

MS23-003648

**Australian Government****Department of Infrastructure, Transport,
Regional Development, Communications and the Arts****To: The Hon Michelle Rowland MP, Minister for Communications** (for decision)**Subject:** The eSafety Commissioner's Roadmap for Age Verification**Critical Date:** Your action of this submission by **Friday 16 June** will provide the Prime Minister and the Minister for Education 2 weeks to approve the Roadmap, allowing us to publish it within three months of receipt from eSafety (30 June).**Recommendations:**

1. That you **agree** to the Government response at **Attachment A** to eSafety's Roadmap for Age Verification (**Attachment G**) saying that the Government:
- will not mandate age assurance technologies as they are not sufficiently advanced;
 - has funded eSafety to deliver a number of the Roadmap's recommendations;
 - will ask the eSafety Commissioner to focus on implementing elements of the *Online Safety Act 2021* (OSA) that address children's access to pornography; and
 - will publish the Roadmap on the Department's website along with the media release at **Attachment E**.

Agreed / Not Agreed

2. That you **sign** the letters to the Minister for Education (**Attachment B**) and then the Prime Minister (**Attachment C**) seeking their agreement to the draft government response (recommendation 1 above refers).

Signed / Not Signed

3. Pending the Prime Minister's agreement, that you **sign**, but not yet date, the letter to the eSafety Commissioner (**Attachment D**) asking her to focus on implementing elements of the OSA that addresses pornography including development of class 2 industry codes and the Basic Online Safety Expectations.

Signed / Not Signed

The Hon Michelle Rowland MP

Date:

24/7/23

Comments: Superseded.
(3) - pls update w/MO.

Key Points:

1. On 31 March 2023, the eSafety Commissioner delivered to you eSafety's Roadmap for Age Verification (the Roadmap) (**Attachment G**), responding to the 2020 House of Representatives Standing Committee on Social Policy and Legal Affairs report, *Protecting the Age of Innocence*.

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2. Rather than providing a roadmap to mandatory age verification, the report focusses on age assurance and makes six recommendations aimed at addressing the harms to children accessing online pornography through research, education and awareness. It also recommends a Safety Tech Centre (but does not provide detail) and a pilot of age assurance technologies (but does not make clear when this would happen and s47C

3. s47C

As such, the government response at **Attachment A** notes that eSafety will address children's access to pornography through implementation of the Online Safety Act (OSA) before it considers the Roadmap's recommendation to 'conduct a pilot to trial age assurance technologies before seeking to mandate age assurance'.

4. Pornography is regulated under the OSA. s47C

Pending the Prime Minister's agreement to the government response, we recommend you write to the eSafety Commissioner asking her to consider expeditiously commencing work on the second tranche of industry codes to address pornography, and to consider using the BOSE to assess the effectiveness of action taken by industry under the codes. The letter to the Commissioner (**Attachment D**) would be a request rather than a formal direction under the OSA and therefore not enforceable.

5. The draft government response (**Attachment A**) addresses the Roadmap's recommendations by explaining how the Government has funded eSafety to deliver the recommendations regarding research, education and awareness as part of eSafety's base funding in the 2023-24 Budget. It notes that work is already underway in the education portfolio to deliver the recommendation considering consent education. It undertakes to consider a Safety Tech Centre on receipt of advice from eSafety, and a pilot of age assurance technology following implementation of industry codes. It also notes that pornography is already regulated under the OSA and makes clear that you have encouraged the eSafety Commissioner to use the existing code making and BOSE powers under the OSA.

6. s47C

Financial impacts: N/A

Legal/Legislative impacts: N/A

Consultation: The Roadmap's appendix includes a list of consultation participants.

Media Opportunities: media release announcing government response attached.

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Attachments:

Attachment A – s47C
Attachment B – s47C
Attachment C – s47C
Attachment D – Letter to the eSafety Commissioner
Attachment E – s47C
Attachment F – s47C
Attachment G – Roadmap for Age Verification
Attachment H – International landscape

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The Hon Michelle Rowland MP

Minister for Communications
Federal Member for Greenway

MS23-003648

Ms Julie Inman Grant
eSafety Commissioner
PO Box Q500
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Sydney NSW 1230
Via: Julie.InmanGrant@eSafety.gov.au

Dear Ms Inman Grant

Thank you for providing the Roadmap for Age Verification (the Roadmap) to my office on 31 March 2023. I was pleased to see the outcomes of this significant work program. The Roadmap is the product of a significant body of work for you and your organisation and is grounded in research and informed by broad stakeholder consultation. I thank you for your work and advice on this important matter.

I note that the Roadmap does not recommend the Government legislate to introduce a system of mandatory age verification for access to online pornography. Instead, it recommends a number of complementary measures to prevent and mitigate harms to children from online pornography.

