



# Internet search engines online safety code

Submission by the Alannah & Madeline Foundation  
to the Senate Environmental and Communications  
References Committee

September 2025

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## Executive summary

The Alannah & Madeline Foundation (the Foundation) welcomes the opportunity to contribute to the inquiry into the Internet Search Engine Services Online Safety Code (Class 1C and Class 2 Material). Our submission focuses on the code rather than the social media age limit, as we have commented on the latter topic before.<sup>1</sup>

This submission addresses two items in the inquiry's terms of reference: 'Privacy and data protection implications of age verification' and 'The expansion of corporate data collection and user profiling capabilities enabled by code compliance requirements.'

Like most of the community, we have strong concerns about children's exposure to age-inappropriate content online, including pornography, severe violence, and suicide and self-harm content. We welcome the creation of codes for industry to help prevent and reduce children's exposure at a systems level, as we believe many risks are rooted in the design and functioning of digital products and services themselves.

Search engine services do not appear to be the most common spaces where children are exposed to age-inappropriate content, but some exposure certainly does occur there, which warrants a response.

The internet search engine services code contains many measures which we support wholeheartedly, such as using algorithmic and ranking systems to reduce the risk of inadvertent exposure to age-inappropriate content and to promote help-seeking instead.

We accept that age assurance has a key role to play in preventing children's access to products and services illegal for them to own or use, and we were encouraged by the finding of the Age Assurance Technology Trial that age assurance can – from a technical perspective – be done privately, effectively and efficiently in Australia.

It would be our preference to see codes for industry require a 'safety-by-default' approach, with the highest safety standards in place for all users by default and age assurance employed only as a 'next step' for individuals who seek to access adult materials. We believe this would reduce data harvesting and 'friction' for children who use search engines for appropriate purposes. At present, it is unclear to us whether the code allows for this approach; unfortunately, it does not appear to treat this approach as a preference. We speculate that an approach which prioritises safety and privacy by default is only likely if codes are developed by a regulator answerable to the public, rather than being drafted by industry as is currently the case.

In the meantime, given that some forms of age assurance seem likely to eventuate soon in Australia, we call for regulatory changes to help ensure children's rights in that context are protected. These include:

- rigorous, robust and rights-respecting regulation of age assurance technologies, which represent a burgeoning and potentially lucrative new section of the digital tech industry.
- implementation of 'tranche 2' of the Privacy Act reforms and creation of a strong, comprehensive Children's Online Privacy Code to place appropriate limits around companies' handling of individuals' personal data. The regulator must be appropriately resourced to enforce these changes.
- implementation of mandatory safety guardrails for AI as proposed by the Government last year, with particular focus on protecting children's rights. This is especially relevant given that AI will likely play a key role in age assurance and may potentially replace traditional search engines. We recognise that the newly registered Phase 2 codes for industry require platforms to take steps to prevent children's exposure to age-inappropriate content through AI companion chatbots and other AI services.<sup>2</sup> This is a very positive step, but broader action is needed to address the full range of risks associated with AI.

It has taken two decades for countries like Australia to begin appropriately regulating digital technologies which were introduced in the 2000s and have shaped children's lives profoundly ever since. New and emerging technologies such as generative AI and age assurance can and should be used in ways that benefit children. However, it is vital we learn from past failures and take the need for regulation seriously from the start.

## About us

The Foundation was established the year after the Port Arthur tragedy, by Walter Mikac AM in memory of his two young daughters, Alannah and Madeline. Our vision is that all children and young people are safe, inspired and have freedom to flourish.

Over the last 27 years our work has grown and evolved but our purpose remains the same. We have three program streams:

- Safe and Strong: recovering and healing from trauma. Linked to our origin story, we have a specialist trauma recovery and therapy service for children who have experienced significant trauma. This has grown in recent years to include working with early childcare providers, kindergartens, and now primary schools to help them build their trauma informed capability and practices. Most of our work in trauma healing and recovery is Victorian based, with our therapists and consultants working from our client's homes and places of work.
- Safe and Strong: building positive digital citizens. The Foundation supports schools, educators, families and communities nationally to build digital skills and competencies to develop a generation of safe and strong digital citizens. For over 12 years the Foundation has delivered eSmart, an initiative designed to empower children (3-18 years) to be safe and responsible online. It encompasses a range of learning tools and resources to help students build essential digital and media literacy skills, so they can thrive online.
- Safe and Strong: bringing children's rights to life. As a rights-based organisation, this is our policy and advocacy work. Since inception, we have advocated for firearms safety, and we convene the Australian Gun Safety Alliance. In other key policy matters related to our programs, we work closely with the Office of the eSafety Commissioner, the Prime Minister's National Office for Child Safety and other major agencies such as the Australian Federal Police.

