

The Senate

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Environment and  
Communications Legislation  
Committee

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Online Safety Amendment (Social Media  
Minimum Age) Bill 2024 [Provisions]

November 2024

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# Chair's Foreword

Social media offers young Australians opportunities for connection, learning, and creativity, but it is also a space fraught with risk. In an era where social media is as integral to daily life as the telephone or television once was, we must ask whether the environment it creates is fit for our most vulnerable citizens: our children and young people. Alarming, almost two-thirds of 14- to 17-year-olds report encountering extremely harmful content, including drug abuse, suicide or self-harm, as well as violent material, and a quarter have been exposed to material that promotes unsafe eating habits.<sup>1</sup> These statistics are not just numbers; they represent young lives affected in ways that can have enduring consequences.

Parents are at the frontline of these challenges. Research conducted by the eSafety Commissioner shows that 95 per cent of Australian caregivers consider online safety one of the hardest parts of parenting today.<sup>2</sup> The committee heard about the anxiety and even despair experienced by parents. Parents have describing feelings of being overwhelmed and unsure how to protect their children in a digital world evolving faster than most can comprehend. Their voices demand our attention and action.

The Online Safety Amendment (Social Media Minimum Age) Bill 2024 will amend the *Online Safety Act 2021* by introducing a minimum age of 16 to have an account on age-restricted social media platforms, protecting young Australians at a critical stage of their development. It reflects the Australian Government's commitment to holding platforms accountable for the safety of their users, particularly our young people.

The evidence presented to this inquiry, including findings from the eSafety Commissioner, is clear: there is no robust evidence that social media is safe for children under 16, and significant data points to the harms it can cause. Adolescence is a time of critical development, and the fact that social media introduces or increases risks of harm from cyberbullying, sextortion, predatory behaviours, misogyny and concentration difficulties must be addressed.

The committee also heard about the undeniable benefits of digital engagement and, indeed, the fact that not every interaction with social media is harmful. This bill aims to balance this with the need to mitigate the clear harms.

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<sup>1</sup> eSafety Commissioner, *Mind the Gap*, February 2022, pp. 69–70.

<sup>2</sup> *Explanatory Memorandum*, p. 2.

The Senate Inquiry process, though brief, was targeted and brought together a diversity of perspectives. It has also leveraged the work of other inquiries such as that of the Joint Select Committee on Social Media and Australian Society.

Finally, I want to acknowledge the broader societal task we face. Legislation is a necessary tool, but it is not a panacea. Addressing the complex intersection of technology, development, and wellbeing requires ongoing collaboration between government, industry, families, and young people themselves.

To that end, I wish to highlight the need to meaningfully engage with young people themselves through the implementation of the bill. Young people, and in particular diverse cohorts, must be at the centre of the conversation as an age restriction is implemented to ensure there are constructive pathways for connection.

This bill is not just about regulating platforms; it is about the safety and flourishing of Australia's children and adolescents. I urge my Senate colleagues as well as the industry to work constructively with the Government to ensure the wellbeing of future generations.

# List of recommendations

## Recommendation 1

2.105 The committee recommends that the Australian Government legislate a Digital Duty of Care to place a legal obligation on digital platforms to take proactive steps to protect their users.

## Recommendation 2

2.106 The committee recommends that the Australian Government meaningfully engage young people in the implementation of the legislation.

## Recommendation 3

2.107 The committee recommends that the Minister for Communications provide a progress report to the Parliament on the age assurance trial by no later than 30 September 2025.

## Recommendation 4

2.108 The committee recommends that the bill be amended to prohibit providers of age restricted platforms from compelling a person to use an accredited service within the meaning of section 9 of the *Digital ID Act 2024*, or other government ID such as passports, and must set out alternative methods for assuring age as reasonable steps with consideration given to the age assurance trial.

## Recommendation 5

2.109 The committee recommends that the Minister for Communications provide a commitment to setting the implementation date within 12 months, not later.

## Recommendation 6

2.110 The committee recommends that there be appropriate consultation on all rule making associated with the bill.

## Recommendation 7

2.111 The committee recommends that the Australian Government amend the review period for the legislation such that an independent review of the proposed new Part 4A of the *Online Safety Act 2021* is conducted within 18 months of the minimum age obligation taking effect.

**Recommendation 8**

**2.112 The committee recommends that the bill be amended to enable the Minister for Communications to have review power over any 'reasonable step' rules determined by the eSafety Commissioner.**

**Recommendation 9**

**2.113 Subject to consideration of the above recommendations, the committee recommends that the bill be passed.**

# Chapter 1

## Introduction

1.1 On 21 November 2024, the Senate referred the provisions of the Online Safety Amendment (Social Media Minimum Age) Bill 2024 (the bill) to the Environment and Communications Legislation Committee (the committee) for inquiry and report by 26 November 2024.<sup>1</sup>

### Conduct of the inquiry

1.2 In accordance with its usual practice, the committee advertised the inquiry on its website and invited submissions by 22 November 2024.

1.3 The committee published 107 submissions from organisations and individuals, which are listed in Appendix 1 and available on the committee's website.

1.4 A public hearing was held on 25 November 2024 in Canberra. A list of witnesses who gave evidence at the hearing is available in Appendix 2.

### Structure of the report

1.5 Chapter 1 outlines the context for the bill and conduct of the inquiry.

1.6 Chapter 2 sets out the key provisions of the bill. It summarises the perspectives on the bill and contains the committee views and recommendations.

### Acknowledgements

1.7 The committee thanks the organisations and individuals who made submissions to this inquiry, particularly given the tight timeframe.

### Financial impact statement

1.8 The Explanatory Memorandum (EM) stated that the measures in the bill are expected to have a minor financial impact on Commonwealth expenditure and will primarily require funding for the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) and the Office of the eSafety Commissioner (eSafety Commissioner).<sup>2</sup>

### Scrutiny of Bills Committee examination

1.9 At the time of writing, the bill has not been considered by the Senate Standing Committee for the Scrutiny of Bills.

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<sup>1</sup> *Journals of the Senate*, No. 142, 21 November 2024, p. 4321.

<sup>2</sup> *Explanatory Memorandum*, p. 7.

## Human rights compatibility

- 1.10 The EM to the bill stated that the bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.<sup>3</sup> The full statements regarding compatibility with human rights can be found attached to the explanatory memorandum for the bill.
- 1.11 At the time of writing, the Parliamentary Joint Committee on Human Rights had made no comment on the bill.

## Overview of the bill

### Purpose of the bill

- 1.12 The bill would amend the *Online Safety Act 2021* (Online Safety Act) with the aim of establishing a minimum age for social media use and placing responsibility on social media platforms for the safety of their users.<sup>4</sup>
- 1.13 The aim of the bill is to ‘help to mitigate the risks arising from harmful features that are largely associated with user accounts, or the ‘logged-in’ state, such as persistent notifications and alerts which have been found to have a negative impact on sleep, stress levels, and attention’.<sup>5</sup>
- 1.14 In this regard, the bill would set clear parameters similar to ‘other age-based laws that seek to limit or minimise access to known harms, such as for the sale of alcohol and cigarettes’.<sup>6</sup>
- 1.15 However, the bill also has mechanisms to ensure ‘that users under the minimum age retain access to platforms that predominately provide beneficial experiences, such as those that are grounded in connection, education, health and support’.<sup>7</sup>

### Background to the bill

- 1.16 Social media is ubiquitous in the modern world. The technology and associated digital spaces have and will continue to rapidly alter how we communicate, socialise, and gain access to news and information. While the benefits of social

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<sup>3</sup> *Explanatory Memorandum*, pp. 9–16.

<sup>4</sup> *Explanatory Memorandum*, p. 1.

<sup>5</sup> *Explanatory Memorandum*, p. 4.

<sup>6</sup> *Explanatory Memorandum*, p. 3.

<sup>7</sup> *Explanatory Memorandum*, p. 3.

media are many and integral to life today's world, social media is also home to harmful content and products.<sup>8</sup>

1.17 The EM stated that the use of social media by young people is a complex issue, as:

- no two children's experiences on social media are the same;
- social media services vary greatly in their primary purpose and design features, and therefore present a different level of risk to end-users; and
- children also vary substantially in how they use social media, including which platforms they access, the content and communities they engage in, and the digital features they are exposed to.<sup>9</sup>

1.18 A recent survey conducted by the eSafety Commissioner found that 95 per cent of caregivers reported that 'children's online safety is the hardest parenting challenge they face'.<sup>10</sup>

1.19 And yet, as stated in the EM, the current business model of social media companies creates an incentive for them to maximise user engagement with, and time spent on, their platforms.<sup>11</sup>

1.20 Indeed, the recent final report of the Joint Select Committee on Social Media and Australian Society tabled on 18 November 2024 found that in Australia, approximately 81 per cent of the total population were active users of social media in 2023:

Significant amounts of time each month are spent by users on social media platforms such as Facebook, Instagram, and TikTok, for social connection, communication, entertainment, news, and information.<sup>12</sup>

1.21 Further, that report stated that social media companies do whatever they can to stop users from logging off by using 'opaque algorithms that keep users scrolling, continuously feeding them what they think they want to see, even if it's harmful'.<sup>13</sup>

1.22 These matters appear to be particularly problematic for users under 15 years of age:

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<sup>8</sup> Joint Select Committee on Social Media and Australian Society, Chair's Foreword, *Final report*, 18 November 2024, pp. ix-x; The bill, *EM*, p. 3.

<sup>9</sup> *Explanatory Memorandum*, p. 1.

<sup>10</sup> *Explanatory Memorandum*, p. 2.

<sup>11</sup> *Explanatory Memorandum*, p. 1.

<sup>12</sup> Joint Select Committee on Social Media and Australian Society, Chair's Foreword, *Final report*, 18 November 2024, p. ix.

<sup>13</sup> Joint Select Committee on Social Media and Australian Society, Chair's Foreword, *Final report*, 18 November 2024, p. ix.

A United Kingdom (UK) study published in 2022, which examined longitudinal data from more than 17 400 participants, found that adolescent social media use is predictive of a subsequent decrease in life satisfaction for certain developmental stages including for girls aged 11 to 13 years old and boys 14 to 15 years old.<sup>14</sup>

### **Current minimum age of access**

1.23 The current minimum age of access under the Terms of Service of all major social media services is 13 years. This stems from the 1998 decision by the United States (US) Congress in the *Children's Online Privacy Protection Act*, which prohibits websites from collecting information on children younger than 13 years without consent.<sup>15</sup>

### **Provisions of the bill**

1.24 This section sets out an overview of the key provisions of the bill.

### **Reasonable steps**

1.25 The bill would introduce 'an obligation on providers of an age-restricted social media platform to take reasonable steps to prevent age restricted users from having an account with the platform'.<sup>16</sup>

1.26 The bill would put the onus 'on platforms to introduce systems and processes that can be demonstrated to ensure that people under the minimum age cannot create and hold a social media account'.<sup>17</sup>

1.27 The EM states that age-restricted social media platforms must be able to demonstrate having taken reasonable steps to prevent age-restricted users from 'having an account'.<sup>18</sup>

1.28 While the bill does not dictate how platforms must comply with the minimum age obligation, the EM does set out provide some expectations:

...it is expected that at a minimum, the obligation will require platforms to implement some form of age assurance, as a means of identifying whether a prospective or existing account holder is an Australian child under the age of 16 years. Whether an age assurance methodology meets the 'reasonable steps' test is to be determined objectively, having regard to the suite of methods available, their relative efficacy, costs associated with their

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<sup>14</sup> *Explanatory Memorandum*, pp. 1–2.

<sup>15</sup> *Explanatory Memorandum*, p. 1.

<sup>16</sup> *Explanatory Memorandum*, p. 2.

<sup>17</sup> *Explanatory Memorandum*, p. 2.

