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November 10, 2025

Committee Secretary
Senate Environment And Communications References Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Senate Environment and Communications References Committee Inquiry into the Internet Search Engine Services Online Safety Code and the under 16 social media ban

Thank you for providing us the opportunity to present our views and to address your questions on the "Internet Search Engine Services Online Safety Code and the under 16 social media ban".

Google and YouTube take seriously their responsibility to keep younger users safe and are committed to working with governments and regulators to find the right solutions. YouTube has invested heavily in designing age-appropriate products and industry-leading content controls and tools that allow parents to make choices for their families, but forcing kids to use YouTube without an account removes these parental controls and safety filters. YouTube is used by millions of Australian children for education, growth, and wellbeing. Well-crafted legislation can build on industry efforts to keep children and teens safer online, but the solution is not stopping them from being online, it's about making sure platforms have relevant guardrails in place and empowering parents with the tools and confidence they need to guide their children's online experiences.

Through this submission we take the opportunity to address the questions taken on notice and issues raised during our appearance.

1. **What feedback has Google provided to the eSafety Commissioner about the need to protect a person's right to privacy in relation to the Internet Search Engine Code and the other codes that are being developed?**

   Our involvement in the code development process was through our engagement with

DIGI.

While a good understanding of user age can help online services offer age-appropriate experiences, any method to determine the age of users across services comes with tradeoffs, such as intruding on privacy interests, or requiring more data collection

Industry raised concerns about the appropriateness of different age assurance mechanisms across various codes with the eSafety Commissioner (**eSafety**) during the code development process. For example, in relation to the Search Code, concerns were raised specifically about the need to preserve the ability for users to anonymously search for legal content via a logged out state.

2. **When it comes to an individual's privacy, which codes that the eSafety Commissioner has either already put in place, or has asked to be developed, have the potential to impinge on someone's privacy? Can you provide some practical examples?**

   Privacy is at the heart of everything we do at Google. As we design our products, we focus on three important principles: keeping information safe, treating it responsibly, and putting the user of the product in control.

   As noted in response to question 1, while a good understanding of user age can help online services offer age-appropriate experiences, any method to determine the age of users across services comes with tradeoffs, such as intruding on privacy interests, or requiring more data collection.

   Each of the Codes recently registered by eSafety seeks to balance these tradeoffs. For example, requirements to conduct age assurance for certain services under the 'Designated Internet Services Code' apply only to services that present a high risk of minors accessing adult material.

3. **Why did the eSafety Commissioner designate YouTube a social media platform rather than a video streaming sharing service?**

   eSafety has provided its preliminary assessment that YouTube is an age-restricted social media platform. eSafety is best placed to explain the basis of its assessment.

4. **Protections available for users logged into accounts owned by adults**

   As stated in the hearing, we take seriously our responsibility to promote positive online experiences and to help keep our younger users safe. This is an area in which we have long invested, working closely with experts and families to develop age-appropriate products and protections that align with kids and teens developmental stages and the tools that give families the flexibility to manage their unique relationships with technology.

We put in place automatic protections for kids and teens accessing our services through their own account. For example, our SafeSearch feature helps filter out explicit results on our search engine for account holders under the age of 18. As such, we recommend that kids and teens use our services when logged into their own account to provide a safer and more age appropriate experience.

Alternatively, we recommend that parents use our free Family Link product to create and supervise accounts for their children.

5. **List of banned products that Google restricts from being advertised to children and the basis of jurisdiction on which they have been developed.**

We do not allow personalised advertising (i.e. ads that are tailored to an individual's characteristics, interests or behaviours) and we restrict sensitive ads categories such as Counterfeit Goods, Dangerous Products (weapons, drugs, tobacco), Content Enabling Dishonest Behavior (hacking, cheating), Inappropriate Content (hate speech, shock content), and Deceptive Practices (malware, cloaking, lying about the product)for all account holders under 18. You can read more about our ads protections for kids and teens here.

Our **Ads policies** also prohibit or restrict advertising for various items, services, and practices due to concerns about safety, fraud, and user experience for *all* users. The content, products, and practices strictly prohibited or considered violations under Google Ads policies include:

- Prohibited Products & Content:

Illegal goods/services, dangerous products (drugs, weapons), counterfeit items, inappropriate content (hate speech, explicit material), and harmful "detox teas."

- Prohibited Business Practices: Google bans misleading tactics and ad network exploitation:

Dishonest behaviour (scams, phishing), deceptive/offensive content, misrepresentation (omitting info, false claims like "miracle cure," fake testimonials, exaggerated results), hidden information (fees, terms), implied affiliations, bait-and-switch, deceptive checkout/billing, dishonest pricing (exploiting vulnerable individuals, unclear free trials), and ad network abuse (cloaking, keyword stuffing).

Our policies are created after careful research, engaging with experts, and, when appropriate, we consider relevant laws. As the landscape changes, our policies evolve – helping to prevent abuse while allowing businesses and creators to reach new audiences and grow.

We are constantly staying abreast of breaking events to make sure our policies are in the right place.

6. **Data Google collects from users under the age of 16.**

During the hearing, we clarified that we treat users under 18 as minors, and do not have separate treatments for users under 16. The information we collect is described in the Google Privacy Policy.

We do not require users to provide more personal information than is reasonably necessary to use the Google products and services available for their accounts, consistent with Australian privacy law.

Importantly, Google prohibits personalized advertising to minors, which means ads will not be based on personal information from a minor's account.

We publish a Teen Privacy Guide to help teens learn more about our practices and privacy settings.

7. **Personalised recommendations for users under 18 years of age**.

Personalization is what organizes a massive amount of information into something manageable and usable – making it easier and faster for everyone to find what's most helpful and meets their needs.

Alternative methods of organization are far less likely to be useful or valuable for viewers.

- Chronological feeds can lead to spam and low quality content surfacing higher in results. This could also make it easier for bad actors to take advantage of chronological ordering to reach more consumers with low quality or potentially harmful content.
- Trending feeds may not be relevant or useful for users.
- And contextual recommendations do not reflect an understanding of the user's journey or content needs, and can further contribute to filter bubbles and exposure to less diverse content.

Users can see and feel the benefit of personalisation in many ways, including the safer online environment that comes from the filtering of spam and inappropriate content.

This is particularly true for kids and teens. Our recommendations system plays an important role in how we maintain a responsible and enriching platform for younger users. It helps to connect them to high-quality content - informed by quality principles developed in collaboration with independent child development and digital wellbeing experts and minimises the chances they'll see low quality content.

Further information about how recommendations work on YouTube is available here.

8. **Effect of deleting YouTube search or watch history**

   If a user deletes their YouTube search or watch history, our algorithms stop using that data for the purpose of recommending videos.

9. **Number of YouTube accounts currently in Australia**

   Google shared in February 2025 that we would soon introduce technology that would distinguish between younger users and adults and we have since begun to roll out this technology in the US.

   Our age estimation model uses machine learning to interpret a variety of signals already associated with a user's account, such as the types of information a user has searched for or the categories of videos they've watched on YouTube. These signals help us determine whether a user is likely over or under the age of 18.