In 2018, we partnered with Kate and Tick Everett, after the tragic suicide of their daughter, Dolly. With them we worked to establish Dolly's Dream.

- Safe and Strong: Dolly's Dream, changing the culture of bullying. The purpose is the same, but the programs and services (Parent Hub, telephone help line, school, and community workshops etc.) are specifically designed for remote, rural, and regional families and communities, to meet their unique needs and contexts.

## Recommendations

1. Recognise and support the many positive components of the search engine services code which seem likely to reduce children's risk of exposure to age-inappropriate content via search engines.
2. Encourage the adoption of 'safety-by-default' approaches to age assurance, which would apply the highest safety standards across the board for all users and introduce age assurance only as a 'next step' for those individuals who wish to access adult materials.
3. Support the position of the eSafety Commissioner that Australia needs a regulatory scheme for accreditation and oversight of age assurance providers to promote privacy, security, strong governance, transparency, trustworthiness, fairness, and respect for human rights. Such a scheme should have resourcing in place to ensure that industry addresses risks to ethical, high-quality age assurance, such as those identified in the Age Assurance Technology Trial. Guidance must also be provided to industry in areas including data minimisation and data protection.



4. Support the adoption of the remaining proposals of the Privacy Act Review Report which were accepted or accepted in principle by the Government.
5. Support the development and appropriate resourcing of a meaningful, comprehensive Children's Online Privacy Code which treats the best interests of the child as its central priority.
6. Support the further strengthening and implementation of the mandatory guardrails for AI released in draft form by the Government for comment last year.
7. Support Recommendation 9 of the 2024 review of the Online Safety Act 2021, which would empower the eSafety Commissioner to lead the development of codes for industry, in contrast to the current 'co-regulatory' approach which we fear reduces the likelihood of children's rights being prioritised.

### The need for systems-level protections for children

Use of digital technologies is almost ubiquitous among Australian children and typically starts at an age when children are far too young to fully understand or manage the risks. For example, recently we surveyed over 1,000 families of primary school children and found almost all Prep / Foundation students used digital devices, most commonly tablets, and that most devices were used for multiple purposes eg. education, chatting, entertainment.<sup>3</sup> Similarly, the Office of the Australian Information Commissioner (2023) found that 18% of preschool children aged 2-5 already had their own laptop, tablet or PC and 16% had access to someone else's.<sup>4</sup>

Use of search engines is common. For example, a 2025 survey of UK children aged 8-14 found 96% had visited a 'search service', usually Google. On average, a child user of Google visited the service 152 times a month.<sup>5</sup>

There is strong community concern about children's exposure to age-inappropriate content online.<sup>6</sup> Concerns about pornography relate to its impacts on adolescents' behaviours, relationships, wellbeing, body image and attitudes towards women; its impacts on school communities; and the risks of compulsive use.<sup>7</sup> Other concerns also exist about exploitation – for example, when child viewership helps to enrich the pornography industry which is at the centre of serious concerns about abuse and trafficking.<sup>8</sup>

Other age-inappropriate content also poses concerns for children. Studies have illuminated how engaging with self-harm material online can become an immersive, destructive 'cycle' for some teens – especially troubling given the rise in self-harm among young adolescent girls since the late 2000s – while viewing violent content has become normalised even among many primary school students.<sup>9</sup> Exposure to online suicide content also poses particular concerns – note that news media, in contrast, abstains from reporting details about suicide methods or locations for fear of encouraging imitation.<sup>10</sup>

From the (limited) research, it appears that search engines are not the most common pathway for children to access age-inappropriate content, but they do represent a concern. For example:

- Two recent UK surveys of teens and young adults aged 16-21 found approx. 3 out of 10 who had seen pornography sourced it via a search engine.<sup>11</sup>
- A US survey of teens aged 13-17 found 1 in 5 had seen pornography accidentally in search engine results.<sup>12</sup> A survey of Australian teens aged 16-18 also found that search engines were relatively common places for unintentional exposure.<sup>13</sup>
- Search engines provide easy access to deepfake pornography and 'nudify' apps.<sup>14</sup>
- One UK study of children aged 8-17 found that some children saw violent content via search engines, although exposure via social media and messaging services was more common.<sup>15</sup>

Most families do not use parental controls consistently. For example, one Australian survey found only 43% of parents used controls or other means of blocking or filtering websites, with usage dropping once children reached their teens.<sup>16</sup> Another survey found only half of Australian parents believed they could apply controls or change filter preferences without help.<sup>17</sup> Even in families with restrictive online safety measures in place, some exposure to age-inappropriate content still occurs.<sup>18</sup> Among children who are unlikely to be supported by adult caregivers online eg. children in care or in the youth justice system – rates of exposure are high.<sup>19</sup>

Given the limits of individual solutions, we argue for systems-level interventions led by government and regulators accountable to the public. We look to General Comment 25 of the Convention on the Rights of the Child ('On children's rights in relation to the digital environment'), which calls upon states to protect children from pornographic and violent content.<sup>20</sup> Australia's Basic Online Safety Expectations determination provided for such measures with its core expectation that 'The provider of the service will take reasonable steps to ensure that technological or other measures are in effect to prevent access by children to class 2 material provided on the service'.<sup>21</sup> We also see value in aligning expectations of the digital world with those of the offline world, where businesses are prohibited from selling or screening R18+ films, games or publications to children under 18 or allowing children under 18 onto premises used for commercial sexual purposes.<sup>22</sup>

### Internet Search Engine Services Online Safety Code

The Foundation supports many features of the Code which seem likely to reduce children's risk of exposure to age-inappropriate content via search engine services. These include requirements that providers will:

- use ranking systems and algorithms to reduce the risk of pornography and high-impact violence material appearing in search results for queries not intended to solicit it.
- use ranking or other algorithmic protections to promote 'trustworthy and authoritative content' over self-harming material.
- take measures to prevent autocomplete predictions that are sexually explicit, violent, or self-harming.
- take steps to detect and provide crisis prevention information in response to search terms about suicide, self-harm, or eating disorders. Crisis prevention information must be prominently displayed, suitable in tone (including for children) and link to reputable help services.
- conduct a review of the risk that children will be exposed to pornography, high-impact violence material and self-harm material in search results, and act on the findings.
- enforce clear actions, policies, processes or T&Cs about how the service handles pornography, high-impact violence material and self-harm material and how it reduces the risk of children's exposure.
- actively detect pornography and high-impact violence material in order to apply the relevant tools.
- make parental controls available to limit children's exposure to pornography and high-impact violence.
- engage annually with community organisations to help inform this work.<sup>23</sup>

We support the aim of using systems change to prevent and reduce children's exposure to age-inappropriate content, and we accept the position of General Comment 25: 'Robust age verification systems should be used to prevent children from acquiring access to products and services that are illegal for them to own or use.'<sup>24</sup> In relation to age assurance, the Code requires that search engine service providers:

- implement appropriate age assurance measures for account holders 'where technically feasible and reasonably practicable'.
- for end-users for whom the provider does not perform age assurance, apply tools or settings by default to prevent exposure to pornography or high-impact violence, at a minimum through blurring images in search results.
- apply the highest safety settings (eg. 'safe search' functionality) when age assurance systems indicate an account holder is likely to be an Australian child. At minimum, these settings must filter out pornography and high impact violence material from search results.
- take appropriate steps to ensure an end-user known with reasonable certainty to be a child is not served advertising for pornography, high-impact violence and self-harm material in search results.

Services need not implement age assurance for end-users who do not hold accounts, but for those end-users images of pornography and high-impact violence must be blurred in search results.

To date, we have seen little specific information about what the Code's age assurance measures will involve in practice. We gather providers will have some leeway in how they approach the matter.