<sup>18</sup> *Explanatory Memorandum*, p. 4.

implementation, and data and privacy implications on users, amongst other things.<sup>19</sup>

- 1.29 The EM also advises that the outcomes of the Australian Government's age assurance trial 'are likely to be instructive for regulated entities and will form the basis of regulatory guidance issued by the Commissioner, in the first instance'.<sup>20</sup>
- 1.30 Further, the EM notes that 'reasonable steps' is a standard that has been imposed for the purpose of demonstrating compliance and features in national security legislation, privacy law, and elsewhere in the Online Safety Act.<sup>21</sup>

### **Age-restricted social media platform**

- 1.31 The bill introduces a new term to the Online Safety Act, 'age-restricted social media platform'.<sup>22</sup>
- 1.32 The EM notes that the definition of this term largely draws on the existing meaning of 'social media service' in section 13 of the Online Safety Act. However, the bill would expand the 'sole or primary purpose' test to a 'significant purpose' test when examining whether a service enables online social interactions between 2 or more users.<sup>23</sup>
- 1.33 The EM also notes that this definition will not apply to other parts of the Online Safety Act, with the existing definition in section 13 remaining in effect.<sup>24</sup>

### ***Regulatory instruments***

- 1.34 The bill provides flexibility to reduce the scope or further target the definition. This flexibility would occur through delegated legislation in the form of disallowable legislative rules made by the Minister for Communications.<sup>25</sup>
- 1.35 In exercising the rule-making power, the Minister will be required to seek and have regard to advice from the eSafety Commissioner and may also seek advice from other relevant Commonwealth agencies.<sup>26</sup>
- 1.36 Rule-making powers are also available to:

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<sup>19</sup> *Explanatory Memorandum*, p. 3.

<sup>20</sup> *Explanatory Memorandum*, p. 3.

<sup>21</sup> *Explanatory Memorandum*, p. 4.

<sup>22</sup> *Explanatory Memorandum*, p. 3.

<sup>23</sup> *Explanatory Memorandum*, p. 3.

<sup>24</sup> *Explanatory Memorandum*, p. 3.

<sup>25</sup> *Explanatory Memorandum*, p. 3.

<sup>26</sup> *Explanatory Memorandum*, p. 3.

- provide additional conditions that must be met in order to fall within the definition of age-restricted social media platform; and
- respond to emerging technologies and services that are relevant to be considered or captured by the definition.<sup>27</sup>

1.37 The EM advises that the Government proposes to make legislative rules to exclude the following services from the definition of age-restricted social media platforms before the minimum age obligation becomes law:

- messaging apps
- online gaming services
- services with the primary purpose of supporting the health and education of end-users.<sup>28</sup>

### ***Regulated activity***

1.38 The EM states that regulating the act of having an account would ‘prevent age-restricted users from accessing the content and features that are available to signed-in account holders on social media platforms’.<sup>29</sup>

1.39 The EM states that the obligation would not affect user access to ‘logged-out’ versions of a social media platform and provided the following examples:

- ...the obligation would not affect the current practice of users viewing content on YouTube without first signing into an account; and
- similarly, Facebook offers users the ability to view some content, such as the landing page of a business or service that uses social media as their business host platform, without logging in.<sup>30</sup>

### **Penalties**

1.40 The bill would create new civil penalty provisions and require age-restricted social media platforms to take reasonable steps to prevent age-restricted users from having an account.<sup>31</sup>

1.41 A failure by the provider will be subject to 30 000 civil penalty units (currently equivalent to \$9.9 million). This increases to 150 000 penalty units (currently equivalent to \$49.5 million) if the provider is a body corporate, due to the application of section 82 of the *Regulatory Powers (Standard Provisions) Act 2014* (Regulatory Powers Act).<sup>32</sup>

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<sup>27</sup> *Explanatory Memorandum*, p. 3.

<sup>28</sup> *Explanatory Memorandum*, p. 4.

<sup>29</sup> *Explanatory Memorandum*, p. 4.

<sup>30</sup> *Explanatory Memorandum*, p. 4.

<sup>31</sup> *Explanatory Memorandum*, p. 6.

<sup>32</sup> *Explanatory Memorandum*, p. 6.

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- 1.42 Penalties do not apply to age-restricted users who may gain access to an age-restricted social media platform, or to their parents, carers or educators.<sup>33</sup>
- 1.43 The bill would also increase maximum civil penalties in the Online Safety Act for:
- non-compliance with a direction to comply with industry codes; and
  - non-compliance with industry standards.<sup>34</sup>
- 1.44 Penalties would rise from 500 to 30 000 civil penalty units (currently equivalent to \$9.9 million). For bodies corporate, this increases to 150 000 penalty units (currently equivalent to \$49.5 million).<sup>35</sup>
- 1.45 These amounts are consistent with the maximum penalties currently available for contravention of the Australian Consumer Law under the *Competition and Consumer Act 2010*, and for serious and repeated interferences with privacy under the *Privacy Act 1988* (the Privacy Act).<sup>36</sup>
- 1.46 The EM notes that the penalty amounts are intentionally large to reflect the significance of the harms the bill is intended to safeguard against and signal the expectation that age restricted social media platforms treat the minimum age obligation seriously.<sup>37</sup>
- 1.47 The EM argues that the civil penalties are appropriate and in line with existing Commonwealth guidelines:
- The Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers* outlines that larger penalties are more appropriate for bigger companies, such as platforms, as they provide an adequate deterrent against non-compliance. The civil penalties are therefore appropriate for regulatory and disciplinary purposes, while ensuring paying a financial penalty does not become a cost of doing business.<sup>38</sup>
- 1.48 The EM states that the penalty provisions would operate consistently with Part 10 of the Online Safety Act and Part 4 of the Regulatory Powers Act. These Acts provide that in determining pecuniary penalties, a court must take all relevant matters into account, including the circumstances of the contravention, the nature of the contravening conduct, the size of the organisation involved and whether the entity has previously been found to have engaged in similar conduct. Therefore, a court would have discretion to consider the seriousness of

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<sup>33</sup> *Explanatory Memorandum*, p. 6.

<sup>34</sup> *Explanatory Memorandum*, p. 6.

<sup>35</sup> *Explanatory Memorandum*, p. 6.

<sup>36</sup> *Explanatory Memorandum*, p. 6.

<sup>37</sup> *Explanatory Memorandum*, p. 6.

<sup>38</sup> *Explanatory Memorandum*, p. 6.

the contravention and impose a penalty that is appropriate in the circumstances.<sup>39</sup>

### **Privacy protections**

1.49 The bill introduces privacy protections, including prohibiting platforms from using information collected for age assurance purposes for any other purpose, unless the individual has provided their consent. This consent ‘must be voluntary, informed, current, specific and unambiguous’.

This requirement precludes platforms from seeking consent through preselected settings or opt-outs.<sup>40</sup>

1.50 Once the platform has used the information for age assurance or any other agreed purpose, it must be destroyed by the platform (or any third party contracted by the platform).<sup>41</sup>

1.51 Serious and repeated breaches of these privacy provisions could result in penalties of up to \$50 million under section 13G of the Privacy Act.<sup>42</sup>

### **Deferred commencement**

1.52 The bill provides that the minimum age obligation will come into effect on a day to be specified by the Minister for Communications by way of notifiable instrument, not earlier than 12 months after Royal Assent.<sup>43</sup>

1.53 The deferred commencement is intended to provide industry and the eSafety Commissioner with sufficient time to develop and implement appropriate systems.<sup>44</sup>

### **Review**

1.54 An independent review of the part that will be introduced into the Online Safety Act by the bill (Part 4A) will be conducted within two years of the minimum age obligation taking effect.<sup>45</sup>

1.55 The review will examine whether the measures are effective and delivering the desired outcomes for Australians, including if any changes to scope or the minimum age are required.<sup>46</sup>

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<sup>39</sup> *Explanatory Memorandum*, p. 6.

<sup>40</sup> *Explanatory Memorandum*, p. 7.

<sup>41</sup> *Explanatory Memorandum*, p. 7.

<sup>42</sup> *Explanatory Memorandum*, p. 7.

<sup>43</sup> *Explanatory Memorandum*, p. 4.

<sup>44</sup> *Explanatory Memorandum*, p. 4.

<sup>45</sup> *Explanatory Memorandum*, p. 7.

<sup>46</sup> *Explanatory Memorandum*, p. 7.

## Age assurance trial

1.56 The EM explains that the government provided funding in the 2024–25 Budget

to conduct a broad, three-phase trial of age assurance, including an assessment of technologies, to examine options to protect children from harmful online content, including on social media, and age-restricted content such as pornography.<sup>47</sup>

1.57 The objective of the trial is to determine the effectiveness of available age assurance technologies as an option to:

- prevent access to online pornography by people under the age of 18; and
- age limit access to social media platforms for an age range of between 13 and 16 years old.<sup>48</sup>

1.58 The three elements to the trial are:

- The technology trial: an independent testing and assessment of currently available age assurance technologies;
- Research: including consumer research into Australian’s attitudes towards the use of age assurance technologies for access to the 2 use cases; and
- Consultation: targeted stakeholder consultation with young Australians, parent groups, academics, the digital industry (including platforms), community and civil society groups, and First Nations representative groups.<sup>49</sup>

## Consultation

1.59 During the development of the bill, the DITRDCA conducted extensive consultation with young people, parents, mental health professionals, legal professionals, community and civil society groups, state and territory first ministers and industry representatives.<sup>50</sup>

1.60 The next chapter addresses views on the bill, and the committee view and recommendations.

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<sup>47</sup> *Explanatory Memorandum*, p. 5.

<sup>48</sup> *Explanatory Memorandum*, p. 5.

<sup>49</sup> *Explanatory Memorandum*, p. 5.

<sup>50</sup> *Explanatory Memorandum*, p. 2.



# Chapter 2

## Views on the bill

### Introduction

- 2.1 Due to the short timeframe that the committee had to consider the evidence, this chapter summarises the key views on the bill as received in submissions.
- 2.2 A transcript of the hearing held on 25 November was not available at time of writing, and will be published when available.
- 2.3 Almost all submitters raised concerns about the extremely short consultation period for the bill.

### Support for the minimum age access to social media

- 2.4 The Explanatory Memorandum (EM) cited a New South Wales Government survey of over 21 000 people in 2024 regarding social media use and impacts:

87% of respondents expressed support for a minimum age for social media. For respondents aged 16 or older, 16 years was the most commonly suggested minimum age (40 per cent) and 18 years the second most common (25 per cent).<sup>1</sup>

- 2.5 Safe on Social stated that the bill is an urgent, enforceable measure that will protect children now, but acknowledged that a ban would not be perfect. It argued that if the bill reduced harm by even 10 per cent, that would be progress, particularly if it was supported by education, enforcement, and transparent algorithms.<sup>2</sup>
- 2.6 Similarly, the Hon Peter Malinauskus MP, Premier of South Australia said:

No legislative regime will be perfect. There will undoubtedly be workarounds by knowledgeable child users, just as some children still get around drug, alcohol or cigarette laws. That is not a reason not to legislate – the perfect should not be the enemy of the good.<sup>3</sup>
- 2.7 Toby Walsh from the AI Institute, UNSW submitted:

An age ban for social media will incentivise social media companies to improve services that fall both within and outside a ban. For instance, under a ban, a website like YouTube Kids will likely become a better and more useful service for young people.<sup>4</sup>

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<sup>1</sup> *Explanatory Memorandum*, p. 2.

<sup>2</sup> Safe on Social, *Submission 15*, p. 2.

<sup>3</sup> The Hon Peter Malinauskus MP, Premier of South Australia, *Submission 41*, p. 6.

<sup>4</sup> AI Institute, *Submission 72*, p. 1.