   For September 2025 in Australia, the number of daily average (logged-in) viewers was over 11 million.

10. **Number of accounts that YouTube has data on to age-verify, and the breakdown is of content consumed in Australia as logged-in users versus logged-out users.**

    For September 2025 in Australia, approximately 80% of watch time came from logged-in viewers.

11. **Use of data collected before a user turns 18.**

    Once a user turns 18, we use account information, such as age and gender to personalise advertising. However, we do not use information from their use of our services before they turn 18.

12. **Litigation against the Australian Government.**

    Google has made clear to the Government and the eSafety Commissioner its position that, on a proper construction of the law, YouTube is not an age-restricted social media platform. Google continues to engage on this issue. Please find enclosed our correspondence with the Minister for Communications as of 13 October 2025 at **Annex 1**.

13. **Under 16 social media ban**

    Please find enclosed our correspondence with the eSafety Commissioner as of 13 October 2025 at **Annex 2**.

14. **Representations by Google to the Australian Government on Text and Data mining exemption.**

    This matter falls outside of the scope of the Senate inquiry but Google was pleased to participate and respond to questions during the hearing. That said, Google is happy to reiterate the following information on this issue, which we have previously shared in submissions to government consultation processes:

    Google believes that the adoption of technology including AI will bring great opportunities to Australians, its businesses and society as a whole. Whether it be through drug discovery, tailored cancer treatment, personalised hearing devices or helping to restore Giant Kelp forests along the coast of Australia. In order to develop AI, significant quantities of data is needed and we believe this technology will be crucial in scientific discovery and productivity gains. We have set this perspective out in previous submissions to Government, below:

    - Select Committee on Adoption Artificial Intelligence - Submission
    - Productivity Commission Harnessing data and digital technology - Submission

15. **Legislative framework to Protect Teens Online**

    Google and YouTube have shared a *Legislative Framework for Children and Teens Online*, which outlines some principles for laws seeking to improve online experiences and keep kids and teens safer when using the internet. This Framework is intended to contribute to global conversations about building good legislative models that can help hold companies responsible for promoting safety and privacy, while enabling access to richer experiences for children and teens.

16. **VVR and Transparency Report**

    YouTube strives to remove content that violates our Community Guidelines before users are exposed to this content. To measure our progress on removing violative videos, we have developed a metric called Violative View Rate (VVR). This metric estimates the percentage of views on violative videos. In order to calculate Violative View Rate, we take a sample of the views on YouTube and send the sampled videos for review. Once we receive the decisions from reviewers about which videos in the sample are violative, we aggregate these decisions in order to arrive at our estimate. YouTube consistently makes improvements to our methodology to more accurately calculate VVR. In Q2 2025, VVR is at 0.14%–0.15%, meaning that for every 10,000 views of content on YouTube globally, 14-15 of those were of violative content.

    We provide an updated VVR each quarter as part of our Community Guidelines enforcement report, available here.

Thank you.

Annex 1

25 June, 2025

eSafety Commissioner
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BY EMAIL

Dear Commissioner,

I am writing to formally request the release of the eSafety Commissioner's Youth Survey referenced in both your advice to the Minister for Communications of 19 June 2025 and in your address to the National Press Club of 24 June 2025.

The advice does not include a citation, nor does it appear to have been published on the eSafety Commissioner's website, which is usually standard for research used in public statements with the intent to inform a significant public policy.

In response to an email to your office yesterday, I was provided with this link which includes some key findings, two infographics and the methodology for the Survey - but not the full results of the Survey itself nor the data points about YouTube or the sample size and age group referenced in your advice and address.

Given the Survey findings are being used to inform the Government's approach to an issue of public policy, and reference YouTube, we would welcome having access to the full Survey, including the results, to analyse and assess the findings, and to enable us to confirm they are being presented and reported on objectively.

I would be grateful if you could provide us with a copy of the Youth Survey as a priority.

Yours faithfully

[redacted]

Annex 2

Australian Government | eSafetyCommissioner

Thursday, June 26, 2025 **CC25-0019**

[redacted]

Level 5, 48 Pirrama Road Pyrmont NSW 2009

[redacted]

Email: [redacted]r@google.com

Response to Correspondence

Dear [redacted]

Thank you for your letter from yesterday, 25 June 2025. I understand you have also been in touch with my teams in relation to the research survey findings referenced in my National Press Club speech and the advice recently provided to the Minister for Communications, the Hon Anika Wells MP.

Minister Wells asked us to provide advice on the draft Rules. One of the draft Rules specifically exempted YouTube. Therefore, we provided advice on this proposed exemption. This survey was just one input into our response. Our advice also explains why we do not believe any service should be specifically excluded, not just YouTube. We also highlight concerns regarding the features and functionality of YouTube as being similar to other services which are intended to be captured under the Social Media Minimum Age legislation and other potential considerations that the Minister may wish to consider.

Regarding the findings referenced, these represent a subset of a broader study, focusing specifically on responses from 2,629 Australian children aged 10 to 15 years. The data highlighted included children's use of social media platforms and the locations where children most recently encountered various online harms. For the purposes of the study, social media platforms were defined to include YouTube, TikTok, Instagram, Snapchat, Facebook, Pinterest, Steam, Reddit, Twitch, X (formerly Twitter), BeReal, Threads, and any other social media platform or app nominated by respondents. YouTube Kids was excluded from the analyses.

As outlined in the methodology report provided to you and published on esafety.gov.au, the study had a sample size of 3,454 children aged 10 to 17 years and their parent or caregiver also took part in the survey. The survey, which was conducted between December 2024 and February 2025, had three components: a 15-minute parent/caregiver survey, a 20-minute child core survey and a 10-minute child recontact survey. Informed consent to participate in all components of the study was sought from both parents/caregivers and children.

The research was submitted to the Australian Institute of Aboriginal and Torres Strait Islander Studies ethics committee. Ethics approval was received on 18 June 2024. Research design included peer review from domestic and international subject matter experts, as listed in the methodology report.

For full details, please see the methodology report.

Releasing topline findings ahead of full reports is common practice for survey data, for example, for conferences, media, research snapshots. As such, selected findings were shared during the National Press Club address.

As you noted in your letter, to date we have published the following research products in the Keeping Kids Safe Online series:

1. **Methodology paper**
    - Keeping kids safe online methodology report
2. **Research snapshots**
    - How common is exposure to content associated with harm among children in Australia?
    - How common is cyberbullying among children in Australia?

A series of reports presenting the results from the Keeping Kids Safe Online survey will be released over the coming months. The first report in the series will explore children's online participation and experiences, including the perceived benefits of being online, the platforms used, and the potentially risky online activities and strategies children use to stay safe online.

Future reports will explore children's experience and the impacts of specific online harms, as well as digital parenting practices.

Additional snapshots will explore the prevalence of other specific online harms, such as online sexual harassment and image-based abuse.

In alignment with common research practices, we are not releasing the survey instrument prior to publication of all planned reports. Requests for the instrument such as from academic and NGO researchers or other online safety regulators may be considered at a later date. However, all survey questions are included in the tables and figures of our published work. It is also not possible to share the survey data due to ethics clearance protocols and obligations.

