
Thank you very much for the opportunity to participate in this morning's session on the Privacy and Other Legislation Amendment Bill 2024.

We were asked to provide a response on notice to the question of whether a Children's Online Privacy Code should apply to services likely to be accessed by children, or to child-specific services only.

The Alannah & Madeline Foundation believes very strongly that the Code should apply to all online services likely to be accessed by children under 18, not just child-specific services.

We maintain this position for several reasons:

- The 'likely to be accessed' framing is in line with Proposal 16.5 of the Privacy Act review report: 'Introduce a Children's Online Privacy Code that applies to online services that are "likely to be accessed by children".'
- The 'likely to be accessed' framing is in line with the UK Children's Code, whose scope was proposed as a model for an Australian code by the Privacy Act review report. The UK Children's Code applies to 'information society services likely to be accessed by children', including a very wide range of apps, connected toys and devices, search engines, streaming services, online games and educational products. Details about the UK approach are available [here](#).
- Children spend significant time in digital spaces which are not child-specific. For example, we know that Instagram and TikTok are very popular among Australian teens and younger children, but more than 90% of Australian [Instagram](#) users and approx two-thirds of [TikTok](#) users are recorded as aged 18 and over. This could enable their providers to state, plausibly, that they do not provide 'children's services' and therefore are not in scope of a Children's Online Privacy Code.
- As a child rights organisation, we see appropriate protection for children's personal information as the right of all children under 18 wherever they are in the digital environment. We refer to [General Comment 25](#) of the United Nations Convention on the Rights of the Child ('On children's rights in relation to the digital environment'), which specifies 'States parties should take legislative, administrative and other measures to ensure that children's privacy is respected and protected *by all organizations and in all environments* that process their data.' [Our emphasis] No distinction is made between digital environments which are, and are not, specifically aimed at children. Children's inalienable right to be free

from arbitrary or unlawful interference with their privacy should apply in every environment where the child is present.

We would be delighted to discuss this matter further.

Kind regards,
Jessie Mitchell