rights.

Moreover, the Austrian draft law addresses a problem that the European Commission has now expressly identified as requiring EU-level harmonisation. This risks perpetuating the regulatory fragmentation that the EU KIDS Act proposal³ seeks to eliminate. Concretely, the Austrian draft law proposes national legislation that:

- I. Overlaps with the proposed EU KIDS Act
- II. Conflicts with the Digital Services Act (DSA)
- III. Breaches the country-of-origin principle
- IV. Interferes with minors' fundamental rights and privacy

In light of all this, CCIA Europe calls on the Commission to issue a detailed opinion declaring the Austrian proposal incompatible with EU law and to request that Austria pauses its initiative pending ongoing negotiations on the EU KIDS Act.

¹ 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), available [here](#).

² Directive 2018/1808 of the European Parliament and of the Council of 14 November 2018 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities, available [here](#).

³ Proposal for a Regulation 2026/0286 of the European Parliament and of the Council on an EU KIDS Act - 'EU Keeping Internet Digital Spaces Accountable and Trustworthy', available [here](#).

I. Overlaps with the proposed EU KIDS Act

The recently proposed EU KIDS Act aims to establish a harmonised EU-level framework for the protection of children online. Member States should avoid introducing divergent national measures that risk creating regulatory fragmentation in this area.

Although the KIDS Act remains a legislative proposal and does not presently alter the legal obligations applicable to Member States, it is nevertheless relevant to this assessment as it reflects the Commission's proposed move towards EU-level harmonisation of age assurance, child safety, and platform-design requirements. If adopted substantially in the proposed form, this Act would establish directly applicable and harmonised requirements in areas currently addressed by the Austrian draft law.

The Commission expressly identifies the need for a common EU approach to age restrictions as a means of reducing divergent national rules and obstacles to the Single Market. Further, as established in Article 6 of Directive 2015/1535,⁴ Member States shall postpone the adoption of a draft technical regulation if the Commission finds that the draft concerns a matter where work at the European Union level is planned or already underway in the same field.

The Commission's proposal for an EU KIDS Act⁵ was developed under Article 114 of the Treaty on the Functioning of the European Union to establish a harmonised framework for protecting children online. To prevent future Single Market fragmentation, any national legislation regulating services in scope of the KIDS Act – including social media, VSPs, online games, AI companions, and app stores – to protect minors online should consider this emerging EU framework and be assessed against the potential fragmentation that the proposed framework is intended to address.

In the Explanatory Memorandum of the KIDS Act⁶, the European Commission mentioned Austria's notified draft law alongside other national initiatives as a primary source of legal fragmentation this proposed legislation aimed to tackle. As drafted, the Austrian law takes a substantially different approach from that proposed by the European Commission in the KIDS Act across several fundamental areas:

First, Section 54e(3)(5) of the Austrian draft imposes a rigid, feature-triggered access block that prohibits all minors under 14 years of age from accessing VSPs. In contrast, Article 6(1) and (2) of the EU KIDS Act establish a harmonised minimum age of 15 for autonomous account creation while explicitly allowing parents and guardians to set up supervised accounts with limited functionalities for adolescents aged 13 to 15. This means that, for 13- and 14-year-olds, the Austrian draft law strips guardians of this statutory discretion by imposing a blanket feature-based ban. This represents a material divergence between the

⁴ Articles 6(3) to 6(5) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, available [here](#).

⁵ European Commission proposal for a regulation on an EU KIDS Act - 'EU Keeping Internet Digital Spaces Accountable and Trustworthy' [here](#)

⁶ Proposal for a Regulation 2026/0286 of the European Parliament and of the Council on an EU KIDS Act - 'EU Keeping Internet Digital Spaces Accountable and Trustworthy', available [here](#).

two models and could become legally significant if the proposed Regulation is subsequently adopted in its current form.

