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Ministry of Children and Families
Department of Childhood, Youth and Family Affairs
P.O. Box 8036, Dep
0030 Oslo
Norway

Dear Sir/Madam

**Subject: Comments by the EFTA Surveillance Authority on notification
2026/9007/NO – on a minimum age for accessing social media**

1. Introduction

The notification 2026/9007/NO under the information procedure laid down in Directive (EU) 2015/1535 (“**the Single Market Transparency Directive**”), as adapted to the Agreement on the European Economic Area,¹ has prompted the EFTA Surveillance Authority (“**the Authority**”) to make these comments, pursuant to Article 5(2) of the Single Market Transparency Directive.

2. Background

On 8 May 2026, Norway submitted notification 2026/9007/NO concerning a draft Act on a minimum age for accessing social media (“**the draft act**”). The stated purpose of the draft act is to protect children from harmful effects of social media use. To meet this objective, the draft act stipulates that children should not have access to social media until the year in which they turn 16.

On 1 June 2026, the European Commission sent a request for information to the Norwegian Government, seeking some clarifications regarding the draft act. The Norwegian Government replied on 12 June 2026, following which the Authority held a virtual meeting with the European Commission and the Norwegian Government on 19 June 2026.

¹ Directive (EU) 2015/1535 of the European Parliament and 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, incorporated at point 1 of Chapter XIX of Annex II to the EEA Agreement.

3. The main content of the draft act

The draft act stipulates that *“Children should not have access to [harmful] social media until the year in which they turn 16”*.²

Social media are defined as *“information society services that allow users to create a profile and connect with other users”, and “that store and disseminate content uploaded by users to the public without editorial control over the content”*.³

Harmful social media are defined as *“a service that, through its design, features or content, may be harmful to children’s emotional, cognitive or health development or safety”*.⁴

The draft act stipulates that the *“Ministry may, by regulations, grant exemptions from the first and second paragraphs for certain services or categories of services [, as well as lay down supplementary provisions concerning what constitutes harmful social media pursuant to the third paragraph]”*.⁵

The draft act is intended to apply to social media services *“directed at the Norwegian market, or provided by entities established in Norway”*.⁶

The Authority has assessed the draft act against Directive 2000/31/EC (**“the e-Commerce Directive”**) and provides its comments in the following.⁷

4. Comments by the Authority

The Authority has identified concerns regarding compatibility of the draft act with the country-of-origin principle of the e-Commerce Directive, as well as regarding discretionary powers for the Norwegian Government mandated by the draft act.

Pursuant to Section 3 of the draft act, it is intended to apply to social media services *“directed at the Norwegian market, or provided by entities established in Norway”*.

Social media services fall within the definition of information society services as defined in Article 2(a) of the e-Commerce Directive, in as much as they constitute services provided at a distance, for a remuneration and by electronic means at the individual request of recipients.

The Authority notes that the draft act concerns the pursuit of the activity of an information society service and therefore falls within the coordinated field of the e-Commerce Directive, as set out in Articles 2(h) and 2(h)(i) thereof.

As the European Commission set out in its decision delivering comments on a French draft proposal aiming at establishing an age limit to access social media

² Section 4 of the draft act notified by Norway, Document 1605172.

³ Paragraph 1 of Section 2 of the draft act notified by Norway, as referenced above.

⁴ Paragraph 3 of Section 2 of the draft act notified by Norway, as referenced above.

⁵ Paragraph 4 of Section 2 of the draft act notified by Norway, as referenced above.

⁶ Paragraph 1 of Section 3 of the draft act notified by Norway, as referenced above.

