



Australian  
Human Rights  
Commission

# Social Media and Australian Society

Australian Human Rights Commission

Submission to the Joint Select Committee on Social Media and  
Australian Society

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## 1 Introduction

1. The Australian Human Rights Commission (Commission) welcomes the opportunity to make this submission to the [Joint Select Committee on Social Media and Australian Society](#) (Committee).
2. The role of the Commission is to work towards a world in which human rights are respected, protected and fulfilled. The Commission is Australia's National Human Rights Institution. The Commission welcomes further opportunities to engage with the Committee.
3. The Commission recognises the intersections of social media with a number of human rights. Drawing on the Commission's expertise and experience, this submission highlights just some of these intersections. This includes, in particular those that impact upon the rights of the child to which this submission relies upon the specific expertise of the National Children's Commissioner.

## 2 Child access to social media

4. The primary human rights treaty enshrining children's rights is the Convention on the Rights of the Child (CRC), which Australia ratified in 1990. It has four Guiding Principles that underpin all the other rights in the CRC:
  - children's right to non-discrimination (article 2)
  - the best interests of the child as a primary consideration (article 3)
  - children's right to life, survival and development (article 6)
  - children's right to be heard and have views taken into account (article 12).
5. The CRC, including the Guiding Principles, provides a useful framework to consider the risks and opportunities that social media poses for children. Of key importance in considering this issue is the Guiding Principle of the 'best interests of the child' (article 3). The CRC requires that the best interests of the child be a primary consideration in all aspects of the digital environment.<sup>1</sup>

6. When considering the best interests of the child, regard should be had to 'all children's rights, including their right to seek, receive and impart information, to be protected from harm and to have their views given due weight', in addition to ensuring transparency over the criteria applied to determine best interests.<sup>2</sup> Where rights are limited to protect children from online harms, limitations must be lawful, necessary and proportionate.
7. It is critical that best interests considerations are not based on assumptions by adults about what is in the interests of children, and that children's views are actively considered.<sup>3</sup>

**Recommendation 1: The best interests of the child is a primary consideration in any law or policy regarding children's access to social media. Best interests considerations must include and give due weight to the views of children.**

8. There have been several proposals to ban social media access for children of a minimum age of between 14 and 16 years of age.<sup>4</sup> These age restriction models seek to protect children from social media content that is not age-appropriate by restricting their access altogether.
9. However, when determining what is 'age-appropriate', the evolving capacities of the child must be taken into account. As noted by the Special Rapporteur on the right to privacy, 'children vary enormously in their physical, intellectual, social and emotional capacity', and online risks change based on their stage of development, individual circumstances and environmental factors – and are not best determined by reference chronological age alone.<sup>5</sup>
10. The Commission acknowledges the growing research evidencing the negative impacts of social media on children and young people, and agrees that there is a need for protective policy responses. However, the details of any such responses are critical, and it is necessary to clearly explain how any proposed policy responses will be implemented and enforced, how 'social media' is being defined for the purposes of any measures, and how any such responses will take into account the potential positive benefits of digital engagement.

11. The Commission notes that there are international approaches that employ a range of levers to protect children on social media, short of restricting their access. For example, the United Kingdom's Online Safety Act places the onus on social media platforms to protect children from lawful but harmful material.<sup>6</sup> This includes preventing children from accessing harmful content, such as content encouraging or providing instructions for self-harm, eating disorders, or bullying. It also ensures social media platforms are more transparent about risks and dangers posed to children on their sites.<sup>7</sup>

**Recommendation 2: A greater onus should be placed on social media platforms to improve online safety for children. These measures should be aligned with the Convention on the Rights of the Child, and be:**

- a) consistent with data protection and privacy principles**
- b) designed in consideration of children's evolving capacity.**

12. Age assurance technologies are one method of verifying that children are abiding by age restrictions on social media use. The eSafety Commissioner is currently pursuing a pilot program to test age verification as a means of limiting child access to pornography.