2.8 The Common Sense Party submitted that ‘the bill is beneficial and as a world first, could be phenomenal in setting up a precedence for the international community to follow’ and stated:

Legislation is needed, as opposed to some pathetic voluntary code of conduct or simply asking parents or young people to be aware of the risks, because these social media platforms are run for profit. As they do not charge users, their revenue is from advertisers. The more engagement they have with their platform, the more they can charge. So the business model is about driving engagement.<sup>5</sup>

2.9 Similarly, Youth Law Australia expressed its support for ‘stronger regulation to prevent children and young people from experiencing online harm and welcome[d] the introduction of an obligation on providers’.<sup>6</sup>

2.10 Finally, the committee also heard from some young people supportive of the bill via the submission made by Bravehearts. Representatives from the Bravehearts Youth Advisory Committee said:

I fully support the push to change social media access to age 16. Bullying, triggering content, and predators make social media a hostile and unsafe environment for young people to be in whilst their brains and emotions are still developing.<sup>7</sup>

2.11 And also:

The status quo isn't really acceptable and social media needs some guardrails. I am glad YouTube isn't included and nor should it be because it fundamentally differs from other social media e.g. FB where two end users can interact.

It's an attempt to pursue a meaningful reform and I think the penalties for Meta are good.<sup>8</sup>

### **Mental health and behavioural harms from social media use**

2.12 The committee received evidence in both submissions and at the public hearing about the negative mental health and behavioural impacts of social media on young adolescents.

2.13 At the public hearing, Dr Danielle Einstein questioned whether there are any mental health benefits from social media. She was of the view that any minor benefits, if they existed, were massively outweighed by the downsides.<sup>9</sup>

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<sup>5</sup> Common Sense Party, *Submission 17*, p. 1.

<sup>6</sup> Youth Law Australia, *Submission 59*, p. 2.

<sup>7</sup> Bravehearts, *Submission 34*, p. 6.

<sup>8</sup> Bravehearts, *Submission 34*, p. 5.

<sup>9</sup> Dr Danielle Einstein, Public hearing, 25 November 2024.

- 2.14 Dr Einstein supported a minimum age for social media use because depression and anxiety invariably improve when social media use is restricted. Dr Einstein also pointed out that the bill does not limit access to the internet, or to one-to-one messaging or to phone calls, and that the educational benefits of the internet would remain available.<sup>10</sup>
- 2.15 Dr Einstein also argued that the unhealthy, addictive element of social media are the notifications, and that is what leads to overuse. This element can cause children to ignore face-to-face interactions in the playground or after school and instead turn to online interactions. And yet, mental health at a young age is built by a multitude of face-to-face connections. The bill would, therefore, improve the environment for a majority of young people.<sup>11</sup>
- 2.16 Similarly, Dr Simon Wilksch stated that he was not aware of any research evidence that social media was safe for children under 16. By contrast, there was 'substantial evidence of harm'.<sup>12</sup>
- 2.17 Professor Susan Sawyer from the Murdoch Children's Research Institute stated that their research on the child-to-adult transition using a large longitudinal cohort suggested that the greatest harms appear to be in younger female adolescents in the 10–13-year-old age group who were using social media for more than two hours a day:
- In a study of 1200 young people from Melbourne that recruited a group of grade three, 8-year-olds and then studied them annually...the analyses demonstrate that in relationship to depression there is significantly greater evidence of depression in particular and also reduced wellbeing overall but very much it's younger adolescent girls aged 10-13.<sup>13</sup>
- 2.18 Professor Sawyer acknowledged that while social media provides benefits in terms of education, information seeking, and connection to peer networks, the benefits in terms of the mental health of younger people are far less than is commonly assumed.<sup>14</sup>
- 2.19 Professor Sawyer also stated that one of the greatest benefits of a potential ban is the message it gives to parents around setting expectations for the younger cohort of 10- to 12-year-old children that they will not be participating in social media at that age.<sup>15</sup>

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<sup>10</sup> Dr Danielle Einstein, Public hearing, 25 November 2024.

<sup>11</sup> Dr Danielle Einstein, Public hearing, 25 November 2024.

<sup>12</sup> Dr Simon Wilksch, Additional information, 'Psychologist explains why raising minimum age can reduce social media harm', tabled by Senator Karen Grogan on 25 November 2024.

<sup>13</sup> Professor Susan Sawyer, Public hearing, 25 November 2024.

<sup>14</sup> Professor Susan Sawyer, Public hearing, 25 November 2024.

<sup>15</sup> Professor Susan Sawyer, Public hearing, 25 November 2024.

2.20 Catholic School Parents WA raised concerns about the harmful behavioural effects of social media:

Parents are worried that children and young people are becoming desensitised to some of the content that they are seeing, and that it is leading to a distorted understanding of some serious topics. We see the instances of assault, domestic violence and misogynistic behaviour towards women increasing at an alarming rate and one cannot help but make a link back to what is being viewed online.<sup>16</sup>

2.21 Catholic School Parents WA submitted that scamming and ‘sextortion’ are now becoming prevalent:

Scamming, and particularly in the case of young people, sextortion, is a growing concern for many parents. It is incredibly common these days to speak to parents who have had this issue raised by one of their children, either because they have been approached by a scammer or know someone who has.<sup>17</sup>

2.22 The Australian Gaming and Screens Alliance (AGASA) submitted there was an extensive body of evidence around the negative mental health and developmental impacts on children and teenagers arising from social media. AGASA supported the bill and argued that it could be justified on numerous grounds including the harms associated with overuse (including of games that are accessed via social media platforms), inappropriate content and associated risks of harm, as well as the dangers to wellbeing associated with cyberbullying.<sup>18</sup>

2.23 AGASA considered the bill ‘opens the path for working with tech companies around structural change of their platforms, persuasive design, algorithms, and more robust parental controls’.<sup>19</sup>

**The bill would empower parents and reduce the burden on them**

2.24 Officials from the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) told the committee that it had received ‘very strong feedback from parents’ that ‘they do not want to bear the burden or responsibility of making decisions that should be better reflected in the law’:

So, it’s really important for parents to point to a standard law, an age limit, that will apply to everybody and it’s also feedback we’ve received from a lot of children as well, that they would rather that there was a universal law

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<sup>16</sup> The Catholic School Parents WA, Additional documents, *Submission 121 to the Joint Committee on Social Media and Australian Society*, p. 2, tabled by Senator Karen Grogan on 25 November 2024.

<sup>17</sup> The Catholic School Parents WA, Additional documents, *Submission 121 to the Joint Committee on Social Media and Australian Society*, p. 3, tabled by Senator Karen Grogan on 25 November 2024.

<sup>18</sup> Australian Gaming and Screens Alliance (AGASA), *Submission 11*, p. 1.

<sup>19</sup> AGASA, *Submission 11*, p. 1.

that applied to all children under the age of 16, rather than have a situation where some children have it and some don't, and then all of the harms that we're aware of through exposure to social media continue to magnify.<sup>20</sup>

2.25 The 'sense of overwhelming fatigue for parents' was noted by the DITRDCA during its consultation, which was found through research as well'.<sup>21</sup>

2.26 Parental fatigue was a point reiterated by Mr Chisholm who stated:

Parents have told us that their fatigue would be reduced by having a very clear law in place that imposes, for example, a 16-year age limit, that that will be welcome by parents rather than have to fiddle around with apps to see if they work.<sup>22</sup>

2.27 A representative of Headspace National Youth Mental Health Foundation stated that 'families are completely overwhelmed by having to monitor their children's social media use, and parents 'are panicked and fearful and frankly they are looking for solutions'.<sup>23</sup>

2.28 Ms Emma Mason stated that a legislated minimum access age to social media would empower parents:

Even in my own household with my two other daughters, despite everything that has happened I fight the kids to get off their phones – to try and find peace against the never-ending 'need' to connect. It's completely out of control. A change to the law to not permit children access to social media accounts before the age of 16 is crucial to give the power back to parents.<sup>24</sup>

2.29 Similarly, Catholic School Parents WA stated that legislation would help parents:

Legislation supporting an increase to the age at which young people can access social media would provide a safety net for parents and would assist them in supporting each other in creating boundaries to keep their children and young people safe.<sup>25</sup>

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<sup>20</sup> Mr James Chisholm, Deputy Secretary, Communications and Media Group, Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA), Public hearing, 25 November 2024.

<sup>21</sup> Mr Andrew Irwin, Assistant Secretary, Online Safety Branch, DITRDCA, Public hearing, 25 November 2024.

<sup>22</sup> Mr Chisholm, DITRDCA, Public hearing, 25 November 2024.

<sup>23</sup> Ms Nicola Palfrey, Head of Clinical Leadership, Headspace National Youth Mental Health Foundation, Public hearing, 25 November 2024.

<sup>24</sup> Ms Emma Mason, Additional documents, *Submission 207 to the Joint Committee on Social Media and Australian Society*, p. 7, tabled by Senator Karen Grogan on 25 November 2024.

<sup>25</sup> Catholic School Parents WA, Additional documents, *Submission 121 to the Joint Committee on Social Media and Australian Society*, p. 3, tabled by Senator Karen Grogan on 25 November 2024.

2.30 Vanessa Treloar stated that: ‘As a parent, I am deeply fearful of the world my two-year-old child will grow up in if we do not take proactive steps to mitigate these risks....This policy change would support parents in their efforts to protect their children.’<sup>26</sup>

### **Opposition to the bill**

2.31 The committee received a body of submissions that expressed opposition to the bill. These submissions raised various concerns, including that the bill:

- does not appropriately reflect expert evidence in the field;
- will have unfortunate and unintended consequences, including that persons under 16 will circumvent the restrictions and risk being driven into hidden spaces where they may be less safe;
- would have a disproportionate and negative effect on vulnerable and marginalised young people;
- would undercut the important role of education in the development of young people;
- provides a broad delegation of power to the minister; and
- raises privacy and security risks.

2.32 Pride in Swan ‘firmly believe that the proposed blanket ban on social media access for individuals under 16 is neither the most effective nor equitable solution.’<sup>27</sup>

2.33 The Internet Association of Australia recognised ‘the risks and real harms associated with children and young people accessing social media’. However, they did not consider the bill an appropriate solution.<sup>28</sup>

### ***Bill does not appropriately reflect expert evidence***

2.34 Several submitters argued that there is a lack of scientific evidence to support the claims of harm from social media.

2.35 The Shooters, Fishers and Farmers Party of Tasmania submitted that while studies such as the 2022 UK study cited by the bill suggest links between social media use and decreased life satisfaction for certain adolescent groups, these findings are highly contextual. The submission argued that broader research, including a 2023 Oxford Internet Institute study, found no consistent evidence

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<sup>26</sup> Vanessa Treloar, Additional documents, *Submission 70 to the Joint Committee on Social Media and Australian Society*, pp. 1–2, tabled by Senator Karen Grogan on 25 November 2024.

<sup>27</sup> Pride in Swan Inc., *Submission 5*, p. 1.

