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Committee Secretary
Senate Standing Committee on Environment and Communications
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Inquiry into the Online Safety Amendment (Social Media Minimum Age) Bill 2024

Google and YouTube appreciate the opportunity to contribute to the Committee's consideration of the Online Safety Amendment (Social Media Minimum Age) Bill 2024 (the Bill). We welcome the focus of the Australian Government on this important issue and the opportunity to share our views on this proposal.

We make the following recommendations:

- 1) The Bill should apply only to services that are intended to be subject to the Bill.
 - The best way to do this is through a designation regime where services are opted into scope of the Bill. This is in contrast to the current approach of casting a broad net and opting services out.
 - Alternatively, the Bill should clearly articulate services in scope by adopting a narrower definition with clear limitations.
- 2) Consideration of the Bill should be delayed pending the conclusion of the Government's Age Assurance Trial to ensure that it is both workable and evidence based.
- 3) The privacy provisions should be amended to apply only to "personal information about an individual that was collected *solely for the purpose of* taking reasonable steps to prevent age-restricted users having accounts with an age-restricted social media platform" to ensure consistency with data minimisation principles.

The Bill should adopt a more targeted approach to covered services which reflects the Government's stated policy intent and minimises unintended outcomes

Where regulation contemplates restricting access to the online world, it is vital that careful consideration is given to the types of services it should apply to. Adopting an overly broad and indiscriminate approach to the regulation of digital platforms risks failing to take account of the fundamental difference between services and the risk profile of those services with respect to the harms this Bill is seeking to address.

By taking an intentionally broad approach to the definition of an age restricted social media platform, the Bill imposes broad obligations on a broad range of services irrespective of the risk profile and backs



those obligations in with potentially significant penalties. This is not a risk-based or proportionate approach to regulation.

The Bill seeks to address this breadth by providing the Minister with rule making powers to declare a service is not an age restricted social media service. As we have stated in our [response](#) to this Bill, we appreciate the Government's recognition that YouTube "operate[s] with a significant purpose to enable young people to get the education and health support they need"¹ and that there needs to be a pathway to preserve access. But this intention should be reflected in the Bill itself. Deferring this commitment to legislative rules to be developed at some point in the future fails to provide necessary clarity and certainty to Australian users and to industry. This is important not just for our own business, but for the parents, educators and creators that rely on YouTube for information, education and their livelihoods.

A more targeted approach to covered services can be achieved by establishing a designation regime or alternatively creating clearer limitations and definitions for what is in scope. We know that the regulation of digital platforms can be challenging given the complexity of industry and the diversity of services. But we suggest that this complexity is better addressed by using legislative rules to opt services in rather than opt services out. That is, designate those services that are intended to be covered by the obligation rather than extend the obligation to many and narrow it later through a cumbersome exemption process. This would be a simpler approach that would minimise the risk of unintended consequences, including impacts on access to services without reasonable justification, and reduce regulatory burden on both government and industry.

Digital platform regulation is complex and requires careful consideration

When it comes to regulating children's use of social media and other digital services, we believe that well-crafted regulation can be an effective tool to build on industry efforts to keep children and teens safer online. But as governments contemplate these issues, they should carefully consider the broader impacts of regulatory proposals and take care to avoid unintended consequences.

We are concerned that the speed at which this Bill has been developed has not allowed for adequate contemplation of the complexities associated with regulating younger users' access to digital services. Specifically, rushing forward a proposal to restrict access to a broad range of services has failed to allow appropriate consideration of the feasibility of services being able to distinguish between a user who is over or under the age of 16, the impacts of limiting teens' access to services, or the scope of services to which it should apply in order to address the relevant harms.

Many of these issues are being examined through the Government's Age Assurance Trial. This includes the viability of age assurance technologies and an appropriate minimum age for access to social media services. The Trial is not due to finish its work until mid-2025. It is concerning that this Bill is proceeding in advance of the Trial's conclusion.

¹ Commonwealth, *Parliamentary Debates*, [House of Representatives, Online Safety Amendment \(Social Media Minimum Age\) Bill 2024 Second Reading Speech](#), 21 November 2024, (Ms Roland, Minister for Communications)



We respectfully suggest that this does not reflect good regulatory practice. The result is a Bill with broad obligations which defers much of the critical detail on how those obligations are to be met and implemented to regulatory instruments and guidance. This fails to provide necessary clarity and certainty for industry and users alike. Given the potential impacts of this Bill, its consideration should be deferred until the conclusion of the Trial to ensure that it is both workable and evidence-based.

We are also concerned that the rushed approach to this Bill has failed to allow adequate consultation with experts, industry, parents and caregivers, and young people themselves. While we appreciate the opportunity to provide a truncated submission for the Committee's consideration, the short timeframes for doing so and the limited opportunity for testimony, does not address this shortcoming.

The privacy protections in the Bill are inconsistent with data minimisation principles

Platforms already collect information about account holders which may be used to help estimate users' ages, like information about how account holders use the platform. To reflect data minimisation principles, the Bill should encourage platforms to make use of this existing information for the purposes of taking 'reasonable steps' under the Bill.

However, the Bill requires that any information used for this purpose must be used only for that purpose and must be deleted after use. This applies even to information that was lawfully collected for other purposes in accordance with the Privacy Act.

This approach fails to recognise how age assurance technologies are developing to make use of data already held by platforms, and incentivises platforms to collect more data about individuals, rather than rely on existing data which would then be subject to the restrictions. This issue could be easily addressed by updating the privacy provisions of the Bill to apply only to "personal information about an individual that was collected solely for the purpose of taking reasonable steps to prevent age-restricted users having accounts with an age-restricted social media platform".