13. While the Commission supports eSafety's trialling of age-verification techniques in the context of access to pornography, the use of age verification more broadly should be context-specific and proportionate. These techniques may be required where age-verification is necessary to prevent children from engaging in illegal activity, such as buying weapons, alcohol or participating in online gambling, and where the potential for harm is high, like pornography websites, but may be disproportionate in other contexts.

14. It is also important to note that age-verification techniques themselves pose risks for children's privacy and data protection, along with the privacy of all users of online platforms who will also be required to verify their ages before use. Age verification measures link a person's identity to their online activity. This can create prospects for surveillance, security breaches, leaks, data sales or criminal misuse of identifying information.<sup>8</sup> All age verification techniques must be consistent with privacy and data

protection principles; and if this cannot be guaranteed, other approaches to protecting children from online harms may be preferable.

### **3 Journalism, misinformation and disinformation**

15. The Global Risks Report 2024 declared that misinformation and disinformation would be the ‘most severe global risk anticipated over the next two years’.<sup>9</sup>
16. Misinformation and disinformation may harm several human rights. The Commission has previously emphasised that misinformation and disinformation can have devastating effects on human rights, social cohesion and democratic processes. Indeed, this can be the very purpose intended by the release of disinformation.<sup>10</sup>
17. Journalists have an ethical responsibility to report news honestly and accurately, and the media has an important role to play in countering misinformation and disinformation. Those journalists who are members of the Media, Entertainment, Entertainment, Arts Alliance (MEAA) must comply with the [MEAA’s Journalist Code of Ethics](#). Rule one of the Code states that journalists should:

Report and interpret honestly, striving for accuracy, fairness and disclosure of all essential facts. Do not suppress relevant available facts, or give distorting emphasis.<sup>11</sup>
18. The dominance and market structure of digital platforms risk pressuring news producers to make ethical concessions to ensure their articles and stories are ‘recommended’ to readers.<sup>12</sup> This may undermine journalists’ unique role in Australian society as watchdogs of truth – debunking misinformation and disinformation online.
19. Yet there may be instances where journalists and the Australian media play a role in spreading misinformation and disinformation. For example, the Seven Network settled a defamation lawsuit after Seven News falsely identified a university student as being the attacker in the recent Bondi Junction attack.<sup>13</sup>
20. A subsequent investigation by the ABC alleges that initial online claims were part of a broader disinformation campaign.<sup>14</sup> A detailed breakdown of the events post-attack sets out a chronology of events which led to Seven News publishing misinformation about the identity of the attacker.<sup>15</sup>

21. This example highlights how journalists, and public news media, can both combat and spread misinformation and disinformation, and the heightened risks. It is important that the Committee recognise that journalists and news media can play an important role in countering misinformation and disinformation – but they can also be the conduit by which such information spreads.

## **4 Content curation**

22. A key component of many online media systems is their ‘recommender algorithms’ – the sets of computing instructions that determine what a user will be shown based on many factors.<sup>16</sup> This is done by applying machine learning techniques to the data held by online services, to identify user attributes and patterns to make recommendations on the kinds of content they will be shown.<sup>17</sup>

23. News websites, mobile apps, and social media platforms all make unilateral decisions about what content is shown to users. These decisions can be made by editors and journalists or by computer algorithms analysing information about other content users consume, or based on what ‘friends’ share and interact with on social media.<sup>18</sup> But equally, if a user spends time engaging with potentially harmful content, that same system may lead to them seeing more of the same material – or increasingly harmful material in their feeds.

24. A key driver of risk comes from the way a service may optimise its recommender systems for greater engagement. If it operates on an advertising-based business model, it has an incentive to increase user engagement – and particularly time spent online – to grow its revenue. This can lead to it promoting content based on engagement instead of quality.<sup>19</sup>

25. Recommender systems, especially those that serve up content based on engagement, can contribute to content ‘going viral’. This can encourage harmful behaviour, such as dangerous challenges and online pile-on attacks against targeted people.