Awareness, research and education have always been core functions of the eSafety Commissioner, underpinning your regulatory role as well as the citizen-focussed support, advice and regulatory action that you provide to Australians. The Government's 2023-24 Budget, delivered following receipt of the Roadmap, provides an additional \$132.1 million over four years to improve online safety, increasing base funding from \$10.3 million to \$42.5 million. This ongoing and indexed funding provides your office with funding certainty, allowing you to continue your important work, informed by long term operational planning.

The Roadmap also recommends a pilot of age assurance technology before seeking to prescribe and mandate any requirements.

The effective implementation of the *Online Safety Act 2021* (OSA), including the creation of new and strengthened industry codes is a priority for the Government. I note that Part 9 of the OSA provides for industry codes regarding class 2 content that will help make the internet safer for children. I therefore encourage you to consider commencing work on the second tranche of industry codes that will deal with class 2 material as soon as practicable, following the completion of the first tranche of codes.

The Hon Michelle Rowland MP
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I also note the powers available to you at your discretion under the *Online Safety (Basic Online Safety Expectations) Determination 2022*. In particular, the information gathering and reporting powers about the actions providers are taking to ensure measures are in effect to prevent children from accessing class 2 material.

While you continue this important and complex work, I am concerned that conducting a trial of age assurance technologies may unnecessarily distract industry from developing and delivering the new and strengthened codes. I therefore intend to await the completion of this process before considering if and how a trial of age assurance technologies would be conducted.

The Roadmap further recommends the establishment of an Online Safety Tech Centre. I would welcome further advice from you about the benefits this new Centre would provide for Australians, the activities and services it would deliver and whether these could be delivered within the office of the eSafety Commissioner's new ongoing funding profile.

I note too the Roadmap's recommendation that the Government consider the development of a mechanism for greater national coordination and collaboration of respectful relationships education. I understand that the Department of Education will continue to lead work with state and territory governments, the non-government school sector and experts to deliver the Government's Consent and Respectful Relationships Education commitment.

In light of public interest in your work, and in the interests of transparency on this important issue, I have asked my Department to publish the Roadmap on their website along with a Government Response which I have attached for your information.

Before the public release of this material, I intend to consult with Australian child safety organisations under embargo about the government's approach to protecting children from exposure to online pornography and to discuss any of their concerns. I would warmly welcome your participation in this forum and my Department will liaise with your office regarding timing and briefing materials.

Thank you again for all your work to date on this important issue. I look forward to our ongoing collaboration to prevent and mitigate harms to children from online pornography.

Yours sincerely



Michelle Rowland MP

22 AUG 2023

Encl.

Attachment A: Government Response

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Attachment H

International Landscape

Age verification/Assurance for Pornography

Australia is not alone in considering age verification technology as a mechanism to prevent children from accessing pornography, with a range of countries at various stages of developing or requiring compliance with legislation. No countries have implemented an age verification mandate without issue.

UK – previous laws abandoned

In 2017, the UK became the first country to mandate age verification for pornography websites, when it passed the *Digital Economy Act 2017*. Under the Act, the regulator would have been empowered to enforce financial penalty to websites that did not implement age verification systems to prevent minors from accessing pornography. Following multiple delays, technical difficulties and community concern for privacy, implementation of age verification requirements were abandoned in October 2019. Even with safeguards to manage user privacy and security, there was public discomfort in government interfering with the access of pornography. The Daily Mail referred to the scheme as a ‘porn pass’, while the BBC called it a ‘controversial porn blocker.’

UK – new Bill in parliament

The current iteration of the UK’s Online Safety Bill includes ‘duties’ for regulated providers of pornographic content. Under the Bill, providers of pornographic content have a duty to: “Ensure that children are not normally able to encounter pornographic content (for example, by using age verification).” The Bill does not mandate the use of specific technologies, but should it pass in its current form, Ofcom (the UK regulator) will issue codes of practice.

France – law subject to legal challenge

In 2020, France legislated age verification requirements for online pornography, but has faced challenges in enforcement. The law allows websites to decide how to verify the age of their users. In December 2021, the French digital regulator (Arcom) commenced legal action to block access to non-compliant websites. The issue has remained in the courts since, with porn sites challenging on constitutional grounds the French law that permits Arcom to seek blocking orders.

Germany – law subject to legal challenge

Germany has legislated age verification by prohibiting the distribution of pornography via media or teleservices if it is accessible to children. Websites can comply by using an age verification system that provide a reliable identification of the user and confirmation that they are of legal age. Germany has also faced difficulty in compliance and enforcement, with attempts to block non-compliant websites currently before the courts.

US – some states introducing or considering laws

There is a patchwork of legislation in place across the US. Utah and Louisiana have recently introduced age verification laws. Similar age verification proposals are being considered by Arizona, South Carolina and Arkansas.