<sup>28</sup> Internet Association of Australia, *Submission 13*, p. 1.

that social media use has significant negative effects on adolescent mental health overall.<sup>29</sup>

- 2.36 Professor Marcus Carter, Dr Taylor Hardwick, and Dr Ben Egliston quoted Lucy Thomas OAM, cofounder and CEO of Project Rokit (Australia's youth-driven movement against bullying, hate and prejudice), who considered that there was to the bias in the government's social media summit, describing it as:

...carefully curated to amplify the (heavily contested) views of a select group of international speakers whose findings conveniently aligned with the government's pre-determined stance. Meanwhile, globally respected Australian research was sidelined. By focusing exclusively on extreme harms—handpicked to suit a political agenda—the Summit created a public climate where balanced evidence and alternative perspectives have been erased and discredited.<sup>30</sup>

***Safety risks: children's social media use will become more hidden and secret***

- 2.37 UNICEF Australia submitted that children under 16 will inevitably bypass restrictions, landing in unregulated, darker spaces. They argued that this not only undermines the effectiveness of the legislation but also exposes children to greater risks online.<sup>31</sup>

- 2.38 The Shooters, Fishers and Farmers Party of Tasmania noted that when access to social media is restricted, young people often resort to creating fake accounts or using VPNs to bypass restrictions. The submission cited a 2021 Tech Transparency Project report that found nearly 70 per cent of teens under 16 circumvented age restrictions on popular platforms.<sup>32</sup>

- 2.39 Professor Marcus Carter, Dr Taylor Hardwick, and Dr Ben Egliston submitted that some children will certainly circumvent the methods for age verification and create adult accounts on social media platforms, effectively exacerbating the risk of online harm:

Thus, instead of having children's accounts on these platforms—which afford parents the ability to choose the appropriate safety settings for their children and monitor their children's online activity—platforms will no longer be able to improve the design of social media for young people, and parents will not be able to support children to learn how to use social media safely. Children's social media use will become more private, and more hidden from those able to support children to navigate the online world.<sup>33</sup>

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<sup>29</sup> The Shooters, Fishers & Farmers Party of Tasmania, *Submission 8*, p. 1; see also Young Labor Left NSW, *Submission 10*, p. 1.

<sup>30</sup> Professor Marcus Carter, Dr Taylor Hardwick, and Dr Ben Egliston, *Submission 90*, p. 3.

<sup>31</sup> UNICEF Australia, *Submission 9*, p. 2.

<sup>32</sup> The Shooters, Fishers & Farmers Party of Tasmania, *Submission 80*, p. 1.

<sup>33</sup> Professor Marcus Carter, Dr Taylor Hardwick, and Dr Ben Egliston, *Submission 90*, p. 1.

- 2.40 Young Labor Left NSW argued that by banning access to goods and services, users face a harder time reporting, and seeking help for harm caused. Legally restricting social media for people under 16 years old will not significantly reduce the rate at which young people access social media and will not decrease instances of cyberbullying, abuse, or other forms of digital harm.<sup>34</sup>

### *Implications for children's rights*

- 2.41 UNICEF Australia submitted that the proposed bill has significant implications for children's rights:

Article 12 of the United Nations Convention on the Rights of the Child (UNCRC) states that every child and young person under 18 has the right to participate and have their opinions included in decision-making processes that relate to their lives.<sup>35</sup>

### *Disproportionate impact on vulnerable and marginalised young people*

- 2.42 6 News stated that the organisation is a streaming news channel founded in 2019 and run entirely by young people—the majority of whom are teenagers in high school with 'tens of thousands of followers and millions of views across our social media platforms, including Facebook, Twitter/X, Instagram and YouTube'.<sup>36</sup>

- 2.43 6 News opposed the bill on the basis that it will only cause further problems for young people online:

In particular, we are deeply concerned about the impact it will have on vulnerable teenagers who may use social media as a necessary escape from their day-to-day lives. Marginalised young people who may feel safe in an online community (including those who may not feel safe at home), teens in remote parts of our nation who have found friends online, and those who have built up important relationships and friendships online all benefit.

Speaking to many young people in recent weeks, we have heard how they have been able to get through extremely difficult times in their own lives by using various social media platforms. Although we understand that students may experience bullying online, restricting all teenagers from using social media is not the solution.<sup>37</sup>

- 2.44 Pride in Swan submitted that for many vulnerable youth particularly those from the LGBTIQ+SB community, social media is far more than a digital pastime, it is a critical lifeline:

It is often the only way they can connect with others who share their experiences, access affirming spaces, and find support networks that

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<sup>34</sup> Young Labor Left NSW, *Submission 10*, p. 1.

<sup>35</sup> UNICEF Australia, *Submission 9*, p. 1.

<sup>36</sup> 6 News, *Submission 6*, p. 1.

<sup>37</sup> 6 News, *Submission*, p. 1.

validate their identities. These connections are essential to their mental health and emotional well-being, especially in rural or remote areas where physical support systems may be unavailable.<sup>38</sup>

- 2.45 That being said, Pride in Swan advocated ‘for a balanced approach that prioritises safety, accountability, inclusion, and education, without isolating young people who rely on these platforms for connection and support’.<sup>39</sup>
- 2.46 Minus 18 submitted that for LGBTQIA+ youth, social media is a lifeline to safety, connection, and affirmation, and pointed to their recent survey of almost 1000 LGBTQIA+ young people across Australia:
- 95.7% of respondents rely on social media to access friends and emotional support.
  - 91.5% report that platforms, particularly Instagram, have been crucial for forming meaningful friendships with other queer people.
  - 83% fear that a ban on social media would sever them from their community and leave them feeling disconnected and isolated.<sup>40</sup>
- 2.47 These findings underscore the critical role social media plays in supporting a demographic that already faces heightened risks of discrimination, rejection, and isolation.<sup>41</sup>
- 2.48 Minus 18 submitted that the bill ‘inadvertently poses significant risks for LGBTQIA+ youth’ who:
- Are more likely to lack supportive family environments, leaving social media as their primary source of connection.
  - Face unique barriers to accessing offline community support, such as fear of discrimination or lack of local services.
  - Are more likely to experience social isolation, which can compound mental health risks when disconnected from affirming online spaces.<sup>42</sup>
- 2.49 Young Labor Left NSW noted the ban will have an adverse effect on young Australians who will be cut off from online support networks of friends and family, as well as people with similar identities, interests and passions. In a globally acknowledged loneliness crisis, restricting social media will worsen an already extreme epidemic.<sup>43</sup>
- 2.50 The First Nations Peoples Aboriginal Corporation (FNPAC) raised concerns that many Aboriginal and Torres Strait Islander children and families, particularly

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<sup>38</sup> Pride in Swan Inc., *Submission 5*, p. 1.

<sup>39</sup> Pride in Swan Inc., *Submission 5*, p. 1.

<sup>40</sup> Minus 18, *Submission 1*, p. 1.

<sup>41</sup> Minus 18, *Submission 1*, p. 1.

<sup>42</sup> Minus 18, *Submission 1*, p. 2.

<sup>43</sup> Young Labor Left NSW, *Submission 10*, p. 1.

in remote areas, lack access to such documentation. This could effectively block them from accessing platforms and services essential for education, healthcare, and community support, increasing their digital isolation.<sup>44</sup>

2.51 The FNPAC also raised concerns that in remote communities, reliable internet and digital infrastructure are often unavailable or insufficient. Age verification systems requiring stable online access may further restrict Aboriginal and Torres Strait Islander people's ability to engage in digital activities like distance learning or online commerce.<sup>45</sup>

2.52 In contrast, the Premier of South Australia made the point that a minimum age for social media access would in fact help protect vulnerable cohorts:

I recognise this is even more important for vulnerable cohorts, including First Nations young people and young people who are living with disability, LGBTIQ+, culturally and linguistically diverse, or from rural and remote areas. I have been presented with evidence that suggests that while online spaces can offer connection for vulnerable cohorts, social media is disproportionately harming these cohorts and protections would likely benefit them the most.<sup>46</sup>

### *Importance of social media in education and social causes*

2.53 Andrew Hamilton, solicitor at JPB Liberty, submitted that social media forms an important part of the lives of adults and is the main source of news, information and educational material for younger people.<sup>47</sup>

A blanket ban on social media for U16s will cause severe damage to the education of children and teenagers. It will put them in an artificial bubble and they will suffer significant trauma when they are suddenly exposed to the world of social media at age 16 when it may be too late for parents and teachers to provide suitable guidance.<sup>48</sup>

2.54 Young Labor Left NSW pointed to the importance of social media in pushing for progressive changes in society, such as the #MeToo movement, Black Lives Matter, and School Strike 4 Climate. Young Labor Left NSW argued that social media 'is indispensable for movements like these, and restricting young people's access will cut them off from the movements that inspire and represent them':<sup>49</sup>

Finally, with more and more news consumed on social media, digital literacy is an increasingly important skill. Allowing young people to

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<sup>44</sup> First Nations Peoples Aboriginal Corporation (FNPAC), *Submission 8*, p. 2.

<sup>45</sup> FNPAC, *Submission 8*, p. 2.

<sup>46</sup> The Hon Peter Malinauskus MP, Premier of South Australia, *Submission 41*, p. 5.

<sup>47</sup> JPB Liberty Pty Ltd, *Submission 87*, p. 1.

<sup>48</sup> JPB Liberty Pty Ltd, *Submission 87*, p. 1.

<sup>49</sup> Young Labor Left NSW, *Submission 10*, p. 1.

navigate the internet freely and with unimpeded support from family and educators is vital to ensuring misinformation and disinformation are combatted on the internet. By legally restricting access, young Australians will have less time to develop an understanding of digital environments upon reaching adulthood, leaving them vulnerable to dangerous online narratives. This must be combatted by education and guidance, not bans.<sup>50</sup>

2.55 The Shooters, Fishers and Farmers Party of Tasmania pointed to a 2023 ReachOut survey which found that 84 per cent of Australian teens believe social media is an important tool for maintaining friendships and accessing support networks and that restrictive policies risk isolating these teens from valuable online communities.<sup>51</sup>

### *Delegation of power to the minister*

2.56 The Digital Industry Group Inc. (DIGI) submitted that the bill does not have sufficient detail on the 'technical implementation regarding privacy, security, human rights or regulatory cost implications' leading to concerns that there is too much weight on the discretionary powers of the Minister and the eSafety Commissioner.<sup>52</sup>

2.57 Valid Agenda argued that the bill's reliance on future legislative rules to refine what constitutes an 'age-restricted social media platform' allows future regulators to decide what falls under this category, without current safeguards or specifics, potentially leading to overreach or misinterpretation in application.<sup>53</sup>

2.58 Tech Council of Australia submitted:

We also strongly recommend that the government introduce a requirement in legislation for the Minister to consult with industry and affected stakeholders on the legislative rules, and provide that any such rules be disallowable instruments to ensure adequate parliamentary oversight.<sup>54</sup>

2.59 ReachOut submitted that research shows that 73 per cent of young people access mental health support on social media and 49 per cent of ReachOut youth service users find the service via social media. Therefore, ReachOut welcomed the exemptions for digital mental health services.<sup>55</sup>

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<sup>50</sup> Young Labor Left NSW, *Submission 10*, p. 2.

<sup>51</sup> The Shooters, Fishers & Farmers Party of Tasmania, *Submission 80*, p. 1.

<sup>52</sup> Digital Industry Group Inc, *Submission 43*, p. 2.

<sup>53</sup> Valid Agenda, *Submission 3*, p. 1; see also Professor Marcus Carter, Dr Taylor Hardwick, and Dr Ben Egliston, *Submission 90*, p. 1.

<sup>54</sup> Tech Council of Australia, *Submission 46*, p. 3.

<sup>55</sup> ReachOut, *Submission 30*, p. 2.

2.60 That being said, ReachOut also urged ‘the Government to consult with the experts on how young people use digital technology to communicate, learn and connect as it develops the exemption framework—young people themselves’.<sup>56</sup>

### **Digital Duty of Care**

2.61 The committee received evidence on the importance of a Digital Duty of Care to ensure that digital platform providers take appropriate steps to monitor content and be held responsible for users’ safety. These organisations also expressed the view that a Digital Duty of Care would be a more productive approach than the bill’s minimum age restriction.