26. Recommender systems can also amplify misinformation and extreme views, as well as hiding different viewpoints or valuable ideas that are not aligned with a person’s existing opinions or understanding. Either separately or in combination, this can lead to what is commonly known as

‘echo chambers’ or ‘filter bubbles’ – where people are only served content that reinforces the content previously shown to them.<sup>20</sup>

27. An echo chamber may lead to people only encountering information, or opinions, which reflect and reinforce their own worldviews.<sup>21</sup> These echo chambers can play a role, in conjunction with limited content moderation, in facilitating the spread of misinformation and disinformation, reinforcing hate speech and prejudicial content online and allowing for amplification of extremist views and conspiracy theories.<sup>22</sup>
28. The role that algorithms play in content curation is powerful but opaque.<sup>23</sup> This can often make it difficult for users to escape online echo chambers and highlights the need for greater education about how algorithms use personal data to tailor online experiences.<sup>24</sup>

**Recommendation 3: The Australian Government invest more heavily in programs and initiatives to improve digital literacy in Australia.**

29. The collection of personal data by social media platforms allows algorithms to tailor content to individual users. This personal information helps to create a user profile which allows social media companies to tailor the user experience and sell targeted advertising.<sup>25</sup>
30. An unfortunate side effect is that users tend to be shown more, and gravitate towards, sensationalist ‘clickbait’ – which can form the basis of misinformation and disinformation on social media.<sup>26</sup> This is due to a key goal of social media platforms being to maximise the time that users spend on their platform (which in turn increases advertising revenue potential).
31. Algorithms are incentivised to provide content which is meant to be more engaging for users. However, this material is often more extremist, sensationalist or plainly incorrect,<sup>27</sup> with algorithms having ‘learnt’ that such content generates greater engagement. It is by this process that inflammatory misinformation and disinformation is promoted – encouraging further user engagement and amplifying the reach of the content.<sup>28</sup> Algorithms appear to prioritise optimising user engagement and advertising revenue over the human rights and safety of users. To determine this, greater access by researchers into the practices of social media platforms and the use of recommender systems is necessary.



32. Recommender systems can also have a negative impact on democracy in numerous ways. Through its ability to ‘micro target’ certain parts of an electorate, recommender systems can be effective in pushing specific political agendas. This is particularly harmful for demographic cohorts who may be more vulnerable to this type of manipulation.<sup>29</sup>
33. This has led to calls for the reform of social media recommender systems to protect democratic discourse.<sup>30</sup> Due to the tendency for recommender systems to create echo chambers, users tend to have selective exposure to content reflecting their own beliefs instead of being exposed to content promoting other political perspectives which can healthily challenge the user’s views.<sup>31</sup>
34. The creation of echo chambers can be damaging to the normal functioning of political debate, a necessary hallmark of a properly functioning democracy. For example, previous studies suggest that being exposed to differing political opinions enhances a person’s tolerance – the ability to follow and engage with arguments of the differing party.<sup>32</sup> For individuals to engage effectively in the democratic processes, they need to have the space and resources to make informed decisions. This process is compromised considerably through the inherent function of recommender systems to provide content that the user appears to align themselves with, thus reinforcing their pre-existing political views.<sup>33</sup>

**Recommendation 4: The Australian Government should advance measures to facilitate independent research into the nature and impact of recommender systems on democratic processes and improve social media platforms’ transparency around the management and operation of recommender systems. This should include strengthening researcher protection and access to digital platforms.**

## 5 Recommendations

35. The Commission makes the following recommendations.

**Recommendation 1:** The best interests of the child is a primary consideration in any law or policy regarding children’s access to social media. Best interests considerations must include and give due weight to the views of children.

**Recommendation 2:** A greater onus should be placed on social media platforms to improve online safety for children. These measures should be aligned with the Convention on the Rights of the Child, and be:

- a) consistent with data protection and privacy principles
- b) designed in consideration of children's evolving capacity.

**Recommendation 3:** The Australian Government invest in programs and initiatives to improve digital literacy in Australia.