Utah, United States – Largest pornography provider removed access

Most recently, Utah passed age verification requirements for pornographic websites. In response, websites owned by Mindgeek, the largest provider of online pornography, blocked access to users based in Utah. In response, MindGeek, which runs a number of websites including Pornhub (the 12th most visited website in Australia), cut access of Utah residents to its services. Demand for Virtual

Private Networks (VPNs), which allow users to hide their location and circumvent age verification requirements, reportedly increased by almost 1,000% following announcement of the law.

Louisiana, United States – VPNs bypassing requirements

Louisiana has also legislated age verification requirements for access to online pornography. Under the law, Louisiana users attempting to access pornography are prompted to verify their age with the state's digital ID system, LA Wallet. Approximately 65% of eligible Louisiana citizens have signed up to the digital wallet. Since the law went into effect, Louisiana traffic to Pornhub has fallen by 80%. It is not clear whether users have turned to non-compliant websites, are reluctant to use their digital ID to access pornography, or are circumventing requirements through the use of a Virtual Private Network (VPN). In the days following the law's commencement, demand for VPNs in Louisiana saw a threefold increase.

MS23-003828

**Australian Government****Department of Infrastructure, Transport,
Regional Development, Communications and the Arts****To: The Hon Michelle Rowland MP, Minister for Communications** (for decision)**Subject:** Updates to the government response to the Roadmap for Age Verification**Critical Date:** Routine**Recommendations:**

1. That you **agree** to the updated government response (at **Attachment A**) to eSafety's Roadmap to Age Verification (the Roadmap), which incorporates the feedback provided by your office via email at **Attachment B** on 21 June and 23 June, noting that this version supersedes the version provided by the Department on 15 July.

Agreed / Not Agreed

2. That you **note** that all feedback provided by your office has been incorporated, s47C

Noted / Please Discuss

3. That you **sign** the letter to the Minister for Social Services (**Attachment C**) seeking her agreement to the government response which now refers to measures in her portfolio, as well as the revised letters to the Prime Minister (**Attachment D**) and Minister for Education (**Attachment E**) which have been amended to reflect the changes to the government response provided in this brief.

Signed / Not Signed**The Hon Michelle Rowland MP**

Date:

24/7/23

Comments:

Govt response agreed in line w/ edits from my office.

Key Points:

1. On 15 June we provided you a brief (MS23-003648 refers) seeking your agreement to release the eSafety Commissioner's Roadmap for Age Verification (the Roadmap) alongside a government response. On 21 June and 23 June, your advisor Ms Burns in your office provided feedback (**Attachment B**) on the draft government response. This brief supplements rather than replaces the previous briefing and provides a replacement response as well as letters to the Minister for Social Services, the Prime Minister and the Minister for Education.

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2. The government response at **Attachment A**:
- highlights that the Roadmap was tasked before the *Online Safety Act 2021* (OSA) was legislated;
 - expands on the process of industry code development; and
 - identifies how the National Plan to End Violence against Women and Children is addressing sexual and gender-based violence, including through funding of Teach Us Consent, the National Consent Campaign, and initiatives from Our Watch and ANROWS.

s47C



7. Given that the government response now refers to measures in the Department of Social Services portfolio, we have provided a letter to the Minister for Social Services at **Attachment C** seeking her agreement to the Government response. Revised letters to the Prime Minister (**Attachment D**) and Minister for Education (**Attachment E**) are also attached.

Stakeholder Implications: As per our previous brief (MS23-003648 refers)

Consultation: Department of Social Services

Media Opportunities: A media release was provided in our previous submission (MS23-003648 refers). Further media materials, including talking points are being prepared.

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Attachments:

Attachment A – Government response
Attachment B – s47C
Attachment C – Letter to the Minister for Social Services
Attachment D – Letter to the Prime Minister
Attachment E – Letter to the Minister for Education

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Government response to the Roadmap for Age Verification

July 2023

Note: New content is highlighted in yellow.

Introduction

This is the Australian Government's response to the Roadmap for Age Verification (the Roadmap), which was developed by the eSafety Commissioner (eSafety) and delivered to Government on 31 March 2023.

The Roadmap acquits a key recommendation in the February 2020 House of Representatives Standing Committee on Social Policy and Legal Affairs report, *Protecting the Age of Innocence*. The Roadmap makes six recommendations for Government, reflecting the multifaceted response needed to address the harms associated with Australian children accessing pornography. This Government response addresses these recommendations, and sets out the Government's intended approach to this issue more broadly.

Children should not be able to access online pornography

Pornography is legal in Australia and is regulated under the *Online Safety Act 2021*. Research also shows that most Australian adults have accessed online pornography. A 2020 survey by the CSIRO found that 60 per cent of adults had viewed pornography.