2.62 For example, Bravehearts Foundation submitted:

We need the technology sector to do more to monitor what is happening online, supported by government rules and regulation. The recently announced Digital Duty of Care, is a positive step towards companies being held responsible for users’ safety.<sup>57</sup>

2.63 Movember also submitted:

We also acknowledge the proposed introduction of Digital Duty of Care, bringing stronger penalties for both reacting to harms through content regulation and expanding their approach to include exploring systems-based prevention. This is a positive step, placing greater responsibility onto the tech companies to keep young Australians safe online.<sup>58</sup>

2.64 Similarly, the ARC Centre of Excellence for the Digital Child stated:

In regulatory terms, the government’s plan to focus on a Digital Duty of Care, which requires platforms to evaluate the potential risks of their tools before they release them, is a much more productive legislative direction, placing the initial burden on platforms, not parents.<sup>59</sup>

### **Privacy and security risks**

2.65 Ms Carly Kind, Privacy Commissioner at the Office of the Australian Information Commissioner, expressed support for the additional privacy protections in the bill but noted that the introduction of a minimum age for access to social media will have privacy impacts for all Australian users of social media:

While the bill does not dictate what ‘reasonable steps’ social media platforms must take to ensure users below the minimum age are prevented from holding an account, the inevitable outcome is that age assurance checks will need to be conducted for all Australian social media users (not just children). This is a significant departure from the status quo, and is likely to

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<sup>56</sup> ReachOut, *Submission 30*, p. 2.

<sup>57</sup> Bravehearts Foundation, *Submission 34*, p. 3.

<sup>58</sup> Movember, *Submission 44*, p. 1.

<sup>59</sup> ARC Centre of Excellence for the Digital Child, *Submission 23*, p. 2.

incentivise the collection, use and storage of additional personal information about all users of the service, which increases privacy risks and impacts.<sup>60</sup>

2.66 The Privacy Commissioner argued that wholesale reform of the *Privacy Act 1988* (Privacy Act) is the most effective way of tackling the most harmful aspects of the digital ecosystem:

In particular, the introduction of a fair and reasonable test for the collection, use and disclosure of personal information would dramatically increase the ability of the OAIC to address harmful and unfair data practices in the online environment.<sup>61</sup>

2.67 At the public hearing, the Privacy Commissioner added:

This bill enshrines a much more robust definition of consent than exists already in the Privacy Act and it would be remiss of me not to remark that there are proposals on the table to strengthen the definition of consent in the Privacy Act writ large.

...

But importantly, in the context of this bill, it does impose that higher level of protections.<sup>62</sup>

2.68 The FNPAC raised concerns that Indigenous communities often have heightened concerns about data privacy and the misuse of personal information:

Broad and poorly defined requirements for age and identity verification could deter families from using digital services, reducing engagement in education, commerce, and social support networks critical to their well-being.

Verification processes that collect personal data might not align with cultural sensitivities or privacy expectations within Indigenous communities. Fear of data misuse or lack of trust in external systems could discourage participation in online platforms, exacerbating digital exclusion.<sup>63</sup>

2.69 Young Labor Left NSW had:

...deep reservations should the legislation require the provision of government ID documents to platforms to social media companies, given how prone these companies are to leaks and data misuse. Young Labor Left sees this as a blatant infringement on people's right to privacy and on their civil liberties.<sup>64</sup>

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<sup>60</sup> Ms Carly Kind, Privacy Commissioner, Office of the Australian Information Commissioner *Submission 12*, p. 1; see also Professor Marcus Foth, *Submission 88*, p. 1.

<sup>61</sup> Ms Carly Kind, Privacy Commissioner, *Submission 12*, p. 3.

<sup>62</sup> Ms Carly Kind, Privacy Commissioner, Public hearing, 25 November 2024.

<sup>63</sup> FNPAC, *Submission 8*, p. 2.

<sup>64</sup> Young Labor Left NSW, *Submission 10*, p. 1.

2.70 The Shooters, Fishers and Farmers Party of Tasmania Age submitted that ‘verification methods often require sensitive user data, such as government-issued IDs or biometric scans, creating privacy concerns’.

2.71 UNICEF Australia submitted that population-wide age verification raises serious concerns about data security and privacy:

We know that data is the currency of the online world, and children's data - where it's collected, traded and sold on mass scales - is considered a big business. Implementing the measures under the proposed bill would require the collection and storage of sensitive personal information, increasing the risk of data breaches and misuse.<sup>65</sup>

2.72 JPB Liberty submitted that privacy is a fundamental human right:

Requiring social media companies to conduct age verification will inevitably involve identifying all users of social media in a way that infringes privacy. People have the right to be anonymous online if they choose to be. There are many very good reasons including personal safety, the ability to express opinions privately that an employer or friends may not like.

Again, tyrannies have always tried to prevent privacy and anonymity. Free countries preserve these freedoms.<sup>66</sup>

2.73 The FNPAC proposed a range of recommendations to mitigate the risks posed by the bill to Indigenous children and communities, including to:

Create provisions to exempt educational, cultural, and community-led platforms from broad regulations to guarantee access for Indigenous children to digital resources, learning tools, and cultural materials.<sup>67</sup>

### **Age assurance technology**

2.74 The Age Verification Providers Association (AVPA) is the global trade body representing 30 providers of privacy-preserving online age assurance technology. AVPA confirmed that ‘the age assurance technologies required to facilitate the implementation of this bill are sufficiently accurate, accessible, privacy-preserving, cost-effective, and aligned with international standards’.<sup>68</sup>

2.75 The Australian Democrats raised concerns regarding privacy and identification systems:

There are many Australians who wish to live a private life, and ID verification requirements may disincentivise them from using social media, restricting their access to important information.<sup>69</sup>

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<sup>65</sup> UNICEF Australia, *Submission 9*, p. 2.

<sup>66</sup> JPB Liberty Pty Ltd, *Submission 87*, p. 2.

<sup>67</sup> FNPAC, *Submission 8*, p. 2.

<sup>68</sup> Age Verification Providers Association (AVPA), *Submission 7*, p. 1.

<sup>69</sup> Australian Democrats, *Submission 20*, p. 1.

2.76 The Australian Democrats also expressed concern regarding the ease of circumventing 'geo-protections' by using VPNs and the 'unprecedented risk for surveillance' associated with ID based online verification.<sup>70</sup>

2.77 The DITRDCA provided evidence about the current capabilities of social media companies, such as Instagram, to verify the age of their users on digital platforms:

I point out that Instagram, in their announcement about their teen accounts, they already verify age when you are changing your age which effectively amounts to an admission that you are lying – why would you change your age otherwise?

But they are already building technology – and I'll quote from their announcement here – "to proactively find accounts belonging to teens, even if the account lists an adult birthday. This technology will allow us to proactively find these teens and place them in the same protections offered by teen account settings. We'll start testing this change in the US early next year."<sup>71</sup>

2.78 The committee also heard evidence about the ability of other social media platforms, such as TikTok, in removing underage accounts using both technology and human moderation to determine a user's age.<sup>72</sup> TikTok Australia outlined that it had 'removed more than 20 million suspected underage accounts globally' between April and June 2024 alone.<sup>73</sup>

### Digital ID

2.79 Through the course of the inquiry there was some commentary relating to the Australian Government's 'Digital ID' system and whether it would be used by platforms in order to comply with the bill. On this, officials from the DITRDCA were clear:

I know there have been questions raised in a few areas about whether there's any linkage to the government's Digital ID system and to be clear, there is no linkage, that is not the intention.<sup>74</sup>

2.80 And:

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<sup>70</sup> Australian Democrats, *Submission 20*, p. 2.

<sup>71</sup> Mr Andrew Irwin, Assistance Secretary, Online Safety Branch, DITRDCA, Public hearing, 25 November 2024.

<sup>72</sup> Article by Anglra Bharadwaj, *Tech Giants' fib on kids*, tabled by Senator the Hon Sarah Henderson, 25 November 2024.

<sup>73</sup> TikTok Australia, *Submission 102*, p. 1.

<sup>74</sup> Ms Sarah Vandenbroek, First Assistant Secretary - Digital Platforms, Safety and Classification Division, DITRDCA, Public hearing, 25 November 2024.

There's no requirement for platforms to use the Digital ID system to comply with the obligation.<sup>75</sup>

- 2.81 The DITRDCA provided evidence that they cannot see any way the eSafety Commissioner could designate Digital ID from the legislation as a means of age verification.<sup>76</sup> This would suggest the legislation could be strengthened to ensure this mechanism is not available.

### **The need for greater consultation with children and young people**

- 2.82 Various submitters to the inquiry emphasised the need for greater consultation with those that would be directly affected by the bill, especially children and young people. These submitters advocated that the government should prioritise genuine and meaningful consultation with young people in developing online safety policies, recognising young people as experts in their own online experiences.
- 2.83 For example, Youth Law Australia (YLA) recommended that 'further meaningful consultation is undertaken with children and young people to determine how to effectively monitor their experiences of online harms and to engage children and young people in earlier help seeking'.<sup>77</sup> The YLA also supported the deferred commencement of the bill to properly implement and educate children and young people on the changes:

In the implementation, children should be provided with child-sensitive and age-appropriate information on how the Bill impacts them, including reporting and complaint mechanisms if they do experience online harm, and services and remedies available to them. Similar information should be provided to parents and caregivers.<sup>78</sup>

- 2.84 Youth Affairs Council Victoria, expressed concern about the short timeframe for the inquiry. It emphasised the importance of co-designing reforms with young people to ensure that online safety reforms are 'effective and fit-for-purpose' as well as co-designing support and education programs.<sup>79</sup>

### **Committee view**

- 2.85 The committee acknowledges the immense interest in the bill and the broad commitment to ensuring the best outcomes for young people and children.
- 2.86 At the outset, therefore, the committee acknowledges that the inquiry timeframe was extremely short and that almost all submitters and witnesses expressed grave concerns that a bill of such import was not afforded sufficient time for

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<sup>75</sup> Mr Chisholm, DITRDCA, Public hearing, 25 November 2024.

<sup>76</sup> Mr Chisholm, DITRDCA, Public hearing, 25 November 2024.

<sup>77</sup> Youth Law Australia, *Submission 59*, p. 2.

<sup>78</sup> Youth Law Australia, *Submission 59*, 3.

<sup>79</sup> Youth Affairs Council Victoria, *Submission 60*, p. 3.

thorough inquiry and report. The committee thanks the many submitters and witnesses who engaged with the inquiry in the tight inquiry timeframe.

- 2.87 The committee recognises that persuasive arguments were put forward both in support for, and opposition to, the bill. The committee also recognises that while many inquiry participants supported the aims of the bill, concerns were raised about its implementation.
- 2.88 Many of these concerns are reflected in the recommendations below. While it may be unusual for a legislation committee to make so many recommendations, the committee is firmly of the view that the recommendations set out below would improve the implementation of the bill and would address many of the concerns put forward by inquiry participants.
- 2.89 The committee recognises that the rule-making powers invested in the Minister for Communications (the minister) under the bill are extensive and important in ensuring the optimum implementation of the bill and avoiding unintended consequences.
- 2.90 The committee also notes that the bill seeks to capture services that are of the greatest community concern. The minister will have the power to determine that a particular service is in scope if its features evolve, and harms emerge to the point that action is considered necessary to reflect community standards.
- 2.91 Importantly, the committee notes that these powers are in the form of disallowable legislative instruments, and as such, are subject to parliamentary oversight and potential amendment or veto.
- 2.92 The committee also notes that in exercising the rule-making power, the minister will be required to seek and have regard to advice from the eSafety Commissioner and may also seek advice from other relevant Commonwealth agencies. The committee is therefore reassured that this should ensure that users under the minimum age retain access to platforms that predominately provide beneficial experiences, such as those that are grounded in connection, education, health and support.
- 2.93 The committee considers that the requirement for the minister to have regard to advice from the eSafety Commissioner is very important given that many inquiry participants advocated for a balanced approach that prioritised safety, accountability, inclusion, and education, without isolating young people who rely on social media platforms for connection and support.
- 2.94 To that end, the committee considers it vital that the government consults appropriately on all rule making associated with implementation of the bill, including with young people and their representative organisations.
- 2.95 The committee notes that the explanatory memorandum to the bill currently provides that an independent review of the part that will be introduced into the Online Safety Act by the bill (Part 4A) will be conducted within two years of the

minimum age obligation taking effect. The committee considers that the independent review of proposed new Part 4A of the Online Safety Act should occur sooner and recommends that it be conducted within 18 months of the minimum age obligation taking effect.