**Recommendation 4:** The Australian Government should advance measures to facilitate independent research into the nature and impact of recommender systems on democratic processes and improve social media platforms' transparency around the management and operation of recommender systems. This should include strengthening researcher protection and access to digital platforms.

## Endnotes

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- <sup>1</sup> Committee on the Rights of the Child, General Comment No. 25 (2021) UN Doc CRC/C/GC/25 [12-13].
- <sup>2</sup> Committee on the Rights of the Child, General Comment No. 25 (2021) UN Doc CRC/C/GC/25 [13].
- <sup>3</sup> Committee on the Rights of the Child, General Comment No. 25 (2021) UN Doc CRC/C/GC/25 [16-18].
- <sup>4</sup> Josh Taylor and Tamsin Rose, 'No country in the world has solved this problem': can Australia make age verification work for social media?' *The Guardian* (online, 23 May 2024) <<https://www.theguardian.com/australia-news/article/2024/may/23/australia-social-media-ban-under-16-age-verification-technology#:~:text=Upon%20registration%2C%20social%20media%20sites,entering%20an%20incorrect%20birth%20year>>
- <sup>5</sup> Human Rights Council, Report of the Special Rapporteur on the right to privacy, Joseph Cannataci, on Artificial intelligence and privacy, and children's privacy (2021) UN Doc A/HRC/46/37 [96].
- <sup>6</sup> Government of the United Kingdom, 'UK children and adults to be safer online as world-leading bill becomes law' (Media Release, Online 26 October 2023) <<https://www.gov.uk/government/news/uk-children-and-adults-to-be-safer-online-as-world-leading-bill-becomes-law>>
- <sup>7</sup> Government of the United Kingdom, 'UK children and adults to be safer online as world-leading bill becomes law' (Media Release, Online 26 October 2023) <<https://www.gov.uk/government/news/uk-children-and-adults-to-be-safer-online-as-world-leading-bill-becomes-law>>
- <sup>8</sup> Digital Rights Watch, 'Restricted Access Systems' (webpage) <<https://digitalrightswatch.org.au/2021/09/21/submission-restricted-access-system/>>.
- <sup>9</sup> World Economic Forum, 'The Global Risks Report 2024' (Report, January 2024) 8.
- <sup>10</sup> Australian Human Rights Commission, *Inquiry into the risk posed to Australia's democracy by foreign interference through social media* (Submission to the Senate Select Committee on Foreign Interference through Social Media, 16 February 2023), [16] <<https://humanrights.gov.au/our-work/legal/submission/foreign-interference-through-social-media>>; Australian Human Rights Commission, *Finding balance: combatting misinformation and disinformation without threatening free expression* (Submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts, 18 August 2023), [5] <<https://humanrights.gov.au/our-work/legal/submission/finding-balance-fighting-disinformation-without-threatening-free>>.
- <sup>11</sup> Media, Entertainment & Arts Alliance, 'Journalist Code of Ethics' (webpage) <<https://www.meaa.org/meaa-media/code-of-ethics/>>.
- <sup>12</sup> Derek Wilding, et al., 'The Impact of Digital Platforms on News and Journalistic Content' (University of Technology Sydney, Report, 2018) 40.
- <sup>13</sup> Sam Nichols, 'Man Wrongly Identified as Bondi Junction Attacker by Seven Settles Defamation case with the Network', *ABC News* (online, 26 April 2024) <<https://www.abc.net.au/news/2024-04-26/man-wrongly-identified-bondi-junction-attacker-seven-settles/103772376>>.
- <sup>14</sup> Kevin Nguyen & Michael Workman, 'Benjamin Cohen was Falsely Accused of the Bondi Junction Stabbings. Here's how the lie Spread around the World', *ABC News* (online, 15 April 2024) <<https://www.abc.net.au/news/2024-04-15/how-misinformation-spread-after-bondi-junction-stabbing/103708210>>.
- <sup>15</sup> Kevin Nguyen & Michael Workman, 'Benjamin Cohen was Falsely Accused of the Bondi Junction Stabbings. Here's how the lie Spread around the World', *ABC News* (online, 15 April 2024) <<https://www.abc.net.au/news/2024-04-15/how-misinformation-spread-after-bondi-junction-stabbing/103708210>>.
- <sup>16</sup> eSafety Commissioner, 'Recommender Systems and Algorithms – Position Statement' (webpage) <<https://www.esafety.gov.au/industry/tech-trends-and-challenges/recommender-systems-and-algorithms>>.

