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Submission in response to the Online Safety Amendment (Social Media Minimum Age) Bill 2024 [Provisions]

Summary:

- The authors object to the Online Safety Amendment (social media minimum age) Bill 2024, which presents an intolerable risk to children's online safety.
- The proposed amendment is motivated by parental anxieties, and not academic evidence.
- The government has failed to engage in appropriate consultation processes, and has failed to listen to the recommendations given to them by their own reviews.
- The current draft of the amendment delegates extraordinary power to the Communications Minister of the day to effectively ban children from any online service.

About the Authors

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The authors object to the Online Safety Amendment (social media minimum age) Bill 2024, which presents an intolerable risk to children's online safety.

The intent of the amendment is to prevent children under the age of 16 from using social media. It will fail at this. The amendment will only ban children under the age of 16 from creating 'children's accounts' on mainstream social media sites included in the bill, such as X, Instagram, TikTok and Facebook. This will have a number of outcomes that will not improve children's online safety, and will ultimately exacerbate online harms.

Firstly, some children will certainly circumvent the (unspecified) methods the government deploys for age verification or age assurance, subsequently creating adult accounts on these social media platforms. 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.

Secondly, children's lives are now lived online and this amendment will not change it. Children will seek out alternative social media sites to those included in the amendment: TikTok will be replaced by the similar 'YouTube shorts', Instagram by the similar Tumblr, X by the similar Blue Sky, or Mastodon, or Threads. If the Communications Minister subsequently expands the scope of the ban to these sites, children will undoubtedly seek out fringe social media sites outside of the governments jurisdiction that provide the same social connection and integration in youth culture, but with fewer safety features and more harmful content.

We also note that the General Comment No. 25 on children's rights in relation to the digital environment¹, adopted by the UN Convention on the Rights of the Child in 2021, clearly outlines that digital environments "play an increasingly crucial role in children's development and may be vital for children's life and survival." Consequently, children have a right to participate equally in digital environments such as social media. Measures to protect children from harms in these environments **must be designed in children's best interests, and must involve children in their design**. The current social media ban approach is not compatible with children's rights to participate equally (and safely) in digital environments, nor have children and young people's voices been taken into consideration in the design of the proposed amendment.

In these ways, it is our opinion that the amendment will ultimately lead to children experiencing more online harms.

The proposed amendment is motivated by parental anxieties, and not academic evidence.

In an interview on the Today Show on September 10th after announcing the social media ban, the Prime Minister Anthony Albanese suggests that, "This is an issue about defending our youngest Australians and giving a bit of peace of mind to parents as well, who are really concerned about what their young ones are having access to and the social harm that it's causing."² This exemplifies the government approach with this bill, which is responding to parent anxieties and not the academic evidence.

Parents are understandably anxious about the changing nature of childhoods, which are now lived out both offline and online. This anxiety is sufficient that the US Surgeon General recently (August 28 2024⁵) issued an advisory on the Mental Health and Well-Being of Parents, citing

¹ UN Convention on the Rights of the Child. 2021. General Comment No. 25 on Children's Rights in Relation to the Digital Environment.
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f25&Lang=en

² <https://www.pm.gov.au/media/television-interview-today-show-17>

difficulty managing technology and social media as one of the key stressors for parents.³ Parents need more support from the government.

As scholars of young people's digital media use, we are also scholars of parental mediation and parent concerns about emerging media. What we know from decades of research into parent-based concerns about young people's engagement with emerging media is that anxieties are often focused on wanting children to experience a familiar childhood, which represents an experience lost to parents. Changes – such as those wrought by pervasive digital technologies and mobile phone cultures – represent a threat to this idealised notion of childhood, irrespective of any evidence of harm.

Our point here is that the Government's proposed social media ban is an (poorly designed) attempt to treat parent anxiety, and not an attempt to make childhoods safe for children. For instance, in an ABC News Breakfast interview on September 10th, the Prime Minister states, "I want to see kids off their devices and onto the footy fields and the swimming pools and the tennis courts".⁴ I can assure the committee that children still want to play outside. It is not social media that is stopping them, but the car-centric designs of our cities, the physical safety of doing so, and parents having less time to play with their children. Should the government truly want to improve Australian childhoods, they would take steps in these areas to invest in safe and enjoyable public infrastructure for children to use.

The government has failed to engage in appropriate consultation processes, and has failed to listen to the recommendations given to them by their own reviews.