- 2.96 The committee also received evidence on the importance of a Digital Duty of Care to ensure that digital platform providers take appropriate steps to monitor content and be held responsible for users' safety.
- 2.97 The committee also acknowledges that several organisations calling for a legislated Digital Duty of Care were also of the view that legislating a minimum age restriction for social media may simply absolve technology companies from designing platforms that are safe and have children's rights and best interests at the fore.
- 2.98 To that end, the committee recommends that the Australian Government legislate a Digital Duty of Care to place a legal obligation on digital platforms to take proactive steps to protect their users.
- 2.99 The committee also notes the concerns raised with respect to privacy. Nevertheless, the committee notes that the bill contains robust privacy provisions, over and above what is set out in existing privacy laws. The provisions in the bill will require platforms to destroy data collected for age assurance purposes when the age assurance process is complete. Not destroying data would be a breach of the Privacy Act, with penalties of up to \$50 million.
- 2.100 Some submitters were concerned that the age assurance trial should be completed prior to the passage of the legislation to enable it to inform the detail and implementation of the bill. However, the committee notes that there is a twelve-month implementation period for this legislation, and the results of the age assurance trial will provide the scope and detail rather than technology being prescribed in the bill.
- 2.101 Further, the committee is reassured by the evidence from the Age Verification Providers Association that the age assurance technologies required to facilitate the implementation of the bill are sufficiently accurate, accessible, privacy-preserving, cost-effective, and aligned with international standards.
- 2.102 Finally, the committee also recognises that many parents have expressed deep concern about the harmful impacts of social media, including screen addiction, hazards of excessive use, and some of the deeply addictive features on their children.
- 2.103 The committee notes that the bill places the onus on platforms to introduce systems and processes that can be demonstrated to ensure that people under the minimum age cannot create and hold a social media account.

2.104 The committee therefore considers that the bill will have a normative effect that will enable parents to say 'no'. On that basis, the committee recommends that the bill be passed.

#### **Recommendation 1**

2.105 The committee recommends that the Australian Government legislate a Digital Duty of Care to place a legal obligation on digital platforms to take proactive steps to protect their users.

#### **Recommendation 2**

2.106 The committee recommends that the Australian Government meaningfully engage young people in the implementation of the legislation.

#### **Recommendation 3**

2.107 The committee recommends that the Minister for Communications provide a progress report to the Parliament on the age assurance trial by no later than 30 September 2025.

#### **Recommendation 4**

2.108 The committee recommends that the bill be amended to prohibit providers of age restricted platforms from compelling a person to use an accredited service within the meaning of section 9 of the *Digital ID Act 2024*, or other government ID such as passports, and must set out alternative methods for assuring age as reasonable steps with consideration given to the age assurance trial.

#### **Recommendation 5**

2.109 The committee recommends that the Minister for Communications provide a commitment to setting the implementation date within 12 months, not later.

#### **Recommendation 6**

2.110 The committee recommends that there be appropriate consultation on all rule making associated with the bill.

#### **Recommendation 7**

2.111 The committee recommends that the Australian Government amend the review period for the legislation such that an independent review of the proposed new Part 4A of the *Online Safety Act 2021* is conducted within 18 months of the minimum age obligation taking effect.

**Recommendation 8**

**2.112 The committee recommends that the bill be amended to enable the Minister for Communications to have review power over any 'reasonable step' rules determined by the eSafety Commissioner.**

**Recommendation 9**

**2.113 Subject to consideration of the above recommendations, the committee recommends that the bill be passed.**

**Senator Karen Grogan  
Chair**

**Senator Ross Cadell  
Member**

# Dissenting Report from Senator the Hon Matt Canavan

- 1.1 The passage of the Online Safety Amendment (Social Media Minimum Age) Bill 2024 (the bill) has not been the Parliament's finest moment. The Government has called its proposal to ban children under 16 from social media as 'world leading'. Yet such a change has been forced through the Parliament with a haste not befitting its radical and unprecedented nature.
- 1.2 The public first saw the legislation to ban children under 16 from social media last Thursday, submissions closed on Friday, a public hearing was held on Monday and the committee's report is due on Tuesday. The bill is likely to be voted on by the end of this sitting week. That will mean that a bill that introduces a complex regulation of modern and evolving technologies will be subject to less than one week of public scrutiny.
- 1.3 Such a condensed process removes the right of Australians to be involved in the creation of laws that impact them. Despite the less than 24 hours request for submissions, 15,000 submissions have been received on this bill. While the determination of people to make such an effort to submit their views should be applauded, Senators on this committee have had no ability to examine even a fraction of these submissions. At the time of writing, only 91 submissions (or just 0.6 per cent of submissions) have been published on the committee's website.
- 1.4 The abuse of process also risks producing perverse outcomes and failing to reduce the real harms of young people accessing social media. These risks are evident by the Chair's draft recommending substantial changes to the bill with just days before its passing. While I welcome these recommendations, they are being made 'on the run'.
- 1.5 Given that even Government Senators have found significant defects in this bill in just a few days examination, the prudent approach would be for this inquiry to be extended into next year so a more fulsome examination can occur. For example, many supporters of the bill became frustrated in the hearing that the social media industry body (DIGI) did not have answers to their specific questions.
- 1.6 Senator Henderson asked DIGI specifically about why some social media platforms like Instagram and snapchat do not use the same methods as TikTok around age verification and removing under-age accounts? Ms Sunita Bose,

Managing Director, DIGI replied that they were an ‘an industry association ...we cannot speak about specific companies.’<sup>1</sup>

- 1.7 Dr Jennifer Duxbury, Director of Policy Regulatory Affairs and Research, DIGI added that ‘social media companies are currently under an obligation under the phase one codes to take steps to enforce the terms of use, including age restrictions.’<sup>2</sup>
- 1.8 Under further questioning, Senator Henderson pointed out that Meta is claiming the technology is not there yet to ban underage users, stating ‘the big social media companies know how to get underage kids off their sites but they don't want to because this is going to cost them money. And you are simply making excuses for this failure.’<sup>3</sup>
- 1.9 Such questions could be put directly to the social media companies if the committee is given more time to hold additional hearings. Effectively, the Senate is being asked to pass this bill ‘blind’ without being able to talk directly to the companies that will have to enforce an age verification process.
- 1.10 There is no great urgency to pass this bill before Christmas. Even if it becomes law, the bill will not take effect until 12 months later. It would be much wiser to use this time to get the law right. If the Government still wanted to keep to a 2026 start date, we could shorten the ‘grace’ period before enforcement occurs.
- 1.11 I share the concerns expressed in the Chair's report about the harms of social media used by young people. While bullying and harassment can never be eradicated, social media intensifies anxiety because it becomes almost impossible to escape from. Because of these harms, this is a highly emotional issue and there is an understandable demand for politicians to be seen to be ‘doing something’ about it. Yet it is also a highly complex area that should be examined carefully not in the hasty fashion that has beset this process.
- 1.12 Australians have lost trust in the political process at an unprecedented rate in recent years. Trust will not be restored by the Senate ignoring good process and effectively blocking the Australian people from having their say on significant laws before their Parliament.

### **Recommendation 1**

- 1.13 That the Senate extend the time for the Environment and Communications Legislation Committee to review the Online Safety Amendment (Social Media Minimum Age) Bill 2024.**

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<sup>1</sup> Ms Sunita Bose, Public hearing, Canberra, 25 November 2024.

<sup>2</sup> Dr Jennifer Duxbury, Public hearing, Canberra, 25 November 2024.

<sup>3</sup> Senator the Hon Sarah Henderson, Public hearing, Canberra, 25 November 2024.

### **Proposed amendments**

1.14 While I think it would be prudent to delay consideration of this bill, I realise there is a high chance that the Senate will move to vote on this bill within days. With that in mind, and with the limited time to review the legislation that I have, I propose the following changes to the bill.

### **Preventing the use of Digital ID**

1.15 I support the Chair's proposal to amend the bill to rule out the use of Digital ID, however, I think further clarity is needed on whether the proposed amendment would seek to rule out Digital ID completely or simply ensure that alternatives to Digital ID are permissible.

1.16 Given the nascent stage of Digital ID's development, all use of Digital ID should be ruled out. The Parliament could always seek to allow Digital ID by amending the law in the future if it becomes a widely accepted form of identification.

### **Recommendation 2**

**1.17 The bill should be amended to prevent any use of Digital ID for age verification purposes.**

### **Make 'reasonable steps' guidelines subject to Parliamentary accountability**

1.18 Under Item 5 of the bill, the eSafety Commissioner would have the role of writing guidelines for the taking of reasonable steps to prevent age-restricted users having accounts. At the hearing, Departmental officials provided little guidance on what these steps would be except that they would be guided by the Government's age verification trial which is not due to finish in mid-2025.

1.19 The committee did not even have the time to take evidence from the eSafety Commissioner.

1.20 The reasonable steps provisions are important because it is these details that will have the most impact on adult Australians. While Australians over 16 are not subject directly to constraints, to verify who is under 16, all Australians will have to be subject to some kind of age verification.

1.21 Mandating age verification for all raises privacy and practicality issues. I am concerned that if the reasonable steps are made too onerous then they may inadvertently prevent older Australians (or Australians uncomfortable with technology) out of their accounts. Many older Australians rely on social media to stay in touch with their family and friends.

1.22 Ironically, younger Australians are likely to have the savviness to circumnavigate the restrictions. If not designed properly, the social media ban may kick more 80-year-olds off social media than 8-year-olds.

1.23 While the Explanatory Memorandum states that the eSafety Commissioner's guidelines 'will not be binding', in practice, and given the hefty fines for non-

compliance, social media platforms are unlikely to depart far from the safe harbour of the written guidelines.

- 1.24 The eSafety Commissioner's guidelines will not be a regulatory instrument so they would not be subject to Parliamentary scrutiny such as through a disallowance motion. This is not appropriate given the ramifications of getting the guidelines wrong.
- 1.25 A better way would be for the Minister to make the guidelines as a regulatory instrument and hence be subject to Parliamentary disallowance. The Minister may consult the eSafety Commissioner on the guidelines, but a decision of this magnitude should be made by an elected official subject to Parliamentary accountability.

### **Recommendation 3**

- 1.26 The bill be amended such that the 'reasonable steps' guidance on how to conduct age verification be made by the Minister as a regulatory instrument disallowable by the Parliament.**

#### **Destruction of age verification material**

- 1.27 The bill seeks to protect the privacy of personal information collected by social media platforms by requiring its destruction (see s 63F(3)). However, the requirement is not triggered until the entity has used it 'for the purposes for which it was collected.' If the bill only allowed the collection of this material for the purpose of age verification then these provisions would protect privacy.
- 1.28 However, the bill allows social media companies to use age-verification information for any other purposes with the 'consent of the individual'. If the other purpose is for an ongoing need, then the entity would in effect never have to destroy the information.
- 1.29 The Department stressed that the consent provisions of this bill are strengthened from those normally contained in similar legislation. In summary, the bill requires that the consent be voluntary, informed, current, specific and unambiguous. The individual must also be able easily withdraw consent.
- 1.30 While this is welcome it is not clear precisely how such consent will be provided.
- 1.31 There was not a convincing reason provided about why social media companies needed an open-ended requirement to use age verification information even with consent. The only specific example provided was in the event of a parent company owning multiple social media platforms (such as Meta owning Facebook and Instagram). Notionally, these provisions would allow the subsidiaries to disclose the age-verification information to its partner companies preventing the need for multiple age verification requests.