Julie Inman Grant

eSafety Commissioner

Australian Government | eSafetyCommissioner

15 August 2025 **CC25-0082**

Ms [redacted]
Government Affairs and Public Policy
Google Australia
48 Pirrama Road
Pyrmont NSW 2009

By email: [redacted]@google.com

Cc: [redacted]@google.com

Dear [redacted]

Social media minimum age obligation

I am writing to provide you with an update on the social media minimum age (**SMMA**) obligation, specifically our next steps in determining whether individual services will be subject to the SMMA obligation and our development of regulatory guidance. I am also inviting you to participate in regular, ongoing engagement with eSafety prior to the obligation on age-restricted social media platforms coming into effect on 10 December 2025.

Background

An age-restricted social media platform is defined in section 63C(1)(a) of the *Online Safety Act 2021* (**the Act**) as an electronic service with a sole or a significant purpose of enabling online social interaction between 2 or more end-users, which allows end-users to link to, or interact with, some or all of the other end-users, and which allows end-users to post material on the service. Section 63C(6) provides that an electronic service is not an age-restricted social media platform if the service is specified in the legislative rules.

On 29 July 2025, the Minister for Communications, Anika Wells, made the *Online Safety (Age Restricted Social Media Platforms) Rules 2025*[1] (**the Rules**) under the Act, specifying certain classes of services that are not age-restricted social media platforms.

Where a service demonstrates that it falls within a class of service specified in the Rules, it will not be subject to the SMMA obligation set out in section 63D of the Act. The Explanatory Statement to the Rules states the intention of the Rules is to focus the SMMA obligation on platforms with features and functions known to be harmful to children, whilst excluding those services that pose fewer harms to children and which help children and young people to thrive. eSafety is developing an assessment framework to assist in determining whether specific services are subject to the Act.

Assessment of specific services

In a media release dated 30 July 2025[2], the Prime Minister and the Minister for Communications specifically identified YouTube as one of the services intended to be classed as an age-restricted social media platform and therefore subject to the SMMA obligation.

While eSafety has not yet formed a conclusive view, we also consider that YouTube is likely to be an age-restricted social media platform and subject to the SMMA obligation. This is because YouTube appears to:

- have a significant purpose of enabling online social interaction between its end-users
- allow users to link to, or interact with, some or all of the other end-users, and
- allow users to post material on YouTube.

Further, YouTube does not appear to have a relevant sole, primary or significant purpose in relation to a class of excluded services as set out in the Rules.

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[1] See the Federal Register of Legislation in relation to the Rules - Online Safety (Age-Restricted Social Media Platforms) Rules 2025 - Federal Register of Legislation, and the Explanatory Statement to the Rules - Online Safety (Age-Restricted Social Media Platforms) Rules 2025 - Federal Register of Legislation.

[2] Press conference of 30 July 2025 at Parliament House, Canberra, Press conference - Parliament House, Canberra | Prime Minister of Australia.

eSafety's research also evidences that YouTube is popular with Australian children under the age of 16 and has features and functions associated with the risks that the SMMA obligation intends to address.

The Explanatory Statement to the Rules[3] provides some examples of services that are unlikely to fall within scope of the definition of age-restricted social media platform. YouTube Kids is identified as an example of a service that is unlikely to fall within scope of this definition due to the absence of the same interactive features as YouTube, and that it operates more like a video streaming service.

To assist eSafety in its assessment of whether YouTube and YouTube Kids are age-restricted social media platforms, we seek your response as to whether Google self-assesses either service as an age-restricted social media platform and if not, the basis on which Google considers it either does not meet the definition of age-restricted social media platform under section 63C, or is excluded under the Rules.

Industry engagement

Given eSafety's initial view that YouTube is an age-restricted social media platform, and to assist us in forming a final view in relation to both YouTube and YouTube Kids, we would like to proactively engage with you on a regular basis. This engagement would assist both eSafety and Google in the initial focus of determining whether these services are captured, and assist Google to understand the obligation on age-restricted social media platforms under Part 4A of the Act. Additionally, eSafety will proactively communicate eSafety's approach to ensuring compliance with the SMMA obligation in section 63D through this regular engagement.

We propose this engagement will involve agreement between Google and eSafety regarding a regular cadence of meetings, updates on Google's plan for compliance with regulatory obligations, opportunity to focus on targeted areas of interest at eSafety's or your request, and agreement to provide eSafety with updates in relation to any compliance challenges or concerns.

Regular engagement will facilitate early identification of challenges and potential compliance concerns and an opportunity for open and collaborative discourse. Regular engagement also

[3] Explanatory Statement to the Online Safety (Age-Restricted Social Media Platforms) Rules 2025, Online Safety (Age-Restricted Social Media Platforms) Rules 2025 - Federal Register of Legislation.

has the added benefit of minimising the potential for miscommunication and misunderstanding.

Regulatory guidance

As you would also be aware, eSafety has been engaging in broad consultation to support the development of regulatory guidance in relation to the SMMA obligation. Google was invited to participate in consultation and I understand we are waiting to hear back from Google with your response and proposed dates. In particular, we would be interested to learn more about the age assurance tools YouTube has announced it will implement shortly for end-users in the United States, whether these tools are already being applied in Australia, and if not, whether there is a plan to roll out these tools within the Australian context.

We understand from discussions with industry the preference for early guidance to assist platforms with their preparation for the commencement of the SMMA obligation. As we have indicated during consultations, eSafety's regulatory guidance will have regard to knowledge and practice from our previous work on age assurance, results from the government's technical trial, feedback from the consultation and comparable international frameworks.

The guidance will include principles intended to facilitate positive outcomes for Australian end-users as well as support platforms to achieve the intention of the SMMA obligation. These will include and have regard to the principles raised consistently in consultations:

- Age assurance measures, whether deployed in a standalone manner or as part of a multi-layered approach, should be accurate, effective and robust

- Age assurance measures should be privacy-preserving and adopt a data minimisation approach

- Age assurance measures should respect and promote human rights and minimise the potential for bias and discrimination

- Services should be clear and transparent about the age assurance measures they implement by clearly informing users about their options to confirm their age, what data will be used, how data is stored and protected and what the user's rights are in the process.

We recognise platforms vary in design, risk profile, and user base. What is reasonable on one service may not be reasonable on another and may also evolve over time. As outlined by eSafety during consultations, the regulatory guidance will set out parameters in relation to reasonable steps and will not be prescriptive (for example, the guidance will not state that a certain class or type of tool must be used).