However, pornography is harmful to children who are not equipped to understand its contents and context, and they should be protected from exposure to it online. Concerningly, a 2017 survey by the Australian Institute of Family Studies found that 44 per cent of children between the ages of 9-16 were exposed to sexual images within the previous month.

The Roadmap finds there is no 'silver bullet' solution that is effective while balancing privacy, security, implementation and enforcement risks

'Age verification' describes measures which could determine a person's age to a high level of accuracy, such as by using physical or digital government identity documents. However, the Roadmap examines the use of broader 'age assurance' technologies which include measures that perform 'age estimation' functions. The Roadmap notes action already underway by industry to introduce and improve age assurance and finds that the market for age assurance products is immature, but developing.

It is clear from the Roadmap that at present, each type of age verification or age assurance technology comes with its own privacy, security, effectiveness and implementation issues.

For age assurance to be effective, it must:

- work reliably without circumvention;
- be comprehensively implemented, including where pornography is hosted outside of Australia's jurisdiction; and
- balance privacy and security, without introducing risks to the sensitive personal information of adults who choose to access legal pornography.

Age assurance cannot yet meet these requirements. While industry is taking steps to develop age assurance technologies, the Roadmap finds that the age assurance market is, at this time, immature. There is not yet a 'silver bullet' to deal with this problem.

The Government is not afraid to take the tough decisions needed to protect Australian children from exposure to harmful online content and pornography. The Roadmap makes clear that a decision to mandate age assurance is not ready to be taken.

The Government is focused on implementing the Online Safety Act which regulates access to pornography

The Roadmap acknowledges that pornography is readily available through websites hosted offshore and also through a wide range of digital platforms accessed by children.

Absent of a 'silver bullet' to deal with this issue, industry needs to continue to develop technological solutions that are 'fit for purpose' for their users. The Government will require them to do more and will hold them to account.

The Roadmap was first commissioned by Government in February 2020. Since then, the Australian Government has delivered major regulatory reform of online safety. On 23 July 2021, Parliament passed the Online Safety Bill, with bipartisan support and on 23 January 2022, the *Online Safety Act 2021* commenced.

The *Online Safety Act 2021* sets out a world-leading framework comprising complaints-based schemes to respond to individual pieces of content, mechanisms to require increased transparency around industry's efforts to support user safety, and industry codes to establish a baseline for what the digital industry need to do to address restricted and seriously harmful content and activity.

Government will require new industry codes

The effective implementation of the Act is a priority of the Albanese Government, including the creation of new and strengthened industry codes to keep Australians safe online.

The eSafety Commissioner started the industry codes process by working with sections of the digital industry to address 'class 1' content. Class 1 content is content that would likely be refused classification in Australia and includes terrorism and child sexual exploitation material.

On 1 June 2023, the eSafety Commissioner agreed to register five industry codes covering the following online sections:

- social media services (e.g. Facebook, Instagram, TikTok);
- app distribution services used to download apps (e.g. Apple IOS and Google Play stores);
- hosting services (e.g. Amazon Web Services, NetDC).
- internet carriage services (e.g. Telstra, iiNet, Optus, TPG Telecom, Aussie Broadband); and
- manufacturers and suppliers of any equipment that connects to the internet, and those who maintain and install it (e.g. of modems, smart televisions, phones, tablets, smart home devices, e-readers etc).

The industry codes outline steps the online industry must take to limit access or exposure to, and distribution and storage of class 1 content. The steps that industry must take under new industry codes include, for example:

- requirement for providers under the Social Media Services Code, including Meta, TikTok and Twitter, to remove child sexual exploitation material and pro-terror material within 24 hours of it being identified and take enforcement action against those distributing such material, including terminating accounts and preventing the creation of further accounts; and
- requirement for providers under the Internet Carriage Service Providers Code, including Telstra, iiNet and Optus, to ensure Australian end-users are advised on how to limit access to class 1 material by providing easily accessible information available on filtering products, including through the Family Friendly Filter program, at or close to the time of sale.

The eSafety Commissioner has found that these codes provide appropriate community safeguards in relation to creating and maintaining a safe online environment for end-users, empowering people to manage access and exposure to class 1 material and strengthen transparency of and accountability for class 1 material. These registered codes will become enforceable by eSafety when they come into effect on 16 December 2023. These registered codes, including all of the steps industry are now required to take, are available at eSafety's website:

www.esafety.gov.au/industry/codes/register-online-industry-codes-standards.

However, the eSafety Commissioner has made the decision not to register two online safety codes drafted by the online industry, including the:

- Relevant Electronic Services Code (for relevant electronic services e.g., services used for messaging (including SMS and MMS) services, email, video communications, and online gaming services (e.g. Gmail, WhatsApp, services); and
- Designated Internet Services Code (for designated internet services that includes websites and end-user online storage and sharing services (e.g. Dropbox, Google Drive)).