Second, the proposed KIDS Act expressly contemplates a differentiated regime for child-specific services. Article 7 of the EU KIDS Act sets out a tailored, exception-based regime allowing guardian-controlled access for children under 13 on VSPs that are specifically designed for minors under 13. The Austrian draft law contains no specific provisions for child-friendly platforms. Depending on how the Austrian feature-based restrictions apply to such services, this could result in a materially different treatment of child-oriented services under the two frameworks.

Third, the proposed KIDS Act establishes an integrated EU enforcement architecture rather than a wholly separate national enforcement regime to avoid future overlaps and further duplication. However, as mentioned above, Sections 54i and 54j of the Austrian draft law empower KommAustria to unilaterally issue cross-border administrative decisions, payment blockades, and fines against platform providers established in other EU Member States. In contrast, Chapter VII (Articles 34-35) of the EU KIDS Act establishes a centralised enforcement structure integrated into the DSA and AI Act frameworks, granting the European Commission exclusive oversight over VLOPs and keeping primary jurisdiction with the Member State of main establishment. Crucially, Article 34(7) of the KIDS Act explicitly prohibits Member State authorities from adopting decisions that conflict with Commission enforcement. If the KIDS Act were adopted substantially in its proposed form, the compatibility of parallel national enforcement measures with its allocation of supervisory and enforcement responsibilities would require careful assessment, particularly when the provider is a VLOP subject to the Commission's DSA competences.

Finally, the Austrian draft law and the KIDS Act both mandate age verification, which not only raises significant privacy concerns (see Section IV of this submission), but also creates substantial risks of regulatory fragmentation due to their different mandated methods. The Austrian draft law mandates that age verification methods adhere strictly to domestic, financial-grade identification standards – specifically referencing the Austrian Financial Markets Money Laundering Act (FM-GwG) and the Online Identification Regulation (Online-IDV). By contrast, the KIDS Act establishes an EU-wide, centralised EU Age Verification Scheme based on zero-knowledge proofs (ZKP). The resulting divergence between the two approaches risks creating regulatory fragmentation and legal uncertainty for providers operating across the EU.

CCIA Europe believes that the KIDS Act provides important evidence of the Commission's intended direction of travel, especially towards EU-level harmonisation of age restrictions and age assurance. By adopting a substantially different approach, the Austrian draft law raises a significant regulatory-coherence concern. National legislators should refrain from enacting unilateral mandates and await the final adoption of the KIDS Act to avoid creating conflicting and overlapping rules.

II. Conflicts with the Digital Services Act (DSA)

Given the direct applicability of the DSA, Member States should avoid any overlapping requirements that relate to matters falling within its scope. Preventing duplication and fragmentation ensures an effective and harmonised protection of minors across Europe.

The DSA provides a harmonised framework for intermediary services, including for the protection of minors online. To this end, it introduces a number of requirements at EU level with the goal of ensuring a safe, predictable, and trusted online environment, including for minors, while effectively protecting fundamental rights enshrined in the Charter of Fundamental Rights and facilitating innovation.⁷ In respect of this full harmonisation of EU rules, Member States should not adopt or maintain additional national requirements that overlap with matters regulated under the DSA.

Additionally, particularly when it comes to the protection of minors, existing rules are also complemented by guidelines that the Commission developed under Article 28 of the DSA to ensure a safe online experience for children and young people.⁸ Member States should therefore refrain from adopting additional national requirements relating to matters falling within its scope⁹. In practice, the Austrian draft law raises a number of concerns.

Firstly, the draft law establishes a list of features considered harmful to minors as a basis for restricting access to platforms incorporating such features for minors under the age of 14. The DSA establishes a harmonised EU framework for the identification, assessment, and mitigation of systemic and child safety risks, particularly in Articles 28, 34 and 35 of the DSA.¹⁰ Against this framework, the Austrian draft law risks bypassing the DSA's risk-based and proportionate approach by treating the mere presence of specified platform functionalities as sufficient to establish that protection is not guaranteed and, consequently, triggering an access restriction for all users under 14. This risks creating an additional layer of substantive platform regulation alongside the DSA and may therefore undermine the overall goal of achieving a unified, safe and trustworthy single digital market.