Consistent with the SMMA obligation, platforms are responsible for determining appropriate technical specifications in relation to the use of tools or technology to assess the age of Australian end-users and prevent the creation and holding of accounts by Australian children under the age of 16. Decisions around which tools or technologies to implement should be guided by the principles in the regulatory guidance, which we have foreshadowed at a general level above, as well as informative sources like the government's forthcoming age assurance technology trial report, a platform's own testing/innovation and emerging international standards.

eSafety's expectations

eSafety will provide further guidance to industry in the coming weeks, however we wish to make clear our expectations for what Google should be doing **now** in preparation for the SMMA obligation taking effect on 10 December. eSafety has also published some FAQs on the eSafety website which may assist you in developing your plans and communications to support and inform your end-users' understanding of the SMMA obligations.[4] Importantly, and consistent with prior messaging,[5] eSafety expects you to prioritise:

- Preparing to find and deactivate accounts held by Australian end-users under 16 from 10 December. This includes end-users with a self-declared age of under 16 as well as any end-users determined to be under 16 through Google's systems and processes.
- Providing early, clear and age-appropriate communications to affected end-users including:
    - how they can download or otherwise preserve/access their account information while they are unable to use an account to access an age-restricted social media platform

[4] eSafety website, Social media 'ban' or delay FAQ | eSafety Commissioner.
[5] See the eSafety Commissioner's speech at the National Press Club in Canberra on 24 June 2025: Swimming between the digital flags: helping young Australians navigate social media's dangerous currents | eSafety Commissioner.

    - what will happen to their account information when their account is deactivated
    - how and when they can expect or request their account be reinstated, including how to appeal if they believe their account was deactivated in error, and
    - support information and resources, noting that some end-users may feel distressed or confused.
- Taking reasonable steps to prevent current Australian end-users under 16 with accounts from increasing their declared age to over 16, opening new accounts indicating that they are over 16, or seeking to change their location or other settings in an effort to open or retain an active account on an age-restricted social media service.
    - Examples of steps taken by some social media services are set out in eSafety's transparency report titled 'Behind the Screen', published in February 2025.
- Ensuring that the mechanisms for reporting a potential underage end-user and assessing those reports are accessible, fair, transparent, timely and empower end-users/reporters with the option to appeal or challenge an outcome, and that Google is prepared to manage potential increase in volume of reports from 10 December.
- Scoping effective age assurance measures to be applied at the point of account creation and across the user-journey. Self-declaration, on its own, will not be sufficient. Google should give consideration to:
    - the overview of the principles eSafety has outlined above
    - building on the systems and processes already in place to enforce current minimum age rules
    - how fallback mechanisms might be triggered for borderline cases
    - circumvention risks, including location-based circumvention such as VPN use or age-based circumvention such as spoofing techniques, and appropriate safeguards to combat these risks.

Services are encouraged to document decision-making, risk and impact assessments and other key information related to the implementation of age assurance measures that you consider may demonstrate the taking of reasonable steps.

The above points are intended to provide you with an early, interim indication of our approach and position. More detailed guidance will be provided shortly.

In the meantime, please reach out if you have any questions about the steps outlined above, or if there is any other information you require to proceed with your product development actions in anticipation of the obligation taking effect on 10 December.

As you are aware, the privacy regulator, the Office of the Australian Information Commissioner (**OAIC**), is a co-regulator of the SMMA legislative requirements and we will continue to work closely with the OAIC as we progress with preparation for implementation of the SMMA obligation.

Next steps

We would appreciate your response to this letter, and in particular, any information you consider relevant to an assessment of whether YouTube and YouTube Kids are age-restricted social media platforms and your willingness to engage with eSafety on a proactive and regular basis as set out above, by 29 August 2025.

In the interests of transparency, eSafety intends to provide an update on the eSafety website shortly, setting out our next steps which may include that we have written to some of the most commonly-used platforms to invite regular and close engagement, and that regulatory guidance will be published soon for the benefit of all platforms.

Please do not hesitate to contact my team at industry@esafety.gov.au to discuss.

Yours faithfully

Julie Inman Grant
eSafety Commissioner

29 August 2025

Julie Inman Grant
eSafety Commissioner
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BY EMAIL

Dear Commissioner,

Thank you for your letter of 15 August 2025 regarding the social media minimum age (SMMA) obligation under Part 4A of the Online Safety Act 2021 (Cth) (the Act).

Until 30 July 2025, YouTube had understood that it would be exempted from the SMMA. This reflected not only the Government's public statements to that effect but also the written assurance from the Communications Minister to YouTube's CEO of 9 December 2024 which reaffirmed the Government's publicly stated commitment to exempt YouTube from the definition of an age-restricted service and confirmed that this would be given effect by a re-elected Labor Government.

In these circumstances, YouTube has not had sufficient time - and indeed significantly less time than other services - to fully consider its position and response to the SMMA.

While we welcome constructive engagement, YouTube wishes to make clear that it does not consider itself to be in scope of the SMMA and maintains that it is a video-sharing service distinguishable from traditional "social media".

We are however interested to understand how eSafety is developing its self-assessment framework and obtain an understanding of when this will be available. We would of course also be happy to share further details about YouTube's recent age assurance announcement.

We are available to meet next week and at this stage 4 September would be most convenient on our side.

We otherwise reserve our position.

Kind regards,

[redacted]

19 September 2025

Julie Inman Grant
eSafety Commissioner
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BY EMAIL

Dear Commissioner,

Thank you for inviting us to provide our view as to whether YouTube is an age-restricted social media platform under the *Online Safety Act 2021* (Cth) (**Act**).

Consistent with our correspondence of 25 August, our view is that YouTube does not meet the conditions set out in s 63(c)(1)(a) of the Act and is therefore not an age-restricted social media platform under the terms of the Act. This view is based on the specific characteristics of YouTube and how it is used by Australians. YouTube's primary purpose is as a video-sharing library and streaming platform. Any YouTube features resembling those on social media platforms, such as the ability to comment on or react to videos are not a significant purpose of our service, but rather ancillary to the primary purpose of video-sharing and streaming. As such, these features also operate and are used differently from those on covered social media platforms. Finally, these types of features are common across many digital surfaces, including news websites and other digital forums, that are not subject to the Act.

Once you have made an assessment of YouTube's status under the Act, can you please provide us with a response with an explanation of the grounds for your conclusion.

Kind regards,

[redacted]

Australian Government | eSafetyCommissioner

8 October 2025

[redacted]

YouTube Government Affairs and Public Policy, Australia

Google LLC

By email: [redacted]@google.com

CC: [redacted]@google.com, [redacted]@google.com, [redacted]@google.com, [redacted]s@google.com, [redacted]@google.com

[redacted]

Preliminary view on whether Google services are age-restricted social media platforms

1. I refer to our recent engagement concerning the social media minimum age obligation (**SMMA obligation**) in Part 4A of the *Online Safety Act 2021* (Cth) (**the Act**). As you are aware, the SMMA obligation comes into effect on 10 December 2025 and applies to 'age-restricted social media platforms'.