The eSafety Commissioner found that these two codes fail to provide appropriate community safeguards in relation to matters that are of substantial relevance to the community. For these sections of industry, eSafety will now move to develop mandatory and enforceable industry standards.

The eSafety Commissioner's work on industry codes to date has focused on terrorism and child sexual exploitation material. However, the next phase of the industry codes process will address 'class 2' content. Class 2 content is content that is legal, but not appropriate for children, such as pornography. The Minister for Communications has written to the eSafety Commissioner asking that work on the second tranche of codes commence.

Section 138(3) of the *Online Safety Act 2021* outlines examples of matters that may be dealt with by industry codes and industry standards, and includes:

- procedures directed towards the achievement of the objective of ensuring that online accounts are not provided to children without the consent of a parent or responsible adult;
- procedures directed towards the achievement of the objective of ensuring that customers have the option of subscribing to a filtered internet carriage service;
- giving end-users information about the availability, use and appropriate application of online content filtering software;
- providing end-users with access to technological solutions to help them limit access to class 1 material and class 2 material;

- providing end-users with advice on how to limit access to class 1 material and class 2 material;
- action to be taken to assist in the development and implementation of online content filtering technologies; and
- giving parents and responsible adults information about how to supervise and control children's access to material.

Under this next codes process, the eSafety Commissioner can request that industry develop new and strengthened codes to address class 2 content including pornography, or move to an enforceable industry standard if she concludes that codes do not provide appropriate community safeguards. The codes and standards can apply to eight key sections of the online industry, including providers of social media, messaging, search engine and app distribution services, as well as internet and hosting service providers, manufacturers and suppliers of equipment used to access online services and those that install and maintain the equipment.

The Government notes the Roadmap recommends a pilot of age assurance technologies. The Government is concerned that a pilot could distract the digital industry's work to deliver new and strengthened codes that may consider age assurance and similar technologies. The Government will await the outcomes of the class 2 industry codes process, before considering if, and how, a trial of age assurance technologies would be conducted.

Government will lift industry transparency

The Government also notes that the *Online Safety Act 2021* sets out Basic Online Safety Expectations (BOSE) for the digital industry and empowers the eSafety Commissioner to require industry to report on what it is doing to address these expectations.

A core expectation, set out in section 46(1)(d) of the *Online Safety Act 2021*, is that providers '...will take reasonable steps to ensure that technological and other measures are in effect to prevent access by children to class 2 material provided on the service'. The *Online Safety (Basic Online Safety Expectations) Determination 2022* also provides examples of 'reasonable steps' that industry could take to meet this expectation, which includes 'implementing age assurance mechanisms.'

The Government notes the Commissioner is able to require online services to report on how they are meeting the BOSE. Noting the independence of the eSafety Commissioner's regulatory decision-making processes, the Government would welcome the further use of these powers and the transparency that they bring to industry efforts to improve safety for Australians, and to measure the effectiveness of industry codes.

As technology advances, age assurance or verification processes that could be effectively implemented while preserving Australians' privacy and security, may emerge. The Roadmap describes how a number of online services are now trialing or introducing age assurance measures. A number of overseas governments, including of France, Germany, the UK, Utah and Louisiana, are considering or implementing age assurance requirements and intergovernmental collaborative networks and accreditation frameworks are being developed. The Government will continue to monitor the implementation and effectiveness of global and industry developments to inform our efforts in the future.

The Government has also committed to bring forward the independent statutory review of the Online Safety Act, which will be completed in this term of government. With the online environment constantly changing, an early review will ensure Australia's legislative framework remains responsive to online harms and that the eSafety can continue to keep Australians safe from harm.

Families may feel overwhelmed, but they are not powerless and they are not alone

While the Government and our online safety regulator will continue working with industry on this problem, technological solutions are already available to prevent children accessing pornography online.

The eSafety Commissioner works closely with Communications Alliance – an industry body representing the communications sector – to provide the Family Friendly Filter program. Under this program, internet filtering products undergo rigorous independent testing for effectiveness, ease of use, configurability and availability of support prior to certification as a Family Friendly Filter. Filter providers must also agree to update their products as required by eSafety, for example where eSafety determines, following a complaint, that a specified site is prohibited under Australian law.

Communications Alliance maintains a list and access details of certified filters at: www.commsalliance.com.au/Activities/ispi/fff where they can be accessed by those caring for children.

The Government supports the eSafety Commissioner's work and considerable achievements in developing practical advice for parents, carers, educators and the community about safety technologies. These products include online resources such as fact sheets, advice and referral information and regular interactive webinars. These resources are freely available through the eSafety Commissioner's website at: www.eSafety.gov.au.