Secondly, the draft law directly intersects with the DSA's regulation of recommender systems by imposing specific algorithmic thresholds (such as an algorithm recommending over one-third of content from outside a user's selected contacts) as a direct trigger for age blocking. The DSA already regulates recommender system transparency, algorithmic risk assessment, and systemic risk mitigation for Very Large Online Platforms (VLOPs) in Articles 27, 34, 35, and 38 of the Act¹¹. By establishing an additional algorithmic criterion absent from the DSA, to which the Austrian draft law attaches a major legal consequence if crossed, the draft law risks undermining the DSA's risk-based framework and creates legal uncertainty for digital services.

Thirdly, Section 54h(2a) of the Austrian draft law introduces fines of up to 6% of global annual turnover for providers designated as VLOPs under Article 33(4) of the DSA. However,

⁷ Charter of Fundamental Rights of the European Union, available [here](#).

⁸ European Commission's 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, available [here](#).

⁹ Recital 9 DSA.

¹⁰ In the DSA, Article 28 relates to the online protection of minors, applicable to providers of online platforms, while Arts. 34 and 35 relate to risk assessment and risk mitigation obligations applicable to providers of very large online platforms (VLOPs) and very large online search engines (VLOSEs).

¹¹ Articles 27 and 38 of the DSA relate to recommender systems, while Articles 34 and 35 relate to risk assessment and risk mitigation obligations applicable to providers of very large online platforms (VLOPs) and very large online search engines (VLOSEs).

the DSA already provides for a maximum penalty cap established in Article 52(3) and Article 74(1) of the DSA¹². By enacting a separate national law that applies an identical 6% penalty cap to platform design elements and minor protection measures, areas already covered under the DSA, the Austrian draft law creates a duplicate penalty regime. This exposes platforms to double jeopardy (*ne bis in idem*), directly violating the DSA's goal of avoiding overlapping national sanctions.

Additionally, the Austrian draft law also empowers a national audiovisual regulator to impose a fine, notwithstanding the DSA's harmonised enforcement framework and its specific allocation of supervisory powers concerning VLOPs. There is a clear risk of developing a parallel national enforcement track. This concern is particularly acute where the EU is simultaneously moving towards further harmonisation of age restrictions and child safety rules through the proposed KIDS Act.

III. Breaches the country-of-origin principle

Member States should avoid deviations from the country-of-origin principle that is at the core of the e-Commerce Directive, the AVMSD, and the DSA to guarantee a truly unified and operational EU internal market.

Consistent with the e-Commerce Directive¹³, the DSA and AVMSD¹⁴ uphold the country-of-origin principle as a cornerstone of EU law. Under this principle, EU Member States should not subject service providers which are not established in their country and regulated by another EU Member State to additional, abstract, and potentially onerous obligations under their national law.

The Austrian draft law asserts jurisdiction over VSPs aimed at users in Austria offered by a platform provider established in another EU Member State, as indicated in Article 1(4). By doing so, the draft law creates significant fragmentation and ignores the exclusive competence of the Member State of establishment enshrined in EU law.

While Article 3(4) of the e-Commerce Directive provides for exemptions from the country-of-origin principle, it states that these would only apply in specific circumstances, taking into account the prejudice – or serious and grave risk of prejudice – of the service to the objectives invoked to justify the restrictive measures. Crucially, Article 3(4) strictly requires case-by-case measures against a specific service provider. This has been reinforced by a recent Court of Justice of the European Union (CJEU) interpretation of the country-of-origin principle, which states that measures described in general terms and applying without distinction to any provider of that category of services are not eligible for an exemption¹⁵. However, the Austrian draft imposes general national age-gating

¹² Articles 53 and 74 of the DSA relate to penalties and fines.

¹³ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), available [here](#).

¹⁴ Directive 2018/1808 of the European Parliament and of the Council of 14 November 2018 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities, available [here](#).