2. As the eSafety Commissioner, I am required to monitor and promote compliance with the Act, including the SMMA obligation. To assist industry and the public to prepare for the SMMA obligation, eSafety is engaging with services and encouraging them to assess whether they are an age-restricted social media platform using our self-assessment tool. We are also separately assessing whether services are age-restricted social media platforms.[1]

3. The purpose of this letter is to:

    a. notify you that eSafety has recently conducted an assessment of the following services: YouTube, YouTube Kids, and Google Classroom (**the Google services**);

    b. notify you that eSafety has formed the preliminary view that:

        i. each of the Google services is a separate electronic service for the purposes of assessing whether it is an age-restricted social media platform under s 63C of the Act;

[1] In the absence of any rules made by the Minister specifying a service as either an age-restricted social media platform or not an age-restricted social platform under ss 63C(4) and 63C(6)(b) of the Act respectively, any determination that a service is or is not an age-restricted social media platform is a matter for the court.

ii. YouTube is an age-restricted social media platform; and

iii. YouTube Kids and Google Classroom are not age-restricted social media platforms;

c. notify you that eSafety will be publicly communicating our preliminary view today; and

d. give Google the opportunity to respond to our preliminary view and provide any submissions which may be relevant to our final assessment of the Google services before the SMMA obligation comes into effect.

Summary of preliminary view

4. After conducting a preliminary assessment of the Google services, eSafety has formed the preliminary view that:

   a. YouTube is an age-restricted social media platform for the following reasons:

      i. the conditions for an age-restricted social media platform in s 63C(1) and s 63C(6)(a) of the Act have been met; and

      ii. YouTube does not fall within one or more of the classes of services that are excluded from the SMMA obligation under the *Online Safety (Age-Restricted Social Media Platforms) Rules 2025* (**the Rules**) (s 63C(6)(b) of the Act).

   b. YouTube Kids is not an age-restricted social media platform because the conditions for an age-restricted social media platform in s 63C(1) of the Act have not been met.

5. Google Classroom is not an age-restricted social media platform because, whilst the conditions for an age-restricted social media platform in s 63C(1) and s 63C(6)(a) of the Act have been met, Google Classroom falls within one or more of the classes of services that are excluded from the SMMA obligation under the Rules, specifically rule 5(1)(c) (services that have the sole or primary purpose of supporting the education of end-users).

Material taken into account

6. In forming our preliminary view, eSafety has taken into account the following material:

   a. relevant provisions in the Act and Rules

   b. eSafety's Regulatory Guidance and self-assessment tool

c. internal eSafety user testing of the Google services

d. information on Google's websites, media releases and public communications

e. insights from relevant research or third-party reports, and other publicly available information

f. how the Google services are described in the Apple App Store and Google Play Store

g. Google's communications with eSafety.

Reasons for preliminary view: YouTube

7. An electronic service is an age-restricted social media platform if the following conditions are satisfied:

    a. the sole purpose, or a significant purpose, of the service is to enable online social interaction between two or more end-users (s 63C(1)(a)(i)), and

    b. the service allows end-users to link to, or interact with, other end-users (s 63C(1)(a)(ii)), and

    c. the service allows end-users to post material on the service (s 63C(1)(a)(iii)), and

    d. material on the service is accessible to, or delivered to, end-users in Australia (s 63C(6)(a)), and

    e. the service is not an excluded service under the Rules (s 63C(6)(b)).

YouTube is an electronic service

8. An 'electronic service' is defined in s 5 of the Act as:

    (a) a service that allows end-users to access material using a carriage service; or

    (b) a service that delivers material to persons having equipment appropriate for receiving that material, where the delivery of the service is by means of a carriage service;

    but does not include:

    (c) a broadcasting service; or

    (d) a broadcasting service (within the meaning of the *Broadcasting Services Act 1992*).

9. 'Material' is also defined in s 5 of the Act and means material whether in the form of text, data, speech, music or other sounds, visual images (moving or otherwise) or in any other form or combination of forms.

10. 'Carriage service' is a service for carrying communications by means of guided and/or unguided electromagnetic energy.[2] In this case, the carriage service is the internet.

11. YouTube is an electronic service as it allows end-users to access material including long and short-form video content using the internet. YouTube also delivers that material to end-users using the internet.

Material is accessible to end-users in Australia (s 63C(6)(a))

12. Material is accessible to, or delivered to, end-users in Australia if the end-users are physically located in Australia and the material is capable of being accessed by, or is received by, them.

13. Material on YouTube is accessible to, and delivered to, end-users in Australia.

A significant purpose of YouTube is to enable online social interaction between two or more end-users (s 63C(1)(a)(i))

14. eSafety considers that the current purposes[3] of YouTube are:

    1. To share and consume long and short-form video content (**Purpose 1**)

    2. To actively engage with content, creators, audiences, and other end-users of the service (**Purpose 2**)

    3. To share and consume professionally produced content (listening to music, watching or listening to podcasts, or watching TV shows and movies) in an on-demand capacity (**Purpose 3**)

<u>Consideration of identified purposes and 'online social interaction'</u>

15. The relevant question is whether the above purposes can be categorised as online social interaction purposes (**OSI purposes**).

16. Online social interaction includes online interaction that enables end-users to share material for social purposes.[4] eSafety's Regulatory Guidance and self-assessment tool detail our approach to considering what 'online social interaction' means practically, such as 'an end-user's engagement with other end-users or their material through an electronic

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[2] *Telecommunications Act 1997* (Cth), s 7.
[3] As well as taking into account information that has been provided by the service and publicly available information, eSafety has also considered how the service is used by end-users.
[4] s 63C(2).

service, whether active or passive, including by communicating, sharing material, participating in communities and/or expressing reactions'.[5]

17. Online social interaction does not include, for example, online business interaction or the sharing of material for business purposes.[6]

18. We consider that Purposes 1 and 2 are OSI purposes because they enable end-users to engage with other end-users or their material for social purposes (whether active or passive), and this engagement is the main type of interaction:

    a. Purpose 1: to share and consume long and short-form content

        i. YouTube's core functionality is to enable the uploading of long and short-form content to a user's channel for other end-users to consume.

        ii. Consumption of content on YouTube is primarily facilitated by way of watching videos, where specific features, such as auto-play or continuous scroll, are deployed to serve end-users content with limited user-input required.

        iii. YouTube recommends material to end-users to keep them continually engaged, with recommendations based on several factors, such as an end-user's established interests, other content or users that end-users have interacted with on the service, and the popularity of the material across the broader YouTube service. This is served to end-users as a continuous feed of content recommendations based on their activity on the service.

    b. Purpose 2: to actively engage with creators, audiences and other end-users of the service

        i. YouTube facilitates active engagement between end-users by, for example comment sections open for public comment and reply, 'like', 'save' and 'share' features for users to directly interact with user content, and a 'Communities' feature, which allows end-users to directly engage with and link to other end-users with shared interests.

        ii. YouTube allows end-users to personalise their network by 'subscribing' to other end-user's 'channels' to remain up to date with the content those end-

[5] at p 53 of eSafety's Regulatory Guidance
[6] See Note 1 to s 63C of the Act.

11. In disputing eSafety's analysis of Purpose 1, it appears that Google:

    (a) has assessed YouTube within the context of consumption only, consequently suggesting that end-users of YouTube are audiences only, and

    (b) disagrees with eSafety's interpretation of 'online social interaction'.

12. In respect of (a), it appears that Google has primarily assessed YouTube based on viewership; that is, how end-users are using YouTube in an audience-only capacity. This approach aligns with Google's assertion that YouTube's "overall purpose" is to provide a video-streaming platform, rather than a social media platform.