The Roadmap recommends that the Government:

- conduct new and specialist research on pornography and its impacts on children;
- develop new, evidence-based resources about online pornography for educators, parents and children; and
- develop industry guidance products and further work to identify barriers to the uptake of safety technologies such as internet filters and parental controls.

The Government supports these recommendations. In the 2023-24 Budget the Government provided eSafety with an additional \$132.1 million over four years to improve online safety, increasing base funding from \$10.3 million to \$42.5 million per year. This ongoing and indexed funding provides Australia's online safety regulator with funding certainty, allowing long term operational planning and regulatory processes. This funding envelope will allow the eSafety Commissioner to continue this important work.

The Roadmap proposes the establishment of an Online Safety Tech Centre to support parents, carers and others to understand and apply safety technologies that work best for them. The Government has sought further advice from the eSafety Commissioner about this proposal to inform further consideration.

Government is addressing the harms that can result from children's exposure to pornography

The Roadmap notes that age-appropriate, inclusive, evidence-based, and stigma-free education about online pornography and the related topics of online safety, sexuality, consent, and respectful relationships are integral to addressing the harms associated with online pornography.

The Roadmap recommends development of a mechanism for greater national coordination and collaboration of respectful relationship education. The Australian Government supports this recommendation. Through the Consent and Respectful Relationships Education (CRRE) commitment of \$83.5 million over 6 years (2022-23 to 2027-28), the Australian Government is working with states, territories, the non-government school sector and experts through a National Respectful

Relationships Education Expert Working Group (Expert Group) to support the delivery of age-appropriate, evidence-based respectful relationships education, aligned to the Australian Curriculum. The Expert Group will also provide guidance on a rapid review on the delivery of CRRE, identifying gaps and opportunities, and also support the development of a national framework to guide schools in delivering high quality CRRE.

The Government is also committed to coordination and collaboration through the National Plan to End Violence against Women and Children 2022-2023 (the National Plan). The National Plan acknowledges that the relationship between viewing pornographic content and violence is complicated. It notes that pornographic content that showcases violence and a lack of consent, could be linked to a young person's attitudes and beliefs about sex, intimacy, consent, and gender-roles in relationships. The Commonwealth and all states and territories - along with victim-survivors, experts, frontline services and other stakeholders – have contributed to the National Plan, which provides the blueprint to end gender-based violence in a generation. In its last two Budgets, the Australian Government has made a \$2.3 billion investment in women's safety including to support implementation of the National Plan.

Under the National Plan, the Australian Government has committed \$39.9 million to develop a new national prevention campaign on consent and respectful relationships. The consent campaign aims to prevent sexual violence by supporting adult influencers to help young people to develop positive attitudes and behaviours around consent. The first phase is expected to encourage adults to have conversations on consent and healthy relationships with each other, followed by sharing this understanding with young people (phase 2). This campaign is under development and is subject to Government approvals.

In the 2023-23 Budget, the Government committed \$3.8 million under the National Plan to support Teach Us Consent to curate, develop and distribute social media resources on consent for young people aged 16 and over, and develop a youth advisory group. The program is expected to improve the attitudes and understanding of young people about consent, their capacity to have conversations about consent, and ultimately, to reduce sexual violence. The youth-led expert advisory group is expected to provide advice about what works when engaging young people on consent and sexual violence prevention.

The October 2022-23 Women's Safety Budget confirmed funding of \$23.3 million over 5 years from 2022-23 for the ANROWS National priority Research Fund. This additional funding will:

- increase understanding of and responses to address the unique, intersecting and lifelong impacts of violence against certain communities, including Aboriginal and Torres Strait Islander peoples and the LGBTIQ+ community;
- build knowledge and understanding of the factors correlated with men perpetrating violence, including the role of their own lived experience of violence and trauma;
- recognise and address the patterns of behaviour that constitute coercive control, including through increased understandings of non-physical forms of violence and abuse, such as psychological abuse, technology-facilitated and financial abuse; and
- bring sexual violence out of the shadows by recognising barriers to reporting and acknowledging sexual violence as a standalone issue that occurs beyond intimate partner violence.

The Government has also committed to supporting the eSafety Commissioner's engagement with industry to develop and implement new industry codes and standards to prevent children accessing online pornography, which is included under the National Plan. In addition, under the National Plan, the Government has funded eSafety:

- \$10.0 million for the Preventing Tech-Based Abuse of Women Grants Program to develop primary prevention initiatives that address the drivers of technology-facilitated gender-based violence;
- \$16.6 million to develop a Technology-Facilitated Abuse Support Service for victim-survivors and their frontline service staff;
- to deliver training and capacity building of frontline workers and other key cohorts to recognise and respond to technology-facilitated family, domestic and sexual violence;
- to deliver the eSafety Kids and TFA Program to raise awareness about how technology-facilitated abuse affects young people; and
- to work in formal partnership with Aboriginal and Torres Strait Islander peoples to ensure policies and services are culturally competent, strengths-based and trauma informed and meet the needs of Aboriginal and Torres Strait Islander peoples and communities.

