19 September 2025

Submission to the Senate Environment and Communications References Committee

Inquiry into Internet Search Engine Services Online Safety Code

Submitted by: The Eros Association

Executive Summary

The Eros Association (Eros) welcomes the opportunity to contribute to the Inquiry into the Internet Search Engine Services (ISES) Online Safety Code. Eros is Australia's industry association for adults-only retail, wholesale, media and entertainment.

While recognising the importance of protecting young people from harmful online content, we are concerned that this Code, along with other Online Safety Codes risk:

- Compromising privacy through unsafe and intrusive age assurance and verification systems.

- Blocking access to essential health, sexuality, harm reduction, and wellbeing resources.

- Enabling widespread censorship of lawful adults-only content.

- Shifting censorship decisions from democratically accountable Australian institutions to private multinational corporations.

We urge the Committee to ensure that any regulatory framework upholds privacy, protects lawful access to content, and adopts proportionate measures such as education and parental controls rather than default censorship.

Response to Terms of Reference

TOR (a,b,c) Risks to privacy, data protection, and the rights of adult Australians

- **Privacy risks of age assurance and age verification:**
  Age assurance and age verification systems may require adults to provide identity documents or biometric data (such as facial recognition). Trials of biometric data technologies show higher error rates for women, young people within two years of 16, people with darker skin tones, and people with facial differences. Information retained via these systems also create risks of private and personal data breaches, as demonstrated by recent high-profile breaches at Medibank, Optus, Qantas, Australian Super and Latitude Finance.

- **Erosion of autonomy:**
  Australians have a recognised right to control the dissemination of their personal information. Compulsory provision of identity or biometric data to technology corporations undermines this right.

TOR (c) Risks of over-censorship and blocking of lawful content

- **Misclassification of lawful content:**
  Automated tools that detect "nudity" or "pornography" risk wrongly classifying lawful content, including R18+ and X18+ material. This could result in adults being denied access to entertainment and information they are legally entitled to view.

- **Blocking of health and wellbeing resources:**
  Filters applied too broadly risk censoring evidence-based resources on sexual health, harm reduction, consent, and gender-based violence prevention. These materials are not only lawful but socially beneficial.

- **Private censorship by default:**
  Decisions about what Australians can access online risk being outsourced to multinational search engines. This would undermine the role of the Australian Classification Scheme in setting national standards.

TOR (d) – Alternatives to default censorship

Eros supports measures that empower parents and users, rather than blunt bans.

- **Parental controls and education:**
  Expansion of existing tools, such as those already provided by the eSafety Commissioner, would allow parents to guide online use and young people to make informed choices.

- **Focus on prevention and resilience:**
  Investment in digital literacy, respectful relationships education, and harm reduction strategies provides a sustainable approach to online safety.
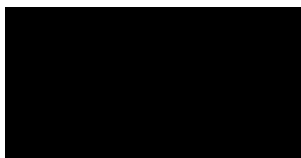
Recommendations

1. **Protect privacy and autonomy:** Reject mandatory identity or biometric-based age verification systems that expose Australians to disproportionate risks.

2. **Uphold lawful access:** Ensure that lawful R18+ and X18+ content remains accessible to adults, consistent with the Australian Classification Scheme.

3. **Safeguard health and wellbeing resources:** Prevent filtering systems from blocking lawful, evidence-based health, sexuality, and harm reduction information.

4. **Reject private censorship:** Avoid outsourcing censorship decisions to multinational search engines; regulatory decisions should remain grounded in Australian law.

5. **Expand parental controls and education:** Invest in tools and resources that empower parents and young people to make informed online safety choices.

6. **Explore proportionate alternatives:** Encourage innovation in privacy-preserving approaches rather than intrusive verification systems.

Conclusion

The ISES Online Safety Code and other Online Safety Codes must not become de facto censorship tools that restricts essential health and wellbeing resources or undermine lawful access for adults. Australia's regulatory approach should protect young people from harmful content and ensure privacy, autonomy and lawful freedoms.

A framework built on education, informed choice, and proportionate safeguards will be more effective, less harmful, and more consistent with Australian law and human rights obligations.

The Eros Association thanks you for your consideration and welcomes the opportunity to discuss these matters with your further.

Graeme Dunne, General Manager

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