

MS25-000807



Australian Government

**Department of Infrastructure, Transport,
Regional Development, Communications, Sport and the Arts**

To: The Hon Anika Wells MP, Minister for Communications and Minister for Sport (for decision)

Subject: Implementing the Social Media Minimum Age law – Introducing legislative rules to exclude certain types of services from the age restriction

Critical Date: Your action within 10 business days could allow rules to be made by mid-year, providing certainty to the public and industry ahead of the ban coming into effect in December

Recommendations:

s22(1)(a)(ii)

The Hon Anika Wells MP

Date:

Comments:

Key Points:

s22(1)(a)(ii)

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s22(1)(a)(ii)



6. Further details on the policy rationale for the exclusions is in the Discussion Paper on the draft Rules, circulated to stakeholders as part of targeted consultation process (**Attachment G**).

Stakeholder feedback on the draft Rules

7. The department conducted targeted consultation on the draft Rules between February and March 2025, during which:

- a. 104 stakeholders were approached for direct feedback,
- b. 34 meetings were held with individual stakeholders,
- c. 6 roundtables were held, including 4 with youth representative groups, and
- d. 38 stakeholders provided written feedback.

A summary of the consultation feedback is at **Attachment C**.

8. Stakeholders broadly supported the exclusion for messaging services, online games, and health and education apps in the draft Rules. Minor technical amendments were proposed to the rule on messaging, and additional exclusions were proposed for product review and professional development services. These have been incorporated into the updated Rules at **Attachment B**.

- a. We consider the exclusions for messaging services, online games, and health and education apps should go ahead, and further exclusions should be added for product review and professional development apps. These categories were not the intended targets of the SMMA. Including them in the ban would disproportionately broaden the impact of the laws, while delivering minimal benefits to young people.

9. There was strong pushback from industry on the carve-out for YouTube on grounds it would create significant competition issues, most notably because YouTube Shorts is comparable and a direct competitor to TikTok and Instagram Reels. Industry stakeholders also criticised the carve-out as lacking a clear rationale, with TikTok claiming the proposal would be akin to ‘banning soft drinks but exempting Coca-Cola’.

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a. s22(1)(a)(ii)

b. s4/G(1)(a), s4/G(1)(b)

10. The proposed exclusion for YouTube received mixed views from other stakeholder groups, with parents and carers, child-development experts and civil society organisations opposing the draft Rule. Young people also questioned the Rule, noting it would exclude YouTube Shorts.

- a. While stakeholders generally viewed YouTube as ‘different’ from other social media services, many noted it has features considered to be typical of ‘social media’, that pose similar risks of harm as TikTok and other platforms, such as endless scroll.

s42

12. s42 stakeholder feedback, we hold concerns with proceeding with a specific exclusion for YouTube.

- a. In designing the minimum age obligation to apply to ‘having an account’, the SMMA supports continued access to YouTube in the ‘logged out’ state, without the need to exclude the platform from the SMMA.

13. The attached draft letter to the Commissioner (**Attachment D**) acknowledges the concerns about the exclusion and welcomes her views on the proposed Rule. This leaves room for you to give final consideration to the YouTube exclusion, having regard to the range of advice available.

- a. Under the SMMA, you are required to seek the Commissioner’s advice on the Rules prior to finalising/making them (section 63C of the *Online Safety Act 2021*).

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Sensitivities: As above.

Financial impacts: N/A

Legal/Legislative impacts: As above.

Stakeholder Implications: As above.