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- <sup>17</sup> eSafety Commissioner, 'Recommender Systems and Algorithms – Position Statement' (webpage) <<https://www.esafety.gov.au/industry/tech-trends-and-challenges/recommender-systems-and-algorithms>>.
- <sup>18</sup> University of Canberra, 'Digital News Report: Australia 20223' (Report, 2023) 57.
- <sup>19</sup> eSafety Commissioner, 'Recommender Systems and Algorithms – Position Statement' (webpage) <<https://www.esafety.gov.au/industry/tech-trends-and-challenges/recommender-systems-and-algorithms>>.
- <sup>20</sup> eSafety Commissioner, 'Recommender Systems and Algorithms – Position Statement' (webpage) <<https://www.esafety.gov.au/industry/tech-trends-and-challenges/recommender-systems-and-algorithms>>.
- <sup>21</sup> The Department of Home Affairs, Submission No 16 to the 'Senate Select Committee on Foreign Interference through Social Media' (Submission, 2021) 4; See also Allens Hub for Technology, Law, and Innovation, 'Submission to Senate Select Committee on Foreign Interference through Social Media' (Submission, 2021) 2.
- <sup>22</sup> Australian Human Rights Commission, Submission No. 212 to Department of Industry, Science and Industry, 'Supporting Responsible AI: Discussion Paper' (Submission, 26 July 2023) 28.
- <sup>23</sup> Select Committee on Foreign Interference through Social Media Interim, *First Interim Report* (First Interim Report, December 2021) 24-25 [3.10].
- <sup>24</sup> The Allens Hub for Technology, Law, and Innovation, Submission No. 19 to the 'Senate Select Committee on Foreign Interference through Social Media' (Submission, 2021) 4.
- <sup>25</sup> Select Committee on Foreign Interference through Social Media Interim, 'First Interim Report' (Report, December 2021) 24 [3.7].
- <sup>26</sup> Select Committee on Foreign Interference through Social Media Interim, 'First Interim Report' (Report, December 2021) 32 [4.6].
- <sup>27</sup> Select Committee on Foreign Interference through Social Media Interim, 'First Interim Report' (Report, December 2021) 45 [4.49].
- <sup>28</sup> Responsible Technology Australia, Submission No. 17 to the 'Senate, Select Committee on Foreign Interference through Social Media' (Submission, 2021) 2.
- <sup>29</sup> Ricardo Fabrino Mendonca, 'Algorithmic Recommenders', in Ricardo Fabrino Mendonca, Virgilio Almeida and Fernando Filgueiras, *Algorithmic Institutionalism: The Changing Rules of Social and Political Life* (Oxford Academic, 2023) 119.
- <sup>30</sup> See Reset Tech Australia, 'How Do Platforms' Recommender Systems Promote Political Content?' (Report, October 2023).
- <sup>31</sup> Lucein Heitz et al, 'Benefits of Diverse News Recommendations for Democracy: A User Study' (2022) 10(10) *Digital Journalism* 1710, 1713.
- <sup>32</sup> Lucein Heitz et al, 'Benefits of Diverse News Recommendations for Democracy: A User Study' (2022) 10(10) *Digital Journalism* 1710, 1713.
- <sup>33</sup> Alan Turing Institute, 'Tackling Threats to Informed Decision-making in Democratic Societies' (Report) 9, 15; Civitates, 'Platforms' Algorithms and Recommender Systems are Dangerous for Democracy', *Civitates* (Webpage, 5 April 2022) <<https://civitates-eu.org/2022/04/05/platforms-algorithms-and-recommender-systems-are-dangerous-for-democracy/>>.