From our point of view, it would be preferable if providers applied the highest safety standards across the board for all users by default, with age assurance required only as a 'next step' for individuals who wish to search for adult materials. We believe a 'safety by default' approach would reduce the handling of children's data, with children only being prompted to engage with age assurance mechanisms if they attempt to access adult content. This approach would also remove the 'friction' of being asked to prove one's age for children who seek to use search engines for legitimate purposes.

Again, we refer to General Comment 25, which states 'Age-based or content-based systems designed to protect children from age-inappropriate content should be consistent with the principle of data minimization'; 'Content moderation and content controls should be balanced with the right to protection against violations of children's other rights, notably their rights to freedom of expression and privacy.'<sup>25</sup>

However, from our reading of the Code, the 'safety by default' approach does not appear to be framed as the preferred pathway. It remains to be seen whether some providers will adopt it in practice.

We speculate whether the Code's framing of age assurance might reflect on the 'co-regulation' required by the Online Safety Act 2021, whereby industry leads the drafting of codes. The Foundation has stated that we do not believe co-regulation is likely to deliver the strongest results for children. We believe there is a stronger likelihood of children's rights being prioritised if code development is led by a regulator acting on behalf of the public. This would also align better with the approach to safety regulation that applies to offline products and services (eg. children's toys and clothing).<sup>26</sup>

Recommendation 9 of the 2024 review of the Online Safety Act 2021 called for the eSafety Commissioner to be empowered to create codes about how entities can address online harms.<sup>27</sup> We speculate that a regulator-led code might conceivably have delivered an approach to age assurance with stronger emphasis on both safety-by-default and privacy-by-default.

### Upholding children's rights in relation to age assurance

The Age Assurance Technology Trial found that age assurance could be done privately, effectively and efficiently in Australia – a welcome technical finding which we hope will be realised in practice.

In the meantime, we trust resources will be put in place to identify and address the risks to high-quality, ethical age assurance identified in the trial. The reviewers cautioned that if appropriate governance measures were not in place, risks could include:

- inappropriate profiling following collection of behavioural or other personal data<sup>28</sup> – which we submit increases the risk of commercial targeting.
- unnecessary retention of personal data.<sup>29</sup>
- secondary security risks, eg. to 'logs' of children's online activities compiled via parental controls.<sup>30</sup>
- interoperability gaps if age assurance mechanisms are not recognised across different ecosystems.<sup>31</sup>
- under- or over-restriction of children's access if sharing devices with other household members.<sup>32</sup>

The reviewers pointed to various approaches to help address such risks, including clear regulatory guidance about behavioural tracking and data retention; tokenised access and reusable verified credentials; integration with mobile digital wallets; age assurance services separate from the digital platforms which users seek to access; and parental controls which are responsive to different family structures.<sup>33</sup>

We recognise that eSafety has just released regulatory guidance regarding the use of age assurance to prevent under-16s holding social media accounts, with ethical guiding principles including data minimisation. We trust search engine service providers will have equivalent guidance.<sup>34</sup>

In addition, we note reflections from the UK, whose Information Commissioner's Office (ICO) observed that many industry stakeholders want further guidance about age assurance. Industry stakeholders requested more support in relation to determining appropriate levels of certainty in age assurance, appropriate approaches to data minimisation, and appropriate alignment with data protection requirements and other legislative requirements. In response, the ICO set up an Age Assurance project to develop understanding of appropriate uses of these technologies and a 'best interests' framework to help companies identify whether their data handling poses risks to children.<sup>35</sup>

In line with UK GDPR principles, the ICO advised companies that age assurance systems must be lawful, fair, accurate, secure and accountable to the law. They must be transparent about how data is used (providing age-appropriate information for children), must collect only the minimum data required for the task, and must not use data collected for age assurance for any incompatible purpose or retain data for longer than necessary.<sup>36</sup>

Appropriate regulation of age assurance will be important. These technologies are evolving rapidly and being trialled by major platforms.<sup>37</sup> The report of the Age Assurance Technology Trial found that the age assurance sector was 'vibrant, creative and innovative' with 'private sector investment and opportunities for growth'.<sup>38</sup> We assume the sector will continue to grow as different jurisdictions pass laws requiring some form of age assurance eg. the UK's Online Safety Act, Germany's Youth Protection Act.<sup>39</sup>