Consultation: Treasury, Department of Prime Minister and Cabinet

Media Opportunities: N/A

Attachments:

Attachment A: s22(1)(a)(ii)

Attachment B: Rules – Online Safety (Age Restricted Social Media Platforms) Rules 2025

Attachment C: s47C

Attachment D: Draft letter to the eSafety Commissioner

Attachment E: s47G(1)(a), s47G(1)(b)

Attachment F: Background and timeline on SMMA

Attachment G: Discussion Paper on draft Rules

Cleared By: James Chisholm

Position: Deputy Secretary, Communications and
Media Group

Mob: s22(1)(a)(ii)

Cleared Date: 26 May 2025

Contact Officer: Andrew Irwin

Section: Online Safety Branch

Ph: s22(1)(a)(ii)

Mob: s22(1)(a)(ii)

Instructions for Ministerial Services: Please dispatch the signed letter to the eSafety
Commissioner

Do you require a signed hardcopy to be returned: No

Responsible Adviser: s22(1)(a)(ii)

PDMS Distribution List: Barnaby Kerdel, s22(1)(a), s22(1)(a)(ii), Jim Betts, James Chisholm, Sarah
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s22(1), s22(1)(a),
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Additional Information:

Stakeholder feedback on the draft Rules

- To allow for the rules to be finalised by mid-2025, the department undertook targeted consultation, rather than seek broad public views on the draft Rules. A public consultation process would likely have attracted high numbers of submissions on the SMMA Act itself, rather than on the subordinate legislative instrument. This would undermine and slow the consultation process, creating significant challenges for meeting a mid-2025 deadline. This in turn would have created uncertainty for parents, children and industry ahead of commencement in December.
- To offset the targeted consultation approach, the department sought feedback from a large number of interested and affected stakeholders, to ensure the feedback reflected a representative cross-section of the Australian public.
- Between 14 February and 21 March 2025, the department held 34 individual meetings and 6 roundtables.
- We received written submissions from 38 stakeholders, including some stakeholders that had also attended meetings.
- While individual meetings were not extended to all stakeholders, the department did not decline any requests to meet, including where a second follow-up meeting was requested.
 - s47G(1)(b) [REDACTED] s47B(a) [REDACTED].
 - s47G(1)(b) [REDACTED]

s42

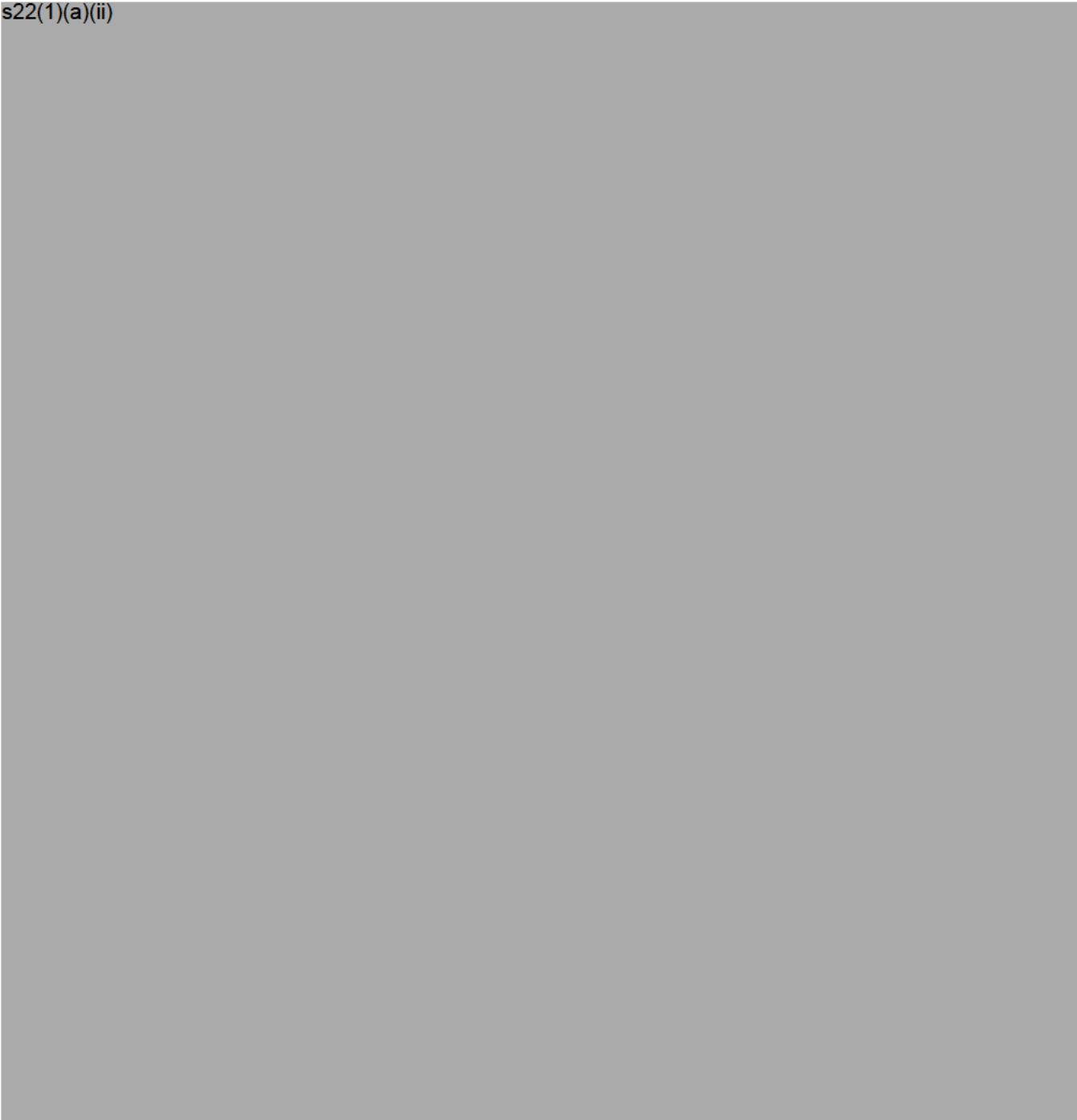
- s47G(1)(a), s47G(1)(b) [REDACTED]
- [REDACTED]

