



AUSTRALIAN  
CHILD RIGHTS  
TASKFORCE

16 January 2023

Dear Commissioner,

*Re: Online Safety Codes for children, currently under consideration for registration.*

We write in relation to the Online Safety Codes for children currently under your consideration, to share our concerns, to indicate our support for not registering them where they are inadequate, and to request a meeting with you.

We are concerned that some of the Codes, particularly those dealing with Social Media and Relevant Electronic Services, will be inadequate for their intended purpose. While we have not seen the final versions from industry submitted to your office, the response from the industry drafters to our concerns suggests that a number of systemic issues remain.

Your office—rightly—describes the intent of the Online Safety Act as ‘raising the bar’ through the Basic Online Safety Expectations and cementing Australia as world leaders in ensuring online safety for users, including children. We believe that for the Codes to achieve this intent, two fundamental questions need to be asked. Firstly, *do these versions improve safety standards for Australian children from the current position, and secondly, do they match the standards enjoyed by children elsewhere in the world where their safety has been considered.* We do not believe that either question can be answered in the affirmative.

Neither the versions of the Social Media or Relevant Electronic Services Codes strengthen existing safety standards. Rather they appear to document the status quo and note practices that already happen. In some instances, the Codes commit companies to lower standards than they are already operating at. For example, many services that would be designated as Tier-2 in the Online Safety Code for Social Media routinely deploy CSEA/CSAM scanning technologies. However, under the Codes, they would not be required to do this. This does not raise the bar for online safety.

This would undermine Australia’s leadership in the Safety-by-Design space which has served to generate better practice with your guidance and support. Instead, these versions would permit and even authorise inadequate safety protections in services that Australian children use.

These versions do not offer the protection afforded to children in other settings in the world where their online safety has been considered. For example, young people’s accounts must be set to “maximum privacy” by default up until the age of 18 according to standards being established across Europe and in the United States. However, the current versions only suggest this default protection for children up to, and including, 15 years of age. This would leave a key group of Australian teenagers (16 & 17 year olds) less protected.

This is not an issue that can wait for a review of the *Privacy Act* and is a significant safety concern. Safety and privacy are connected experiences. Where a young person’s account is private, they are not recommended as ‘friends’ or as accounts to ‘follow’ to adult strangers. As

Meta found, 75% of all 'inappropriate adult-minor contact' on Facebook was a result of their 'People You May Know' friends recommendation system. An attempt to lock in lower standards while we wait for a review of the *Privacy Act* is an unacceptable approach to safety.

This is disappointing given that many of the platforms and products to be covered by the Codes currently offer stronger protections to children. The versions under consideration would allow these platforms and services to effectively 'turn off' safety features and options for children in Australia. This would be a weakening of online safety. We believe that this was not the intent of the Australian Parliament in the *Online Safety Act*, does not meet the expectations of the Australian community, and undermines the leadership that your Office has shown.

We understand the challenge of the decisions to be made and recognise the investment in time and resources from your Office throughout the drafting process. However, we do not believe that this investment is reflected in the current versions. These versions do not meet appropriate community safeguards, nor deal with the challenges and risks in an appropriate manner. It would not be in the best interests of Australian children to register them as the Codes. Your Office has worked to explain and support the improvement of safety standards for Australian children, including through your investigative and transparency powers. It would be entirely appropriate and consistent in advancing children's rights to safety online, to not register these versions until the questions that we have asked can be confidently answered in the affirmative.

The Taskforce and our community partners share these concerns and wish to support you in the next steps of the process. We would like to request a meeting with you to discuss these issues and how we can best provide that support.

Kind regards,

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