The Labor party has failed to engage in appropriate consultation processes for this amendment, platforming in its 'social media summits' only those who endorse the bill, and sidelining youth experts who object to the government's approach. As has recently been reported by Crikey journalist Cam Wilson, "a senior advisor to the SA premier emailed Jonathan Haidt saying that the state's social media summit was being run 'with the intent of building momentum' for a social media ban."⁵

Lucy Thomas OAM, cofounder and CEO of PROJECT ROCKIT, Australia's youth-driven movement against bullying, hate and prejudice, has described how the social media summit "was 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."⁶ The committee cannot endorse this bill for passage when it is not evidence based, and an appropriate process has not been followed.

The Joint Select Committee on Social Media and Australian Society's report⁷ released earlier this month did not recommend age-based restrictions nor a blanket ban approach to children's

³ <https://www.hhs.gov/about/news/2024/08/28/us-surgeon-general-issues-advisory-mental-health-well-being-parents.html>

⁴ <https://www.pm.gov.au/media/television-interview-abc-news-breakfast-23>

⁵ <https://www.crikey.com.au/2024/11/21/teen-social-media-ban-jonathan-haidt-peter-malinauskas/>

⁶ <https://www.linkedin.com/feed/update/urn:li:activity:7265236144596889601/>

⁷ Joint Select Committee on Social Media and Australian Society. Social media: The good, the bad and the ugly. November 2024.

social media use. Instead, the Committee recommended the Government pursue current regulatory processes which would bring digital platforms under Australian jurisdiction and make digital platforms safer for children and young people (for instance, the Online Safety (Basic Online Safety Expectations) Amendment Determination, modernising the National Classification Scheme, and implementing a Children's Online Privacy Code). The Committee also recommended introducing an overarching statutory duty of care onto digital platforms and requiring platforms to incorporate safety-by-design principles into the design of technologies. These approaches are far more likely to result in safer digital platforms for all Australians, including children and young people.

We further note that the eSafety Commissioner Julie Inman Grant (one of the world's foremost online safety regulators) who will be in charge of the enforcement of the social media ban, does not think it will work. When the Commissioner was asked in June at an appearance at the Joint Select Committee on Social Media and Australian Society about a potential ban, she objected to the idea, comparing it to the idea of banning children from the ocean rather than teaching them to swim.

Finally, we also wish to note our objections to the three-day deadline that the government has given the committee to deliver its report, and the 24-hour window for submissions. This is an outrageous abuse of process, and one that is not conducive to making evidence informed decisions in a democracy. The question of a social media ban has been raised by the government since June and announced as a policy in September. Leaving only 24 hours for these submissions is an insult to the Australian public and experts on this topic, and to the children and young people the amendment will impact but who have been voiceless throughout the process. We apologise to the committee that our submission exceeds the requested 1-2 page length: ultimately this is an issue of such critical importance, length limits such as this are not appropriate.

The current draft of the amendment delegates extraordinary power to the Communications Minister of the day to effectively ban children from any online service.

The definition of social media in the amendment is broad, and could encompass anything from Minecraft to Microsoft Teams. None of the exceptions that have been communicated to the public (YouTube, EdTech, Games, messaging services) are actually in the bill, only the accompanying Explanatory Memorandum. This legislation is therefore giving the Communications Minister of the day the discretion to include or exclude children from essentially any online platform. This is supremely irresponsible.

As online games researchers, we are particularly concerned by the possibility that a future Communications Minister could expand the ban to include online social videogames such as Minecraft, Roblox or Fortnite, which are very popular with young people. In a recent study by the eSafety Commissioner,⁸ over three-quarters of young gamers indicated that "gaming had helped them with skill development, such as learning something new, using digital technologies, solving problems and thinking faster". The possibility that games could be included in the ban is a serious risk of harm to children.

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Social_Media/SocialMedia/Final_report

⁸ <https://www.esafety.gov.au/sites/default/files/2024-02/Leveling%20up%20to%20stay%20safe%20-%20gaming%20report.pdf?v=1731364558501>

It is critical that any new regulation aimed at helping young people should be designed to centre youth-voices and be informed by expert advice. This law will offer the government of the day an intolerable temptation to respond to media panics about emerging online technologies in a way that is punitive, populist, and ultimately to the detriment of the lives of Australian children and Australian parents.

Sincerely,

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