13. By assessing YouTube based on how audiences are using the service, Google is limiting the definition of YouTube's end-users to audiences only. This does not, in our view, accurately reflect the YouTube service or the functionality it offers to its logged-in end-users. eSafety understands that all end-users who have accounts generally retain both the ability to upload and share material to YouTube *and* consume material on YouTube. In other words, unlike video-streaming services such as Netflix, end-users have the ability to be both the 'creator' and the audience.

14. An assessment under s 63C of the Act requires the assessment of YouTube as whole. It does not allow for the severance of particular purposes, features, functions, demographics etc. To this end, the assessment of YouTube as an age-restricted social media platform should not and cannot only consider how end-users are using YouTube in an audience-only capacity.

15. In respect of (b), you have stated in the Google letter that the 'mere sharing and consumption of content' does not constitute online social interaction.

16. eSafety's interpretation of online social interaction is set out in our Regulatory Guidance and self-assessment tool. We have interpreted online social interaction broadly as 'an end-user's engagement with other end-users or their material through an electronic service, whether active or passive, including by communication, sharing material, participating in communities and/or expressing reactions.'

17. This definition is intentionally broad to capture the dynamic nature of the online environment and seeks to account for the key differences between social interaction and *online* social interaction. Notably, online social interaction does not always require direct reciprocity between end-users, as contrasted with social interaction, which typically requires active participation and mutual exchange between two or more people.

18. Step 5(b) of the self-assessment tool lists some of the features and functions services deploy to facilitate online social interaction, including by promoting the discoverability of content on the service, personalised and algorithmically recommended content, and

users post to the service. End-users can create this network by searching for creators or discovering creators via recommendations.

19. We consider that Purpose 3 is not best categorised as an OSI purpose because the most prevalent form of interaction is online business interaction.

'Online social interaction' is a significant purpose of YouTube

20. As set out in eSafety's Regulatory Guidance, 'a significant purpose' is a purpose which is important and meaningful rather than one which is merely incidental or subsidiary.[7]

21. In assessing whether enabling online social interaction between two or more end-users is a significant purpose of YouTube, eSafety has specifically considered whether end-users would continue to use the service if the features and functions that enable online social interaction were removed or reduced. For example:

    a. The ability to share and consume content on the service is the core functionality of YouTube. Neither the sharing nor consumption of content would be possible without the other.

    b. Further, active engagement with content, creators and audiences alike is a core function of YouTube that directly contributes to engagement on the service. For example, the ability to subscribe to other end-users is a form of active engagement that:

        i. allows subscribers to remain up to date with end-users whose content they want to consume or engage with, and

        ii. allows end-users to engage directly with their audience.

    c. If the functionality that enabled these features were removed or reduced, it is unlikely that most end-users would continue to use YouTube.

22. Having regard to:

    a. the purposes of YouTube identified above; and

    b. that both Purposes 1 and 2 are OSI purposes; and

[7] Ibid.

c. that it is unlikely that end-users would continue to use the service if the features and functions that enable online social interaction were removed or reduced,

eSafety considers that enabling online social interaction between two or more end-users is a significant purpose of YouTube.

YouTube allows end-users to link to and interact with other end-users (s 63C(1)(a)(ii))

23. As identified at paragraph 18, YouTube allows end-users to link to, or interact with, some or all of the other end-users by subscribing to other end-users, joining communities, leaving comments, and expressing reactions ('liking') to content.

YouTube allows end-users to post material (s 63C(1)(a)(iii))

24. As identified at paragraph 18, YouTube allows end-users to post material on the service, including uploading long and short-form video content, or posting and replying to comments on the service.

YouTube does not fall within a class of excluded services (s 63C(6)(b))

25. Section 63C(6)(b) of the Act states that an electronic service is *not* an age-restricted social media platform if the service is specified in the legislative rules.
26. On 29 July 2025, the Minister for Communications made the Rules specifying classes of services that are not age-restricted social media platforms.
27. Having considered the purposes of YouTube identified above, and in particular rules 5(1)(c), (e) and (f), eSafety's preliminary view is that YouTube does not fall within one or more of the classes of services specified in the Rules.
28. 'Sole purpose' means the only object for which anything exists or is done, made, used etc.[8] 'Primary purpose' means the purpose which is first or highest in rank or importance.[9] While eSafety understands that YouTube can be used to:

    a. share information for the purpose of product or service reviews (5(1)(c)),

    b. support an end-user's education and does contain educational content (5(1)(e)), and

    c. gives users the ability to share and consume content to related to health, and consequently can support in health education of users (5(1)(f)),

    any such uses for those purposes are a byproduct of the primary purpose of the service, being to share, consume and otherwise engage or interact with content.

[8] See Regulatory Guidance, p. 54; *Macquarie Dictionary Online (2025)*.
[9] *Macquarie Dictionary Online (2025)*.

Conclusion

29. For the reasons outlined above, eSafety's preliminary view is that YouTube is an age-restricted social media platform.

Reasons for preliminary view: YouTube Kids

YouTube Kids is an electronic service

30. YouTube Kids is an electronic service as it allows end-users to access material including long and short-form video content using the internet. YouTube Kids also delivers that material to end-users using the internet.

31. For the purposes of a separate assessment under s 63C of the Act, eSafety considers YouTube Kids is a separate electronic service from the primary YouTube service. This is because it is, on balance, administered to end-users via a separate application and interface and is not accessible through the primary YouTube platform in a manner that would reasonably enable online social interaction.

Material is accessible to end-users in Australia (s 63C(6)(a))

32. Material on YouTube Kids is accessible to, and delivered to, end-users in Australia.

A significant purpose of YouTube Kids is to enable online social interaction between two or more end users (s 63C(1)(a)(i))

33. eSafety considers the current purposes[10] of YouTube Kids are:

    1. To enable children to watch YouTube videos in an age-appropriate and accessible manner (**Purpose 1**)

    2. To allow parents or guardians to retain control over a child's viewing experience (**Purpose 2**)

<u>Consideration of identified purposes and 'online social interaction'</u>

34. We consider that Purpose 1 is an OSI purpose because it enables end-users to engage with other end-users or their material for social purposes (whether active or passive), and this engagement in the main type of interaction:

[10] As well as taking into account information that has been provided by the service and publicly available information, eSafety has also considered how the service is used by end-users.

a. Purpose 1: to enable children to watch YouTube videos in an age-appropriate and accessible manner

   i. Consumption of content on YouTube Kids is primarily facilitated by way of watching videos, where specific features, such as auto-play or continuous scroll, are deployed to serve end-users content with limited user-input required.

   ii. YouTube Kids allows end-users to personalise their network of content for consumption by 'subscribing' to 'channels' belonging to end-users on the primary YouTube service, to remain up to date with the content those end-users' post. End-users can create this network by searching for creators or discovering creators via recommendations.

   iii. YouTube Kids recommends material to end-users to keep them continually engaged, with recommendations based on several factors, such as an end-user's established interests, other content or users that end-users have interacted with on the service, and the popularity of the material across the broader YouTube Kids service. This is served to end-users as a continuous feed of content recommendations based on their activity on the service.