¹⁵ CJEU 9 November 2023, case C376/22 (Kopl-G), ECLI:EU:C:2023:835, available [here](#).

requirements for all foreign VSPs deemed harmful to minors. CCIA Europe therefore considers that the Austrian draft law does not meet the criteria for an exemption.

Section 54i reinforces this concern. Although the Austrian draft law sets up a national procedure to request action from foreign authorities via the European Media Freedom Act (EMFA), it ultimately empowers Austrian authorities (KommAustria) to unilaterally issue binding administrative decisions, fines, and payment blockades against cross-border EU platforms, raising serious compatibility issues under the AVMSD's country-of-origin framework. Indeed, a horizontal procedural mechanism under the EMFA cannot by itself expand Austria's jurisdiction beyond the limits imposed by the AVMSD.

The draft law also raises a distinct concern under the DSA's country-of-origin principle. The enforcement of the DSA relies on a fully harmonised system of cooperation between the Digital Services Coordinators (DSCs) of the Member States, heavily relying on the country-of-origin principle where the Member State of the main establishment holds primary jurisdiction (Chapter IV DSA). The Austrian draft law empowers the Austrian national authority (KommAustria) to supervise the obligations imposed on VSPs and explicitly instructs KommAustria to notify the DSC of another Member State if a platform established there is suspected of non-compliance.

As established by the Commission in a recent detailed opinion¹⁶ regarding similar draft legislation, forcing a national authority to signal breaches by platforms established in other Member States duplicates and encroaches upon the fully harmonised cooperation rules set out in Articles 56 and 58 of the DSA and the country-of-origin principle, and therefore contradicts EU law.

Finally, the Austrian draft imposes an access restriction under which a VSP must prevent access by users under 14 where specified features are present. This raises the question as to whether such a measure constitutes a permissible child-protection requirement applicable to the service, or instead constitutes a restriction on the reception of a service originating in another Member State. Austria uses the CJEU's Baltic Media Alliance ruling¹⁷ to argue that mandating age verification merely regulates platform access without restricting retransmission.

However, while Baltic Media Alliance permitted commercial pay-to-view packaging where channels remained retransmitted, Austria's draft imposes conditional access bans blocking minors under 14, which are fundamentally different measures. Specifically, Baltic Media Alliance involved distribution modalities for linear broadcasting where the channel remained retransmitted and legally accessible to consumers. In contrast, Section 54e(3)(5) of the Austrian draft mandates complete technical access prohibitions that block minors under 14 whenever specific platform features are used. Consequently, Austria cannot rely on this ruling to circumvent the AVMSD's framework. Therefore, any exemption or derogation from the country-of-origin principle under the AVMSD cannot apply here. Attempting to enforce these technical access bans and administrative sanctions

¹⁶ See European Commission Opinion on the draft legislative provisions aimed at protecting minors from the risks to which they are exposed by the use of social networks, Notification 2026/185/FR, July 2026. Available [here](#).

¹⁷ Court of Justice of the European Union, Case C-622/17, Baltic Media Alliance Ltd v Lietuvos radijo ir televizijos komisija, Judgment of 4 July 2019, ECLI:EU:C:2019:566. Available [here](#).

cross-border against providers established in other EU Member States constitutes a direct breach of Article 28a(1) of the AVMSD.

If the Austrian regime permits KommAustria to impose additional obligations and sanctions on foreign-established VSPs, without remaining within the DSA and AVMSD frameworks, it risks creating parallel regulatory requirements for cross-border services. This proposed approach would result in significant legal fragmentation across the Single Market, forcing service providers established in other Member States to comply with a patchwork of national mandates.

IV. Interferes with minors' fundamental rights and privacy

The Austrian draft law disproportionately restricts minors' ability to access information and presents significant privacy and data protection risks, raising serious concerns regarding the compatibility of this draft law with the Charter of Fundamental Rights of the EU.