Historically, regulation of age assurance has been scant, posing new threats to children's privacy.<sup>40</sup> It is important for Australia's regulatory landscape to keep pace with the evolution of new technologies like age assurance – for example, to avoid a repeat of the widespread mishandling of children's data that occurred during the pandemic, when the rush to roll out educational technologies to students overrode caution about what could happen to the students' data.<sup>41</sup> We support the position of the eSafety Commissioner that Australia needs a regulatory scheme for accreditation and oversight of age assurance providers, to promote privacy, security, strong governance, transparency, trustworthiness, fairness, and respect for human rights.<sup>42</sup>

### The wider regulatory context: privacy

To ensure that digital technologies (including age assurance technologies) are regulated appropriately in their handling of individuals' data, we urge the adoption of the remaining proposals of the Privacy Act Review Report which were accepted or accepted in principle by the Government.

The first tranche of reforms to the Privacy Act were passed in December 2024, but while the Privacy and Other Legislation Amendment Bill 2024 contained some very welcome provisions, it left most of the reviewers' proposals unacted. We await news of when the second tranche of reforms will be introduced.

The proposed reforms would strengthen protections for individuals' privacy by ensuring that the Privacy Act contains up-to-date definitions of key concepts, requires individuals' consent for tracking of their geolocation data, requires a 'privacy by default' approach to privacy settings, gives individuals greater control over their data, and requires that handling of individuals' data must be fair and reasonable in the circumstances.<sup>43</sup>

In the meantime, we welcomed the Government's announcement of a Children's Online Privacy Code (currently being drafted by the Office of the Australian Information Commissioner) to better determine what digital platforms may do with children's personal information. This will help to address needs expressed by the community. For example, 56% of Australian parents agree 'It is not clear to me how I can protect my child / children's personal information while using a service'; 60% of parents say they often have no choice but to sign their child up to a particular service; and 55% of teens agree 'It's important to me that my personal information is kept private, but it's confusing and I don't really understand it'.<sup>44</sup>



To have the best chance of appropriately protecting children's rights online, we urge that the Children's Online Privacy Code should have a comprehensive scope and an expansive definition of children's 'personal information'. It should adopt the best interests of the child as its central guiding principle; it should require services likely to be accessed by children to adopt data minimisation and privacy-by-default; and it should ban trading in children's data and targeting and direct marketing to children unless it is in their best interests.

Moreover, the Code should be accompanied by appropriate resourcing for the regulator to guide stakeholders, monitor impacts, and investigate and, where appropriate, penalise non-compliance. Without a regulator able to ensure enforcement, even an excellent Code would rapidly lose its legitimacy.

High-quality privacy regulation can lift the public's confidence in age assurance systems, but it can also reduce children's risk of exposure to age-inappropriate content more broadly. At present, digital platforms feed on individuals' data and, to this end, they have a commercial motive to maximise user engagement. This leads to the development of products and services which are highly provocative, distracting and difficult to stop using, which offer their users infinite and increasingly extreme content, and which encourage maximum engagement with other accounts.<sup>45</sup> In this context, it is no surprise that age-inappropriate content can be hard to avoid.

### The wider regulatory context: AI

It must be assumed that AI will play a part in many of the age assurance mechanisms coming soon. We welcome moves by the eSafety Commissioner to better regulate the role of AI in Australia, including the recent announcement of the final Phase 2 industry codes under the Online Safety Act, and we support the draft mandatory guardrails for AI released by the Government for comment last year.

Specifically, we support the precautionary and preventative approach embodied in the draft mandatory guardrails, which would require entities to take steps in advance to identify, prevent, reduce and mitigate harms through AI. For example, entities would be expected to implement risk management processes, test AI models and systems, inform users about AI-enabled decisions, and establish processes for people impacted by AI to challenge it.<sup>46</sup>

Such approaches are appropriate given the nature of the technology, which is transformative, powerful, rapidly evolving, poorly understood by most people, and likely to affect all individuals, especially children.

As such, we were surprised and dismayed by the recent interim report of the Productivity Commission which appeared to call for a 'light-touch' approach to AI regulation, drawing largely on existing legislation and regulation. We believe such an approach would be totally inadequate, given risks and harms relating to AI which are already having serious impacts on children and their families and communities.<sup>47</sup>

We would welcome the opportunity to discuss any of these matters further.

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