35. We consider that Purpose 2 is not best categorised as an OSI purpose.

<u>'Online social interaction' is a significant purpose of YouTube Kids</u>

36. In assessing whether enabling online social interaction between two or more end-users is a significant purpose of YouTube Kids, eSafety has specifically considered whether end-users would continue to use the service if the features and functions that enable online social interaction were removed or reduced. For example:

    a. The core functionality of YouTube Kids is to enable end-users to consume age-appropriate content. Without this purpose, the service would be indistinguishable from the primary YouTube service, and end-users would be unlikely to use the service.

37. Having regard to:

    a. the purposes of YouTube Kids identified above; and

    b. that Purpose 1 is an OSI purpose; and

    c. that it is unlikely that end-users would continue to use the service if the features and functions that enable online social interaction were removed or reduced,

eSafety considers that enabling online social interaction between two or more end-users is a significant purpose of YouTube Kids.

YouTube Kids does not allow end-users to link to and interact with other end-users (s 63C(1)(a)(ii))

38. YouTube Kids does not allow end-users to link to, or interact with, some or all of the other end-users of the service. For example, YouTube Kids does not allow end-users to 'subscribe' to other end-users of YouTube Kids as the service does not allow end-users to have 'channels' which can be subscribed to, but 'profiles' instead. YouTube Kids instead only allows end-users to subscribe to channels that have been filtered from the primary YouTube service based on the age-appropriateness of the content. That is, the end-users of YouTube Kids cannot link to or interact with end-users of YouTube Kids. They are instead linking to or interacting with end-users of primary YouTube service.

YouTube Kids does not allow end-users to post material (s 63C(1)(a)(iii))

39. YouTube Kids does not allow end-users to post material on the service, as end-users of YouTube Kids are unable to post material directly to the YouTube Kids service; all content is posted to the primary YouTube service and must be identified as age-appropriate to be available on the YouTube Kids service. End-users of YouTube Kids cannot post directly to YouTube Kids.

40. eSafety considers that YouTube Kids is not an age-restricted social media platform because it does not meet the relevant conditions in s 63C(1) of the Act.

YouTube Kids does not fall within a class of excluded services (s 63C(6)(b))

41. For completeness, eSafety has also considered whether YouTube would fall within one or more of the excluded classes of services specified in the Rules.

42. Section 63C(6)(b) of the Act states that an electronic service is *not* an age-restricted social media platform if the service is specified in the legislative rules

43. Having considered the purposes of YouTube Kids identified above, and in particular rule 5(1)(e), eSafety's preliminary view is that YouTube Kids does not fall within one or more of the classes of services specified in the Rules.

44. While eSafety understands that YouTube Kids can be used to support an end-user's education and does contain educational content (5(1)(e)), any such use for this purpose is a byproduct of the primary purpose of the service, being to watch videos in an age-appropriate and accessible manner.

Conclusion

45. For the reasons outlined above, eSafety's preliminary view is that YouTube Kids is not an age-restricted social media platform.

Reasons for preliminary view: Google Classroom

Google Classroom is an electronic service

46. Google Classroom is an electronic service as it allows end-users to access material using the internet. Google Classroom also delivers that material to end-users using the internet.

Material is accessible to end-users in Australia (s 63C(6)(a))

47. Material on Google Classroom is accessible to, and delivered to, end-users in Australia.

The sole purpose of Google Classroom is to enable online social interaction between two or more end-users (s 63C(1)(a)(i))

48. eSafety considers the current purpose of Google Classroom[11] is to facilitate and support the education of end-users.

Consideration of identified purpose and 'online social interaction'

49. We consider that the above purpose is an OSI purpose because it enables end-users to engage with other end-users or their material for social purposes (whether active or passive), and this engagement is the main type of interaction:

    a. Google Classroom allows end-users to upload material to its service to limited or broader audiences, including documents, comments or other learning materials,

    b. Teachers or educators can create a personalised network of other users by adding students to a 'classroom' by invitation,

    c. Teachers and students can directly communicate on the service by way of private messaging.

'Online social interaction' is the sole purpose of Google Classroom

50. Having regard to:

[11] As well as taking into account information that has been provided by the service and publicly available information, eSafety has also considered how the service is used by end-users.

a. the purpose of Google Classroom identified above; and

b. that the purpose is an OSI purpose,

eSafety considers that enabling online social interaction between two or more end-users is the sole purpose of Google Classroom.

51. Even if this is not the *sole* purpose of Google Classroom, eSafety considers that, in the alternative, enabling online social interaction between two or more end-users is a *significant* purpose of Google Classroom.

<u>'Online social interaction' is a significant purpose of Google Classroom</u>

52. In assessing whether enabling online social interaction between two or more end-users is a significant purpose of Google Classroom, eSafety has specifically considered whether end-users would continue to use the service if the features and functions that enable online social interaction were removed or reduced. For example:

    a. The core functionality of Google Classroom is to facilitate the sharing and communication of educational content between teacher, educators and students.

    b. If the features that facilitated the sharing of education content in an insular, controlled environment were removed, it is unlikely end-users would continue to use the service.

53. Having regard to:

    a. the purpose of Google Classroom identified above; and

    b. that this purpose enables online social interaction; and

    c. that it is unlikely that end-users would continue to use the service if the features and functions that enable online social interaction were removed or reduced,

eSafety considers that enabling online social interaction between two or more end-users is a significant purpose of Google Classroom.

Google Classroom allows end-users to link to and interact with other end-users (s 63C(1)(a)(ii))

54. As identified at paragraph 49, Google Classroom allows end-users to link to, or interact with, some or all of the other end-users by way of messaging and commenting.

Google Classroom allows end-users to post material (s 63C(1)(a)(iii))

55. As identified at paragraph 49, Google Classroom allows end-users to post material on the service, including by way of documents, posts, comments or other learning materials.

Google Classroom falls within a class of excluded services (s 63C(6)(b))

56. Section 63C(6)(b) of the Act states that an electronic service is *not* an age-restricted social media platform if the service is specified in the legislative rules.

57. Having considered the purposes of Google Classroom identified above, and in particular rule 5(1)(e), eSafety's preliminary view is that Google Classroom falls within one or more of the classes of services specified in the Rules.

58. Google Classroom is designed for teachers and educators to create a virtual 'class' with dedicated features and forums related to classwork. It is often exclusively used in a school, tutoring or homeschooling setting to support and facilitate the education of those who use the service. Due to Google Classroom's limited, targeted functionality, and insular and controlled environment, eSafety considers the sole or primary purpose of Google Classroom to be supporting the education of end-users.

Conclusion

59. For the reasons outlined above, eSafety's preliminary view is that Google Classroom is not an age-restricted social media platform.

Next steps

60. We seek Google's response to eSafety's preliminary view by 16 October 2025. We will consider any submissions and evidence that Google provides before conducting our final assessment of the Google Services before the SMMA obligation comes into effect.

61. Should Google disagree with any of eSafety's assessments, please also indicate whether Google nevertheless proposes to comply with Part 4A of the Act.