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s22(1)(a)(ii)



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Pages 7-8 (Attachment F to Document 1) removed in their entirety as outside the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act.

OFFICIAL: SENSITIVE**SMMA Timeline**

Key
Announcements and commitments
SMMA legislation and Online Safety Rules
Consultation

Date	Event
s22(1)(a)(ii)	
14 February – 21 March 2025	Targeted consultation on the Online Safety Rules – meetings and written responses from industry, youth, parents, mental health and community organisations, civil society organisations and law firms.
s22(1)(a)(ii)	

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OFFICIAL**Australian Government****Department of Infrastructure, Transport,
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Online Safety Rules – Services excluded from the social media minimum age obligation

Discussion Paper

February 2025

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Purpose

On 29 November 2024, the Online Safety Amendment (Social Media Minimum Age) Bill 2024 (the Bill) was passed by the Federal Parliament. The Bill introduces the minimum age obligation into the *Online Safety Act 2021* (the OSA), which requires in-scope social media platforms to prevent Australians under the age of 16 from having an account.¹

The new requirements apply to ‘age-restricted social media platforms’, a term defined in the OSA. While the definition casts a wide net, the Minister for Communications can narrow the scope through legislative rules.²

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) is seeking views on draft Online Safety Rules that enable certain services to be excluded from the social media minimum age obligation. These services currently include:

- Messaging
- Online games
- Apps that primarily function to support health and education
- YouTube

The Online Safety Rules would allow children and young people to continue to have and create accounts with the specified services. This paper also seeks feedback on the proposed exclusion of services and what other considerations should be incorporated into future Rules, having regard to the risks and benefits they provide to young people.

Discussion questions are included throughout this paper to guide comments (with a consolidated list at the conclusion of this paper). Interested parties may wish to provide responses to some or all of the questions.

Stakeholder feedback from targeted consultation will inform the final design of the Online Safety Rules, which the Minister proposes to make by mid-2025. This timeframe would provide certainty to young people, parents and industry, ahead of the minimum age obligation coming into effect (in or before December 2025). It will also allow for in-scope services to implement the obligation to apply age assurance methods to prevent Australian persons under 16 years from holding an account with their service.

The legislation determined account ownership as the threshold of the minimum age obligation in the interests of avoiding adverse commercial outcomes for Australian businesses who use social media as a business interface, if broader access were restricted (such as restricting access even in the logged-out state).