Further, the 2022-23 Budget included \$100.4 million over 5 years (GST exclusive) to continue supporting Our Watch to deliver on key priorities of the National Plan, and continue existing successful initiatives for the primary prevention of violence against women and children. Through the Primary Prevention Activities program, Our Watch is funded to deliver *The Line* - a primary prevention social marketing campaign, designed to encourage adolescents and young adults aged 14 plus years to engage with age appropriate and evidence based information that educates on: [consent](#); [dating](#); [respectful relationships](#); [masculinity](#); [sex](#); [emotions](#); and [pornography](#). *The Line* also provides resources for [Educators and practitioners](#) and [parents and carers](#).

The first duty of any Government is to protect its citizens from harm – a duty that also applies to the online world. In the modern digital environment where children are growing up with close access to technology, protecting them from exposure to online pornography is a complex task. Protections must be proportionate to the level of harm and respect the rights of citizens to privacy and security. Protections must also be effective and enforceable. Australia has a strong track record in measured, targeted action in response to online harms which has included the establishment of the world's first eSafety Commissioner and legislating dedicated schemes to protect Australians from a range of online harms. The Australian Government is focused on the additional work needed to successfully implement the *Online Safety Act 2021*, in particular the much needed 'step up' by the digital industry to protect Australian children from exposure to online pornography. The Government will continue to monitor these efforts closely. The Government thanks the eSafety Commissioner and all those who have contributed to the Roadmap for Age Verification.



The Hon Michelle Rowland MP

Minister for Communications
Federal Member for Greenway

MS23-003648

The Hon Amanda Rishworth MP
Minister for Social Services
House of Representatives
Parliament House
Canberra ACT 2600

Dear Minister Rishworth

I am writing to seek your agreement to the enclosed draft Australian Government Response to the eSafety Commissioner's Roadmap for Age Verification (the Roadmap).

The Roadmap was delivered to me by the eSafety Commissioner on 31 March and contains six recommendations to the Australian Government relating to the prevention and mitigation of harms to children from online pornography. The enclosed draft Government response addresses each of the recommendations, and further outlines a holistic approach to addressing these harms.

In developing the Government response, my department has consulted across Government, including with officers in your department. None of the Roadmap's six recommendations fall within your portfolio responsibility. However, I have identified synergies between the Government response to the Roadmap and the National Plan to End Violence against Women and Children 2022-32 (the National Plan).

The attached government response includes input provided by your department highlighting how existing initiatives under the National Plan support the Government's commitment to prevent and mitigate the harms to children from online pornography. It makes no new policy or funding commitments.

Should your office wish to discuss this matter further, the contact officer in my department is Ms Bridget Gannon, Assistant Secretary, Online Safety Branch (02 6271 7079 / bridget.gannon@infrastructure.gov.au).

To facilitate the publication of the Australian Government Response, I would be grateful for your response by 31 July 2023.

I have separately written to the Prime Minister, the Hon Anthony Albanese MP and Minister for Education, the Hon Jason Clare MP, seeking their agreement to the proposed Government Response.

Yours sincerely



Michelle Rowland MP

24/7/2023

Enc

Attachment A: Roadmap for age verification

Attachment B: Government Response



The Hon Michelle Rowland MP

Minister for Communications
Federal Member for Greenway

MS23-003648

The Hon Anthony Albanese MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

I am writing in relation to policy authority for the Government's response to the Roadmap for age verification (the Roadmap) developed by the eSafety Commissioner.

The development of the Roadmap was a recommendation of the House of Representatives Standing Committee on Social Policy and Legal Affairs report, 'Protecting the age of innocence'. The Committee considered the role of online age verification technologies to protect children and young people from exposure to online pornography.

Following extensive consultation and deliberation, the eSafety Commissioner provided the Roadmap to me on 31 March 2023. I have now considered the Roadmap and its recommendations, which I have included as an attachment to this letter. I have also developed a draft government response, which I have attached for your approval.

In summary, the Roadmap does not recommend the Government legislate to introduce a regime of mandatory age verification at this time. Instead, the Roadmap notes the ongoing implementation of the *Online Safety Act 2021* (the OSA), and recommends that eSafety be resourced to provide education and awareness and that a pilot of age assurance technologies be considered before consideration of mandating age assurance.

While our Government is not afraid to take the hard decisions to protect children from online pornography, the Roadmap makes clear that age assurance technologies are immature, and each technology comes with its own privacy, security, effectiveness and implementation issues.

I propose the Government continues to focus on the successful implementation of the OSA because it will allow the eSafety Commissioner to continue working with industry to deliver new and strengthened industry codes, including codes that will protect children from exposure to pornography. The eSafety Commissioner has recently registered five new industry codes to deal with the 'worst of the worst' forms of online content, delivering improvements in community safeguards through this process.

