January 31st 2023

Dear Attorney General,

Re: Online Safety Codes under consideration for registration

The Australian Child Rights Taskforce is writing in relation to the Online Safety Codes currently under consideration by the eSafety Commissioner. We represent over one hundred child and youth focused, and human rights organisations.

We stress our concerns about the potential consequences of registering the Codes in their current form and to highlight that they could undermine your commitment to improving privacy standards for All Australians, in particular children and young people.

We are concerned that some of the Codes, particularly those covering Social Media and Relevant Electronic Services, will be inadequate for their intended purpose. They fail to raise standards from existing practices, and leave children's privacy deeply threatened. For example, the Codes address 'privacy by default' settings, but do not propose improving these from where they already are. Instead, they permit existing poor practice that leaves 16 and 17 year olds accounts 'defaulted to public' in Australia. Likewise, unnecessary location data about children will still be collected under these Codes, unlike in Europe and many US states. These codes will have the effect of weakening privacy standards for Australian children online, both from where they currently are and against international best practice.

A number of provisions in the Codes might undermine the work of your office in improving privacy for children. Setting low privacy protections in Online Safety Codes may set an unwelcome precedent for, and expectation of, weaker regulatory controls. Dynamic regulatory reforms can be difficult for industry to accommodate. There will be a robust argument around leaving in place weak privacy protections passed in the Online Safety Codes until these Codes are reviewed in two years' time. Children, and their right to privacy, may continue to be harmed unnecessarily if this is the case.

Too often, online safety and privacy are often played off against each other as competing needs to be balanced. This is a false binary in general, and especially in these codes. Far from prioritising privacy over safety, these Codes actually undermine both children's safety and privacy, where both are necessary to improve children's experience in the digital world.

The Taskforce and our community partners share these concerns and wish to support any decisions made to not register these Codes, especially the Social Media and Relevant Electronic Services codes. Please reach out to us if you have any queries.

Kind regards,

Australian Child Rights Taskforce
ChildFund Australia
ChildWise
Act for Kids
Bravehearts
Alannah & Madeline Foundation
Australian Association of Adolescent Health Ltd
Reset Tech Australia

Australian Child Rights Taskforce Policy Working Group

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October 9th 2024

AUSTRALIAN
CHILD RIGHTS
TASKFORCE

Dear Prime Minister and Premiers,

Re: Proposed social media bans for children under 16-year olds

We write to you about the proposal to 'ban' children from social media until the age of 16-years-old. We understand the risks that social media has for children and young people, and these are well documented.

Addressing those risks requires a careful and evidence-based response that acknowledges the role that the digital world plays in contemporary childhood. The online world is a place where children and young people access information, build social and technical skills, connect with family and friends, learn about the world around them and relax and play. These opportunities are important for children, advancing children's rights and strengthening development and the transition to adulthood.

Any restrictions in the digital world must therefore be designed with care and we are concerned that a 'ban' is too blunt an instrument to address risks effectively.

 Some concerns include:

- **Bans affect rights to access and participation:** The UN Committee on the Rights of the Child states that 'national policies should be aimed at providing children with the opportunity to benefit from engaging with the digital environment *and* ensuring their safe access to it.'
- **Parental consent does not fix unsafe products.** Placing requirements on parents to consent to the use of 'unsafe' products does not drive up safety.
- **Parents and carers often are not 'the experts', but will still be asked to make informed decisions.** Placing responsibility on parents to provide consent, without adequate guidance and support, is unfair. Not all parents will be able to manage the responsibility of protection in the digital world.
- **Implementing a ban effectively remains a challenge**. There are not yet effective techniques for age assurance nor to verify parental consent, and privacy concerns remain.
- **It creates even more risks for children who may still use platforms.** Platforms would be disincentivised from offering child safety features for any younger users that do still 'slip onto' a platform via ineffective age assurance.

- **It fails to drive up safety standards on platforms children will be allowed to use.** Some social media 'type' services appear too integral to childhood to be banned, for example short form video streamers. But these too have safety risks like risks of dangerous algorithms promoting risky content. A ban does not function to improve the products children will be allowed to use.

As an alternative, systemic regulation has the capacity to drive up safety and privacy standards on platforms for all children and eschews the issues described above. Digital platforms are just like other products, and can have safety standards imposed. We welcome the commitment to the development of a Children's Privacy Code and the review of the enforceability of the Basic Online Safety Expectations.

There also needs to be a focus on supporting and empowering children, families and carers. A blanket ban will create a challenge for those children and young people who feel their access has been unfairly restricted. The work of keeping platforms responsible and building awareness of risk and responsibility amongst all users is a challenge but will provide longer term benefits.

Regards,

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- **Professor John Tobin,** Francine V McNiff Chair in International Human Rights Law, Melbourne Law School, University of Melbourne
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- **Professor Simone van der Hof,** Center for Law and Digital Technologies (eLaw), Leiden University, The Netherlands
- **Professor EJ Renold**, School of Social Sciences, Cardiff University, UK
- **Professor Sun Sun Lim,** College of Integrative Studies, Singapore Management University, Singapore
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- **Professor Dr Jessica Taylor Piotrowski,** Amsterdam School of Communication Research, University of Amsterdam, The Netherlands
- **Professor Mizuko Itō,** Director, Connected Learning Lab, University of California, Irvine, US
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International organisations:

- Cyberbullying Research Center, US
- The Net Safety Collaborative, US
- Centre for Social Research, India