62. eSafety proposes to publish on its website a list of platforms that eSafety considers, on a preliminary basis, to be age-restricted social media platforms. That list will include information about whether or not a platform agrees with eSafety's assessment.

63. Please contact Industry@eSafety.gov.au should you wish to discuss this letter further.

Yours sincerely

Julie Inman Grant
eSafety Commissioner

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24 July 2025

The Hon Anika Wells MP
Minister for Communications
Parliament House
CANBERRA ACT 2600

BY EMAIL

Dear Minister,

Further to your meeting with YouTube's CEO, Neal Mohan, and consistent with our intention to engage constructively, the purpose of this letter to is provide transparency around our understanding of the options available to us as the Government contemplates specified exclusions under Part 4A (Social Media Minimum Age) of the *Online Safety Act 2021* (Cth) (**OSA**).

Options being considered where no express YouTube exclusion

Given the Government is now considering resiling from previous representations concerning its intention to ensure YouTube be excluded from Part 4A of the OSA, YouTube is considering its legal position as to the application and operation of Part 4A including:

1) challenging the restrictions on constitutional grounds, and/or
2) seeking a Declaration that the law does not apply to YouTube, and/or
3) challenging the Government's reversal of its decision to expressly exclude YouTube.

Of course, it would not be necessary to consider these matters further if YouTube were to be expressly specified as excluded.

1) *Part 4A is invalid as an impermissible fetter on the implied Constitutional freedom of political communication*

YouTube considers there is a real question as to whether Part 4A of the OSA is invalid as an impermissible fetter on the implied constitutional freedom of political communication, particularly in its application to YouTube.

The effect of Part 4A would be to impose a burden on political communication, by restricting the ability of young adults (under 16 years of age) to have a YouTube account and therefore to contribute to political communication by posting videos on YouTube and by making comments on those videos. Further, the application of Part 4A to YouTube appears to be neither suitable nor proportionate to achieving the stated purpose of Part 4A to reduce harm to children and young adults. The application of Part 4A to YouTube will not achieve this aim (because children and young adults will still be able to watch videos on YouTube, without an account), and indeed will be deleterious to this aim (because the targeted safety features that apply to the accounts of children and young adults will no longer apply).

2) *The minimum age obligation in s63D does not apply to YouTube*

YouTube considers there is a real question as to whether it is an "age-restricted social media platform" as defined in OSA s 63C(1)(a), to which the minimum age obligation in s 63D applies. That is because YouTube is not a social media platform. Rather, YouTube is a video streaming platform that enables users to access video content. Video content is disseminated on a one-to-many basis. Any limited social features that are available on YouTube (such as the ability to comment on videos) are ancillary to this purpose.

3) *Reversal of the Government's decision*

Given the legislation was passed on the express understanding that YouTube would be excluded, there is real doubt as to whether the removal of that exclusion is an appropriate exercise of the Minister's power.

To the extent that the Minister may be purporting to rely on the eSafety Commissioner's advice as a basis for its change, we do not consider this can form a sufficient or proper basis for the change in position. First, we reject the robustness of the advice, and second, nothing in the advice is contrary to the matters taken into consideration by the then Government in taking its original policy decision.

The social media minimum age requirement should not apply to YouTube

Regardless of its legal options, YouTube remains of the view that there are strong policy reasons for the Government's decision to exclude YouTube from the social media minimum age requirement.

This position is overwhelmingly supported by the detailed facts concerning YouTube previously provided to you and your predecessor. Consistent with these facts, the Commonwealth has, until very recently, through a series of express representations and public statements upon which YouTube has relied, endorsed and adopted the position that YouTube ought to be exempt. A summary of that relevant background follows.

When the *Online Safety Amendment (Social Media Minimum Age) Bill 2024* (Cth) (**Bill**) was brought before Parliament, the Commonwealth Government confirmed its intention for legislative rules to be made to specify YouTube as not being an "age-restricted social media platform" such that it would be exempt from the minimum age requirements. As part of her Second Reading Speech to Parliament in respect of the Bill, the then Communications Minister (the Hon Michelle Rowland MP), made a number of statements as to the intended purpose of relevant rule making powers, stating:

> *"The rule will provide for an 'out of scope' status to also be applied to services like...YouTube, and other apps that can be shown to function like social media in their interactivity but operate with a significant purpose to enable young people to get the education and health support they need."*

On 21 November 2024, in a press release regarding the Bill, the Prime Minister stated:

> *"The Bill and the associated rules will ensure young Australians have continued access to messaging and online gaming, as well as access to services which are health and education related, like Headspace, Kids Helpline, and Google Classroom, and YouTube."*

On 29 November 2024, the Bill passed Parliament. The Prime Minister issued a further press release stating that the Bill would enable continued access to YouTube.

On 9 December 2024, Minister Rowland confirmed by letter to Mr Mohan that YouTube would be excluded from social media minimum age obligations, and this would remain the position of a re-elected Labor Government. The Minister stated,

> *"..the Government made a commitment to exclude YouTube from the definition of an age-restricted service.*

> *I am writing to reaffirm the commitment that a re-elected Labor Government would give effect to this definitional exclusion for YouTube video streaming services, including YouTube Kids.*"

On or about 28 February 2025, the Department of Infrastructure, Transport, Regional Development, Communications, Sports and the Arts circulated an exposure draft of the *Online Safety (Age Restricted Social Media Platforms) Rules 2025* (**Draft Rules**). Consistent with the position, the Draft Rules specified YouTube pursuant to OSA s 63C(6)(b) (thereby excluding YouTube from the operation of the social media minimum age requirement imposed by OSA s 63D).

Until very recently, the Government's unambiguous and publicly stated intention has been to exclude YouTube from the minimum age obligations on the basis that it has an obvious policy basis.

YouTube now understands you may now be considering not expressly specifying YouTube's exclusion from the minimum age obligations. This is despite the clear policy position already taken, and despite no changes being made to YouTube's product offering.

This is obviously a matter of grave concern to YouTube.

Procedural fairness requirements have not been met

YouTube maintains that you should specify YouTube pursuant to OSA s 63C(6)(b). Without admission as to whether YouTube is an "age-restricted social media platform", YouTube seeks this specification, for the avoidance of doubt as to whether the social media minimum age requirement applies to YouTube.

While it now appears the Government is considering resiling from its previous representations that YouTube would be excluded from the social media minimum age obligations, YouTube is unaware of the basis on which the Government is considering a change in its position.

In those circumstances, and consistent with the principles of procedural fairness, YouTube seeks to (i) be informed of any matters on which the Minister proposes to rely in deciding not to exempt YouTube and (ii) be given the opportunity to respond to those concerns.

Next steps

YouTube should be specified as excluded from Part 4A of the OSA, consistent with the Government's previous representations and for the same reasons that the previous representations were made.

If the Government is considering not excluding YouTube, then YouTube seeks an opportunity to provide further submissions before any such decision is made.

If ultimately no exclusion is expressly provided, then YouTube contemplates having to engage with the options available to it.

Yours faithfully,

[redacted]