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- 1.32 Note that this example itself undermines the destruction provisions because an entity may be able to keep the information just in case someone is to open another account in the future.
- 1.33 Ultimately, this is not a big enough reason to provide social media companies with broad powers to retain personal information. Given the recent, multiple instances of sensitive personal information being hacked, age verification information should be immediately destroyed once it is used for age verification. The only exceptions to this rule should be to comply with another law or a court ruling, and these exemptions are already covered in the bill through the reference to the Australian Privacy Principles.

#### **Recommendation 4**

- 1.34 The bill be amended to remove the ability of social media platforms to use or disclose information collected for age verification purposes for any other purpose, apart from the need to comply with the law or a court ruling.**

#### **Inserting a role for parents**

- 1.35 Regardless of whether this bill passes, parents will remain at the frontline of monitoring and restricting children's use of social media. It is reasonable for the Government to help parents in this battle. It is unreasonable to expect any Government to completely replace the role of parents.
- 1.36 It is strange then that this bill makes no mention of parents at all. This is despite the Government admitting that no law can prevent all harmful use of social media by children. A better approach would be for Government and parents to work together to limit harms.
- 1.37 The original proposal for a social media ban by the South Australian Government included parental involvement. South Australia's proposal was for a ban to cover children under 14. Under this approach, 14- and 15-year-olds, could open social media accounts with parental consent. This approach has also been adopted in Florida.
- 1.38 This would be a sensible alternative to the current Government heavy-handed approach. Parents are in the best position to understand the needs of their children. A partnership between Government and parents offers the best approach to reduce social media harm.
- 1.39 To achieve this, the bill could be amended so that the Minister has the power to exempt classes of under-16 year olds from the provisions of the bill providing parental consent is provided in all such cases. One class could be children between 14 and 16 years old. Another class could be children with certain learning disabilities. Another could be children engaged in educational or vocational activities such as Leo Puglisi's @6NewsAu current affairs channel. Note that while the Minister can, at the moment, exempt entire social media

platforms, there is no such ability to exempt particular children who may have a legitimate need for social media access.

### **Recommendation 5**

**1.40 The bill be amended to allow the Minister to exempt classes of children from the age-verification restrictions provided that parental consent is given in these circumstances.**

#### **Tightening the definition of social media platform**

1.41 In evidence to the committee, the Department accepted that the definition of social media platform has been made intentionally broad and further that the Minister can restrict the definition through particular exemptions. The current definition includes a service that enables ‘online social interaction between 2 or more end-users’. This would cover almost all interaction on the internet from Facebook to Strava and WhatsApp to newspaper apps (most newspapers allow for comments sections). There is no evidence that many of these services have played any role in harming young children.

1.42 It is understandable that the Government has rested on a definition close to one that is already in the Online Safety Act. But that Act covers a much wider range of issues. For the social media ban to be successful, it is essential that it remains focused on those apps that do the most damage to young children.

1.43 A better approach would be to focus the definition to only cover platforms with features most associated with harms to young children. This has been the approach in a Florida law passed earlier this year.

1.44 The Florida law defines a social media platform as one that has **all** of the following features:

- allows for upload of content or to view content of other users,
- ten per cent of daily active users who are under 16 use the service for an average of 2 hours per day or longer, or
- employs algorithms to select content for users,

1.45 and the platform must have **at least one** of the following features:

- infinite scrolling,
- push notifications,
- displays individual metric (likes, shares, etc),
- auto-playing of videos, or
- live-streaming.

1.46 Ideally the committee would have more time to evaluate the suitability of a more targeted definition appropriate for the Australian context. Yet, given the condensed time frame it would be better to err on the side of a narrowly focused law that can concentrate on the main harms rather than a broad law that would distract the Minister by requiring him or her to make endless exemptions.

**Recommendation 6**

- 1.47 That the bill be amended to more narrowly define a social media platform, similar to the definition of a social media law under the Florida Online Protection for Minors Act.**

**Senator the Hon Matthew Canavan  
Participating Member**



# Australian Greens' Dissenting Report

- 1.1 The Australian Greens are extremely disappointed to see the major parties attempt to ram through this so-called 'world-leading' legislation without any scrutiny, despite its many complexities and far-reaching consequences. This has happened just days after the Joint Select Committee on Social Media and Australian Society (Joint Select Committee) handed down its final majority report which did not recommend an age ban on social media to lock young people out.
- 1.2 The Joint Select Committee heard over and over that an age-ban will not make social media safer for anyone. Instead, what the recommendations in that majority report were designed to do is make platforms safer for all Australians, with fit-for-purpose regulation that will disrupt the predatory business models of the tech giants and help to hold them accountable. They were intended to empower and educate young people, and all social media users, not punish them, with the onus on the tech companies making enormous profits from hate, outrage and targeted advertising to act with a duty of care and be held accountable.
- 1.3 With this context, the major parties' intention to pass this legislation in under a week is rushed, reckless and goes against expert evidence. It also comes before the Australian Government has released the *Online Safety Act 2021* review and its 67 recommendations, and ahead of the age assurance trial being undertaken by the Government.
- 1.4 Despite experts, young people and the broader community having had minimal time to make submissions or be heard by the Senate, it has become evident that this bill is a complex idea with little support. It could have far-reaching consequences for privacy, mental health, silencing young peoples' voices and online safety for everyone in the long-run – and may even be unconstitutional.<sup>1</sup> These concerns must be appropriately considered before rushing in a ban to lock young people out of social media.
- 1.5 Parents are rightly concerned about the safety of their children online—but while this bill seems like a solution, it is a band aid that does nothing to resolve the root causes of online harms. Prohibition is not how you make platforms safer or empower citizens, including young people, to navigate the online world in a safe way. Instead, young people will either get around it, be pushed into darker

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<sup>1</sup> Professor Sarah Joseph, 'Banning under-16s from social media may be unconstitutional – and ripe for High Court challenge', [The Conversation](#), 25 November 2024; Human Rights Law Centre, [Albanese Government should curb social media harms, instead of banning social media for teens](#).

and less safe corners of the internet, or be dropped in the deep end when they turn 16—and the platforms will be no safer when they do.

- 1.6 Many mental health experts and academics have spoken against the bill, highlighting the benefits of online spaces for young people in connecting and learning. At particular risk are young people in regional and rural areas and LGBTIQ+ kids who use social media to feel less isolated and to connect with others which boosts their mental health. In addition, social media provides a platform for young people to engage in politics or kickstart future careers, and banning platforms would stifle this ability. Social media is a critical source of political information and communication for children – not only would this ban potentially impede on freedom of political communication, raising questions of constitutionality, but banning young people from these platforms would suppress future youth-led initiatives like the *Schools Strike 4 Climate* movement or Channel 6 news, founded by Leo Puglisi at the age of 12.
- 1.7 Less explored and investigated due to the outrageous timeframe for this inquiry, is the impact that banning social media will have on other industries like Australian music. Discoverability is the major challenge for up-and-coming Australian artists, and many rely on social media platforms to reach new audiences. Banning young people from platforms will curb the ability of young audiences to discover new music, right at the age when they are developing and exploring their musical tastes. It will also stop younger artists sharing their work which has proven to be absolutely vital to the success of award-winning Australian artists like Troye Sivan and Ruel who were sharing their music on YouTube and other social media platforms years before they turned 16.
- 1.8 Community members have raised privacy concerns about data being provided to platforms in order to enforce an age ban. The bill does not prescribe how platforms will monitor and enforce an age ban, and the Australian Government's age assurance trial is yet to commence. While the bill implements some privacy protections to prohibit platforms from using information collected for age assurance, many community members and experts have concerns about the sharing of important data with historically untrustworthy platforms who profit from selling users' data.
- 1.9 The Australian Government has indicated its intention to create exemptions for certain websites under regulation down the track. However, the approach to implement a blanket ban and then exempt certain platforms later leaves a lot of responsibility to a future government and uncertainty remains for young people and platforms. Some platforms, like Google, have suggested a designation approach rather than exemption approach.
- 1.10 Ultimately, as highlighted time and time again, the approach of a ban will not make online spaces safer for anyone. Everyone is on the same page about needing to make online spaces safer, but experts across a range of fields and

young people are calling strongly not for prohibition but for regulation of the platforms themselves, including legislating a duty of care. There are international examples to draw on, such as the European Union's *Digital Services Act* which has a number of protections for minors, including banning use of profiling for ads on children, and implementing obligations for children's safety that providers must abide by. We can't let the tech giants off the hook, and need real solutions to address the root of harms including dangerous algorithms that target our communities with divisive and damaging content.

- 1.11 Given this legislation would be a world first—with no country successfully implementing an age ban—it is more important than ever that the detail is thought out properly. Yet seemingly no evidence or consultation with experts has been taken into account. In this context, the Australian Government's proposed ban on social media appears to be a knee-jerk reaction to a complex problem. Parents are rightfully worried about the safety of their kids online, but they also know unless platforms are forced to clean up their act, their child won't be safe online when they turn 16 either.

#### **Recommendation 1**

- 1.12 **That the bill not pass.**

#### **Recommendation 2**

- 1.13 **That the bill be referred to further inquiry.**

#### **Recommendation 3**

- 1.14 **That the Australian Government introduce legislation to implement a digital duty of care and prohibit platforms from harvesting and exploiting the data of minors and protect young people from targeted, unsolicited advertisements and algorithms as a matter of priority.**

#### **Recommendation 4**

- 1.15 **That the Minister for Communications immediately release the *Online Safety Act 2021* review.**

#### **Recommendation 5**

- 1.16 **That the Australian Government invest in education for young people and their families to help develop digital literacy and online safety skills, and equip them with the tools and resources they need for positive and responsible online use.**

**Senator Sarah Hanson-Young**  
**Deputy Chair**

## Additional Comments from Senator David Pocock

- 1.1 I support the intent of this bill. The harms of social media platforms are undeniable. Children are increasingly having a phone-based childhood and missing out on key developmental milestones as a result of spending hours every day on intentionally addictive platforms. As one young constituent who wrote to me said after hearing me quote a research paper that was based on self-reporting of social media use:

Your generous estimate of 2–5 hours of daily screen time is far below what I’ve observed among my peers; some spend up to 10 hours a day scrolling. For me, it has been the first thing I check in the morning and the last thing I see before bed, as well as the time spent during the day, and I deeply regret how much of my childhood has been consumed by this habit.
- 1.2 We need to address this as a Parliament and ensure we are doing everything we can to reduce screen time and the negative impacts of social media on young people and to ensure they have access to real world social connection and experiences to build critical communication and conflict resolution skills, as well as resilience.
- 1.3 Engaging with experts through this process, it has become abundantly clear that a ban in isolation will not deliver the outcomes we seek. The lives of young people have become a blend of digital and real world and dealing with this intertwined relationship will require nuance and deep consideration. The fact that this bill was drafted in a couple of months and the only scrutiny it has received is a senate inquiry spanning less than three days is farcical and an insult to the democratic process.
- 1.4 It seems strange to be rushing a bill like this through the Parliament when it doesn’t come into effect until 2026 and experts and stakeholders are warning us that it needs deep consideration.
- 1.5 I acknowledge that the Australian Government is working to minimise the harms facing young people and I applaud this. But this has not been the case with my bill for a Duty of Care on climate, or banning gambling advertising as recommended by the Murphy Review (which the Prime Minister seems to have kicked beyond the next election), or the many recommendations of changes to the *Privacy Act 1988* that have also been pushed into the future.
- 1.6 It’s also not lost on me that no young people were represented at the inquiry. I had a motion in the senate to ensure young people were heard from, but due to the overly short senate inquiry timeline, the Senate did not even get to vote on the motion before the hearings took place.
- 1.7 Young people may not vote, but they have a right to have a say about the laws that will impact them, including at inquiries of the Senate. This Parliament needs

to do better in consulting young people about their views and thoughts on proposed legislation generally, but particularly on laws that are designed to restrict them from social media.