Work on the second phase of industry codes has been delayed, so I am proposing to write to the eSafety Commissioner asking that she consider starting work on codes related to children's access to pornography, and consider use of the Basic Online Safety Expectations reporting mechanism to monitor industry's progress. This request would not be a direction and would therefore not be enforceable.

The Roadmap includes six recommendations for Government. In my view, the decision of the Cabinet to increase base funding for the eSafety Commissioner from \$10.3 million to \$42.5 million per year allows eSafety to deliver the majority of the recommendations, should she decide to. These include:

- conducting new research into young people's exposure to online pornography;
- development of new advice for the digital industry about good practice in age assurance technologies;
- investigation of the barriers to uptake of internet filters and parental controls that can restrict access to pornography by families; and
- the development of a suite of evidence-based, age appropriate educational resources about online pornography for children and to update existing resources for parents, schools and educators.

The Roadmap also includes a recommendation to establish an Online Safety Tech Centre. I will seek further information from the eSafety Commissioner about the role and functions of this new Centre, and whether these could be delivered by the eSafety Commissioner within her office's new ongoing funding.

The Roadmap includes a recommendation to develop a mechanism for greater national coordination and collaboration of respectful relationships education. I am advised that this will be delivered by the Department of Education as it continues to lead work with state and territory governments, the non-government school sector and experts to deliver the Government's Consent and Respectful Relationships Education commitment. I have written to the Hon Jason Clare MP, Minister for Education to seek his agreement to this part of the Government response.

The Government response also refers to a number of initiatives under the National Plan to End Violence against Women and Children 2022-23, which also support efforts to address the harms that can result from children's exposure to pornography. I have written to the Hon Amanda Rishworth MP, Minister for Social Services to seek her agreement to this part of the Government response.

Finally, the Roadmap includes a recommendation to conduct a pilot program to trial age assurance technologies in the Australian context. In my view, a pilot program would be an unnecessary distraction from the eSafety Commissioner's current industry codes process and accordingly I propose deferring the consideration of a pilot until the outcome of the industry codes process are known.

I intend to publish the Roadmap on my Department's website along with the attached Government response. My office will discuss supporting media materials and an announcement with your office.

I would be grateful if you could confirm my authority consistent with the approach set out in this letter, if possible by 2 August 2023.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Rowland'.

Michelle Rowland MP

24 / 7 / 2023

Enc:

Attachment A: Roadmap for age verification

Attachment B: Government response



The Hon Michelle Rowland MP

**Minister for Communications
Federal Member for Greenway**

MS23-003648

The Hon Jason Clare MP
Minister for Education
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Dear Minister Clare

I am writing to seek your agreement to the enclosed draft Australian Government Response to the eSafety Commissioner's Roadmap for Age Verification (the Roadmap).

The Roadmap was delivered to me by the eSafety Commissioner on 31 March and contains six recommendations to the Australian Government relating to the prevention and mitigation of harms to children from online pornography. The enclosed draft Government response addresses each of the recommendations.

In developing the Government response, my department has consulted across Government, including with officers in your department. Your department provided input regarding recommendation 6 of the Roadmap as this sits within your portfolio responsibilities. It recommends that the Government consider the development of a mechanism for greater national coordination and collaboration of respectful relationships education, consistent with the Monash University report (Respectful Relationships Education in Australia: National Stocktake and Gap Analysis of Respectful Relationships Education Material and Resources Final Report) commissioned by the Department of Education, Skills and Employment in 2021.

Recommendation 6 further identifies that the Australian Government could partner with states, territories, and non-government school systems and be informed by experts to support schools in the delivery of high quality, age-appropriate, evidence-based respectful relationships education. This could include consideration of resources and professional learning for educators, frontline workers, including social workers and general practitioners on online pornography integrated with respectful relationships education.

The attached government response includes input provided by your department in response to the recommendation 6. The response focuses on the Government's Consent and Respectful Relationships Education commitment of \$83.5 million over 6 years (2022-23 to 2027-28) within your portfolio. It makes no further commitment.

Should your office wish to discuss this matter further, the contact officer in my department is Ms Bridget Gannon, Assistant Secretary, Online Safety Branch (02 6271 7079 / bridget.gannon@infrastructure.gov.au).

To facilitate the publication of the Australian Government Response, I would be grateful for your response by 31 July 2023.

I have separately written to the Prime Minister the Hon Anthony Albanese MP, and the Minister for Social Services, the Hon Amanda Rishworth MP, seeking their agreement to the proposed Government Response.

Yours sincerely



Michelle Rowland MP

24/7/2023

Enc

Attachment A: Roadmap for age verification

Attachment B: Government Response