⁷ Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market, incorporated at point 5m of Annex XI to the EEA Agreement.

services and raising similar concerns,⁸ according to Article 2(h)(i) of the e-Commerce Directive, the coordinated field concerns requirements with which the service provider has to comply in respect of, inter alia, the pursuit of the activity of an information society service, such as requirements concerning the behaviour of the service provider.⁹ In this regard, following the European Commission's comments, the Authority notes that the scope of the coordinated field as set out in Article 2(h) of the e-Commerce Directive is not to be restricted to the harmonised areas thereof.¹⁰ More particularly, the coordinated field covers all requirements laid down by national legal systems applicable to information society services.¹¹ The coordinated field also covers requirements for the provider of an information society service to set conditions for access to its service, by means of an obligation to provide information.¹² In particular, the Court of Justice of the EU has recently ruled that “[a] *mechanism for checking the age of users of an information society service allowing access to pornographic content is intended to set the conditions for access to that service by those users*”.¹³

Furthermore, Article 3(1) and (2) of the e-Commerce Directive establish the principle of control by the country of origin, according to which information society services may only be regulated at their source. Providers of such services are therefore, as a general rule, subject only to the law of the EEA State in which they are established (“**the country-of-origin principle**”).

In this respect, first, despite the clarifications provided by the Norwegian Government in the reply to the request for information from the European Commission to the effect that no obligations are imposed on providers of information society services but on users of these services, it is unclear from the wording of Section 3 of the draft act whether it may be interpreted as imposing obligations on providers. This is due to the fact that Section 3 of the draft act stipulates that it “**applies to social media services directed at the Norwegian market**, or provided by entities established in Norway” (emphasis added). Consequently, it is equally unclear whether the rules set out in the draft act create obligations applicable to providers of information society services established outside of Norway to ensure that minors are prevented from accessing social media services pursuant to Section 4 of the draft act, insofar as the draft act “applies to social media services”. Additionally, Section 4 of the draft act stipulates that “children should not have access to [harmful] social media until the year in which they turn 16”, which suggests that **access** to social media services should be controlled, indicating that the draft act in fact imposes obligations on social media providers, who are responsible for determining access to their services. Thus, even though the notified draft act does not set out that obligations to control access to social media are directly placed on providers, the wording suggests that the effect of its provisions could be that such obligations are applicable to the providers. Therefore, it should be clarified in the draft act that it will not impose obligations on

⁸ C(2026)4682 final.

⁹ C(2026)4682 final, p. 9.

¹⁰ Joined Cases C-188/24 and C-190/24 WebGroup Czech Republic, a.s. and Others v Ministre de la Culture and Others, EU:C:2026:492, paragraph 56.

¹¹ Judgment of 30 May 2024 in Joined Cases C-662/22 and C-667/22, Airbnb Ireland UC and Amazon Services Europe Sàrl v Autorità per le Garanzie nelle Comunicazioni, paragraph 54.

¹² Judgment of 16 June 2026 in Joined Cases C-188/24, C-190/24, WebGroup Czech Republic and Others, paragraph 67.

¹³ Judgment of 16 June 2026 in Joined Cases C-188/24, C-190/24, WebGroup Czech Republic and Others, paragraph 68.

information society providers established outside of Norway, as this would contravene the e-Commerce Directive and create barriers to the internal market.

Second, the draft act does not benefit from the exemption under Article 3(4) of the e-Commerce Directive. Article 3(4) defines the circumstances and procedures under which the EEA State of destination – *i.e.* the EEA State in which information society services are provided by a provider established in another EEA State – may derogate from the country-of-origin principle. The reasons are exhaustively listed in Article 3(4)(a) of the e-Commerce Directive. Such measures need to comply with the substantive and procedural requirements set out in its subparagraphs (a) and (b).

The case-law of the Court of Justice of the EU recalls the limits of the scope of Article 3(4) of the e-Commerce Directive. According to the case-law, measures of general and abstract application that are not limited to a specific information society service cannot benefit from the exemption provided for in Article 3(4) of the e-Commerce Directive.¹⁴ Should Section 3 of the draft act impose obligations on providers of information society services, it would constitute a general and abstract measure that will apply indiscriminately to domestic and foreign providers of information society services directing their services to Norway.