The right of minors to seek and receive information is protected by the European Convention on Human Rights (ECHR)¹⁸ – including the right to hold opinions and to receive and impart information and ideas – and Article 24 of the Charter of Fundamental Rights of the European Union¹⁹, according to which children possess explicit rights to express views freely.

By establishing a ban on VSPs, the Austrian draft law significantly limits the ability of users under 14 to engage with key digital spaces for education, civic participation, and communication. Given that the European Commission guidelines on Article 28 of the DSA specify that minor protection measures must preserve fundamental rights through proportionate means, categorical access bans directly conflict with these rights.

Rather than walling off entire platform environments for minors, CCIA Europe believes that safety-by-design risk mitigation under the DSA, complemented by digital education, media literacy, and empowered parental controls, offers a far more targeted alternative that protects minors while respecting their fundamental rights.

The Austrian draft law also presents concerns with regard to the protection of privacy and data protection rules. By requiring VSPs to collect large-scale data points of directly identifiable personal data in order to verify a user's age, the Austrian draft law appears to go beyond the principles of proportionality and data minimisation under the General Data Protection Regulation (GDPR)²⁰. These principles require controllers to collect only the personal data that is strictly necessary for the purposes of the processing.

Privacy implications are further compounded by Section 54e(3a) of the Austrian draft which requires platforms to re-verify age if there is “concrete evidence” that an account has

¹⁸ Article 10(1) of the European Convention on Human Rights states that “everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises”. Text available [here](#).

¹⁹ Charter of Fundamental Rights of the European Union (2000/C 364/01). Text available [here](#).

²⁰ Regulation (EU) 2016/679 of the European Parliament and of the Council 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), available [here](#).

changed hands or is shared. This risks leading to continuous, intrusive behavioural tracking or usage pattern monitoring for this sole purpose, directly compromising user privacy.

As mentioned in Section III of this submission, the Austrian draft law also takes a substantially different approach to age verification from the one proposed by the European Commission under the KIDS Act, which creates further risks for user privacy. CCIA Europe harbours serious privacy concerns regarding both mechanisms. While the KIDS Act's centralised scheme presents its own systemic data protection challenges, the divergence between the two approaches threatens to fragment standards across the EU,²¹ forcing users to submit identity proofs to multiple domestic third-party verification providers across different Member States. Multiplying the number of entities handling identity verification increases the overall surface area for data breaches and leaks.

The Austrian draft law therefore risks replacing a risk-based and proportionate approach to the protection of minors with broad access restrictions and intrusive age-verification requirements. In doing so, it raises concerns for minors' fundamental rights and users' privacy. A more proportionate approach would build on the safeguards already established under the DSA and preserve the GDPR's core data protection principles, while ensuring that any future EU-wide age-assurance framework remains harmonised and privacy-preserving.

Conclusion

CCIA Europe supports further strengthening safe internet experiences for users, especially for minors. However, by creating parallel enforcement regimes, breaching the country-of-origin principle, and fragmenting the Single Market, the proposed Austrian draft law is the wrong way to get there.

This is especially true when the European Commission just unveiled its proposed legislation in this field to ensure a single approach for the protection of minors in Europe. As required by Article 6 of Directive 2015/1535²², Member States must postpone the adoption of a draft technical regulation if the Commission finds that the draft concerns a matter where work at the European Union level is planned or already underway in the same field.

Therefore, CCIA Europe asks the Commission to issue a detailed opinion declaring the Austrian draft law incompatible with EU law, and requesting that Austria pause its initiative.

CCIA Europe and its Members remain committed to promoting a safe digital ecosystem for all users – paying particular attention to the needs of minors in the online space. Yet this can only be achieved through harmonised, future-proof policies that foster innovation while at the same time upholding the fundamental rights of all users, including the rights to privacy, freedom of expression, and information.

²¹ See differences set out in Section 1.

²² Articles 6(3) to 6(5) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, available [here](#).

About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA's Brussels-based team seeks to improve understanding of our industry and share the tech sector's collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

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