- 1.8 The inquiry would have been richer if, as senators, we had the opportunity to speak with young people about the harms they feel digital platforms cause them or their peers and what they would like to see done to address those harms.
- 1.9 While at least one witness brought the stories of some young people with them, it is not a substitute to hearing their views directly and I would urge the Government and the Senate to reflect on the absolute contempt that it shows to young people to not even try to facilitate hearing their views within this inquiry.
- 1.10 It also cannot be ignored that we do not know how the platforms will be expected to run their age assurance systems. The age assurance trial is still underway and is not expected to report its results until next year.
- 1.11 The recent report of the Covid-19 inquiry told us that trust and public confidence in our public institutions is lost when governments do not act transparently, fairly or proportionately.
- 1.12 The lack of detail around how age assurance activities are expected to be undertaken gives way to arguments that the Government will seek to introduce a mandatory Digital ID.
- 1.13 I don't believe this is accurate, but it's not fair to simply dismiss these concerns by Australians, which I'm sure are genuinely held. As politicians, it should be our duty to engage with these concerns when they arise and to consider how we can work to genuinely solve them, if that is an appropriate course of action. But of course, we just don't know how age assurance will work under this bill. There are no answers, and a three-day Senate inquiry is ill-equipped to ensure senators are provided with the technical expertise they need to understand the limitations on age assurance technologies.
- 1.14 At the very least, I believe the bill should be amended to specifically prohibit the use of the government's Digital ID system as a means to conduct age assurance. I further believe that any determination of what would constitute 'reasonable steps' in terms of age assurance should be reviewable by the Parliament and should be disallowable, particularly when the Parliament can currently not make a judgement on what these reasonable steps will entail before it is asked to vote on this bill.

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## **Recommendations**

1.15 If we truly want to say we have done everything we can to minimise the harms young people are exposed to, we should:

### **Recommendation 1**

1.16 **Extend the Senate inquiry to allow adequate time for the committee to engage with young people, mental health experts, technology experts, privacy experts, digital rights advocates and other interest groups, so that it can fully consider the implications of this bill.**

### **Recommendation 2**

1.17 **Ensure that any ban is not made in isolation. It's clear we need an ecosystem approach to improving the mental health of young people. If a ban is to be introduced, it should be part of a package including the Digital Duty of Care and strengthened privacy protections, as well as, but not limited to, investment in better mental health support, common spaces, community sport, arts and music, and other recreational activities. And as I recommended in my dissenting report into the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024, there is an urgent need for increased transparency and access to data for researchers to assess the impacts of these platforms.**

### **Recommendation 3**

1.18 **Secure a commitment from the government to implement all recommendations from the *Privacy Act 1988* review before this comes into effect in 2026.**

### **Recommendation 4**

1.19 **Amend the bill to have all legislative instruments automatically referred for review by the Environment and Communications Legislation Committee.**

### **Recommendation 5**

1.20 **Amend the bill so that data collected for the purposes of age assurance cannot be used for any other secondary purpose, other than to comply with the law.**

### **Recommendation 6**

1.21 **Have the Australian Government develop and fund media literacy training to be delivered throughout Australian schools, community hubs like libraries and by other community organisations.**

**Recommendation 7****1.22 Ban all forms of gambling advertising which are also causing immense harm to young people.**

1.23 Lastly, I would like to note the incredible work and dedication of the Environment and Communications Committee secretariat to facilitate this inquiry on extremely short notice. They have gone above and beyond to make this happen, working all weekend and making themselves available at all times of the day. It is embarrassing how little regard the parliament pays to the workload of secretariats in these sorts of circumstances.

1.24 I will reserve my voting position on the bill and will continue to speak to my colleagues about ensuring the committee—and all senators—are provided enough time to scrutinise the bill and consider its implications.

**Senator David Pocock**

**Participating Member**

# Appendix 1

## Submissions and additional Information

- 1 Minus18
- 2 PivotNine Pty Ltd
- 3 Valid Agenda Pty Ltd
- 4 Property Owners' Association of Victoria
- 5 Pride in Swan Inc.
- 6 6 News Australia
- 7 The Age Verification Providers Association
- 8 First Nations Peoples Aboriginal Corporation
- 9 UNICEF Australia
- 10 Young Labor Left NSW
- 11 Australian Gaming & Screens Alliance
- 12 Office of the Australian Information Commissioner
- 13 Internet Association of Australia
- 14 Digital Games Research Association of Australia
- 15 Safe on Social
- 16 The University of Sydney
- 17 Common Sense Party of Australia
- 18 Western Sydney University School of Law Social Media Working Party
- 19 Australian Psychological Society
- 20 Australian Democrats
- 21 Equality Building
- 22 Digital Rights Watch
- 23 ARC Centre of Excellence for the Digital Child
- 24 Free Speech Union of Australia
- 25 QUT Digital Media Research Centre
- 26 Liberty Victoria
- 27 Cybersecurity Research Group, University of Melbourne
- 28 Office of the eSafety Commissioner
- 29 Queensland Family & Child Commission
- 30 ReachOut
- 31 LinkedIn
- 32 College of Arts, Business, Law and Social Sciences, Murdoch University
- 33 Metis Law
- 34 Bravehearts
- 35 Bank Reform Now
- 36 Electronic Frontiers Australia
- 37 Advocacy for Inclusion

- 38 Australian Communications Consumer Action Network
- 39 Institute of Public Affairs
- 40 Collective Shout
- 41 Premier of South Australia
- 42 X
- 43 Digital Industry Group Inc.
- 44 Snap Inc.
- 45 Movember
- 46 Tech Council of Australia
- 47 CitizenGO Australia
- 48 Australian Child Rights Taskforce
- 49 Bloom-ed
- 50 United Nations Youth Australia
- 51 Dr Leila Green and academics at School of Arts and Humanities, Edith Cowan University
- 52 Dr Susan Grantham, Griffith University
- 53 United Notions Film
- 54 Lidcombe Community Soccer Club
- 55 National Electoral Representatives Alignment
- 56 Meeum
- 57 batyr
- 58 Aligned Council of Australia
- 59 Youth Law Australia
- 60 Youth Affairs Council Victoria
- 61 Social Media Research Institute
- 62 Pirate Party Australia
- 63 Outroll Pty Ltd
- 64 LGBTIQ+ Health Australia
- 65 Orygen
- 66 PROJECT ROCKIT
- 67 headspace
- 68 Alannah & Madeline Foundation
- 69 Selected Academics from Flinders University
- 70 Queer Liberation Boorloo
- 71 Australian Youth Affairs Coalition
- 72 AI Institute
- 73 Progressive Therapeutic Collective
- 74 AI Ally Project
- 75 Enriching Lives Psychology
- 76 Inner West Youth Theatre
- 77 Ashley, Francina, Leonard & Associates
- 78 Libertarian Party
- 79 Australian Business and Leadership School

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- 80 Shooters Fishers & Farmers Tasmania
  - 81 Google
  - 82 Australian National University Law Reform and Social Justice Research Hub
  - 83 World Council for Health Australia
  - 84 Australian Citizens Party
  - 85 Lighthouse on Federal
  - 86 International Social Games Association
  - 87 JPB Liberty Pty Ltd
  - 88 Prof. Marcus Foth
  - 89 Gayaa Dhuwi (Proud Spirit) Australia
  - 90 Professor Marcus Carter, Dr Taylor Hardwick, and Dr Ben Egliston
  - 91 New World Alliances
  - 92 Children and Media Australia
  - 93 ChildFund Australia
  - 94 The Canberra Declaration
  - 95 WeCollaborate
  - 96 Australian Human Rights Commission
  - 97 Australians for Science and Freedom
  - 98 Australian Feminists for Women's Rights
  - 99 Amnesty International Australia
  - 100 Meta
  - 101 eSafety Youth Council
  - 102 TikTok Australia
  - 103 ARACY
  - 104 Human Rights Law Centre
  - 105 Children and Young People with Disability Australia
  - 106 Great Ocean Road Allied Health Pty Ltd
  - 107 International Centre for Missing & Exploited Children
    - Attachment 1

**Answer to Question on Notice**

- 1 Department of Infrastructure, Transport, Regional Development, Communications and the Arts, answer to question on notice, 25 November 2024 (received 25 November 2024)
- 2 Department of Infrastructure, Transport, Regional Development, Communications and the Arts, answer to question on notice, 25 November 2024 (received 26 November 2024)

**Tabled Documents**

- 1 Submission 70 from the Joint Select Committee on Social Media and Australian Society, tabled by Senator Karen Grogan on 25 November 2024.
- 2 Submission 69 from the Joint Select Committee on Social Media and Australian Society, tabled by Senator Karen Grogan on 25 November 2024.
- 3 Submission 207 from the Joint Select Committee on Social Media and Australian Society, tabled by Senator Karen Grogan on 25 November 2024.
- 4 Submission 121 from the Joint Select Committee on Social Media and Australian Society, tabled by Senator Karen Grogan on 25 November 2024.
- 5 Submission 220 from the Joint Select Committee on Social Media and Australian Society, tabled by Senator Karen Grogan on 25 November 2024.
- 6 Submission 199 from the Joint Select Committee on Social Media and Australian Society, tabled by Senator Karen Grogan on 25 November 2024.
- 7 Opinion article by Dr Simon Wilksch "Psychologist explains why raising minimum age can reduce social media harm", tabled by Senator Karen Grogan on 25 November 2024.
- 8 Article by Anglra Bharadwaj "Tech giants' fibs on kids", tabled by Senator the Hon Sarah Henderson on 25 November 2024.
- 9 Digital Industry Group Inc., Opening Statement, Tabled 25 November 2024.
- 10 Project Rokit, Opening Statement, Tabled 25 November 2024.
- 11 Professor Susan Sawyer, Opening Statement, Tabled 25 November 2024.
- 12 Article by Zachary Ward, Centre for Health Decision Science, "Kids' Ad Revenue for Social Media", tabled by Senator Dave Sharma on 25 November 2024.
- 13 Dr Danielle Einstein, Opening Statement, 25 November 2024.
- 14 Submission 1 from the Joint Select Committee on Social Media and Australian Society, tabled by Senator Lisa Darmanin on 25 November 2024.

# Appendix 2

## Public Hearings and Witnesses

*Monday 25 November 2024*  
Committee Room 2S3  
Australian Parliament House  
Canberra

*Project Rokit*

- Ms Lucy Thomas OAM, Chief Executive Officer

*Headspace National Youth Mental Health Foundation*

- Ms Nicola Palfrey, Head of Clinical Leadership
- Ms Julie Petering, Principal Policy Advisor

*Murdoch Children's Research Institute*

- Professor Susan Sawyer, Research Fellow

*Dr Danielle Einstein, Private capacity*

*Digital Industry Group (DIGI)*

- Ms Sunita Bose, Managing Director
- Dr Jennifer Duxbury, Director of Policy Regulatory Affairs and Research

*Department of Infrastructure, Transport, Regional Development, Communications and the Arts*

- Mr James Chisholm, Deputy Secretary, Communications and Media Group
- Ms Sarah Vandenbroek, First Assistant Secretary, Digital Platforms, Safety and Classification Division
- Mr Andrew Irwin, Assistant Secretary, Online Safety Branch
- Mr Nolan Noeng, Specialist Advisor, Online Safety Branch

*Office of the Australian Information Commissioner*

- Ms Carly Kind, Privacy Commissioner