Therefore, should Section 3 of the draft act impose obligations on information society services, the draft act would not benefit from the exemption derogating from the country-of-origin principle provided for in Article 3(4) of the e-Commerce Directive, since it is a general measure and not a measure taken against a specific information society service. Furthermore, the procedure provided for under Article 3(4) would not have been followed.

In light of the above and in alignment with the European Commission's approach, to the extent that the draft act would not place any obligations on social media providers, the Authority considers that it would not fall within the coordinated field as defined by Article 2(h)(i) of the e-Commerce Directive. However, should the draft act include obligations concerning the pursuit of the activity of an information society service, it would fall within the coordinated field of the e-Commerce Directive, as set out in Article 2(h)(i) thereof. If applicable to providers of information society services offering their services on the Norwegian territory irrespective of the EEA State of establishment, the draft act would be contrary to Article 3(1) and (2) of that directive.

Last, the Authority notes that legal certainty is a fundamental principle of EEA law which may be invoked by individuals and economic operators.¹⁵ As stated by the EFTA Court, this principle requires that, in matters governed by EEA law, rules must be sufficiently clear and precise and their application predictable for those subject to them.¹⁶ The Authority notes that Section 2, paragraph 4 of the draft act empowers the relevant Ministry to grant exemptions for certain services or categories of services, *i.e.* to decide further whether a service or a type of service should be considered a social media service or not for the purpose of the draft act. This

¹⁴ Judgment of 9 November 2023 in Case C-376/22, ECLI:EU:C:2023:835, paragraphs 59 and 60.

¹⁵ Joined Cases E-4/10, E-6/10 and E-7/10 *Principality of Liechtenstein a.o. v EFTA Surveillance Authority*, [2011] EFTA Ct. Rep. 16, paragraph 156.

¹⁶ Case E-9/11, *EFTA Surveillance Authority v Kingdom of Norway*, [2012] EFTA Ct. Rep. 442, paragraphs 99-101; Joined Cases E-10/11 and E-11/11, *Hurtigruten ASA, The Kingdom of Norway v EFTA Surveillance Authority*, [2012] EFTA Ct. Rep. 758, paragraph 281.

provision also allows the Ministry to lay down supplementary provisions concerning what constitutes “harmful social media”. The Authority notes that this provision constitutes a general power for the Ministry to deviate from the draft act. This leaves substantial discretion to the relevant Ministry to further qualify information society services. The Authority is concerned that this provision undermines legal certainty and allows adoption of regulations that may result in barriers to the internal market without laying down specific conditions and requirements to exceptionally deviate from the draft act.

On that basis, and with reference to further regulations which would be adopted as exemptions and supplementary provisions by the Ministry based on Section 2, paragraph 4 of the draft act, the Authority would like to remind the Norwegian Government of its obligations in relation to the notification procedure provided for in the Single Market Transparency Directive.

The Authority also takes the opportunity to underline ongoing work on rules at EU level in relation to an age limit for minors to access social media services. In this context, national law could provide a transitional solution but should also envisage a mechanism to withdraw or repeal any national measures in the event that EEA rules in the field are adopted.

5. Final remarks

The Authority invites the Norwegian Government to take note of the comments presented in this letter.

The Norwegian Government is also invited to notify the Authority of the definitive text of the draft act once it has been adopted, in accordance with Article 5(3) of the Single Market Transparency Directive.

Furthermore, in the event that the Norwegian Government amends the draft act prior to its adoption, the Authority would like to draw the attention of the Norwegian Government to its obligations under paragraph 3 of Article 5(1) of the Single Market Transparency Directive. According to that provision: “[EEA] States shall communicate the draft technical regulation again [...] if they make changes to the draft that have the effect of significantly altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive.”

For the EFTA Surveillance Authority,

Yours faithfully,

Nuscha Wieczorek
Responsible College Member

This document has been electronically authenticated by Nuscha Wieczorek.