Excluded classes of services and platforms

The Bill introduces a minimum age obligation on ‘age-restricted social media platforms’. Under section 63C, a platform is an age-restricted social media platform if it meets the following conditions:

- the sole purpose, or a significant purpose, of the service is to enable online social interaction between 2 or more end-users
- the service allows end-users to link to, or interact with, some or all of the other end-users
- the service allows end-users to post material on the service.³

However, a platform is *not* an age-restricted social media platform if it is specified as excluded in rules made by the Minister for Communications (paragraph 63C(6)(b) of the OSA).

¹ Further information about the Bill is available on the Department’s website: [Online Safety Amendment \(Social Media Minimum Age\) Bill 2024 – Fact sheet](#)

² Legislative rules are a type of delegated legislation, made by a minister (or other person) to whom Parliament has given law-making authority. Other examples of delegated legislation are regulations and ordinances.

³ The Minister may make legislative rules that impose additional conditions for the purposes of this definition.

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Using rules to take certain platforms out of scope of the minimum age obligation allows the Government to be responsive to changes in the social media ecosystem. It gives the Minister flexibility to rule out specific platforms or classes of platforms, as deemed appropriate in meeting community expectations around harm minimisation for young people. In particular, the legislative rules can help provide young people with continued access to platforms and services that predominately provide experiences grounded in connection, education and support.

During the development of the Bill, the Department conducted extensive consultation with young people, parents, mental health professionals, legal professionals, community and civil society groups, state and territory first ministers, and industry representatives. The draft Online Safety Rules and the services they propose to exclude from the minimum age obligation have been developed based on feedback received during these previous stakeholder engagements.

Messaging services

Throughout previous consultation, preferences for what kinds of services should be in scope for the minimum age obligation differed, but messaging services were widely believed to provide benefits of connection that outweigh the risks of harm to young people from those services. Feedback indicated that denying access to messaging apps could also have broader negative consequences, such as making communication within families harder.

The draft Online Safety Rules provide for messaging services to be excluded from the minimum age obligation, framed as:

services that have the sole or primary purpose of enabling end-users to communicate by means of messaging

The introduction of a sole or primary purpose test in the rule is intended to limit the scope of the exclusion. This is a narrower test than a 'significant' purpose, and means that only those apps that are primarily dedicated to messaging would be excluded. For example, it would not facilitate an exclusion for Snapchat, in its current form. While Snapchat supports messaging, it also contains social networking features such as Stories and Snap Map that are core features to the service. As such, messaging is unlikely to be a sole or primary purpose of the platform.

s47C

While there are known risks of ill intended contact through messaging platforms, these are addressed through other existing mechanisms in the OSA, and powers under the *Criminal Code Act 1995*, such as those that criminalise using a carriage service to 'groom' persons under 16 years of age.

Discussion questions – messaging services

- 1.1. Do you consider the rule on messaging services to be appropriately targeted?
- 1.2. Why or why not?
- 1.3. What implementation challenges (if any) do you foresee with this rule on messaging services?

Online gaming services

Online games are currently regulated under the National Classification Scheme. The Scheme provides information on the age suitability of online games through a combination of the classification and relevant consumer advice. Imposing additional age-based regulation to online games would create unnecessary regulatory overlap.

The draft Online Safety Rules therefore provide for online gaming to be excluded from the minimum age obligation, framed as:

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services that have the sole or primary purpose of enabling end users to play online games with other end-users

As with messaging, the sole or primary purpose test in the rule limits the scope of the exclusion, ensuring that platforms that offer games as an insignificant aspect of their services are not scoped out. For example, Facebook hosts the game Words with Friends. As the hosting of this game is not a sole or primary purpose of Facebook, it would not be excluded under this rule.

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Discussion questions – online games

- 2.1. Do you consider the rule on online games to be appropriately targeted?
- 2.2. Why or why not?
- 2.3. What implementation challenges (if any) do you foresee with this rule on online games?

Services that primarily function to support the health and education of end-users

The draft Online Safety Rules would take out of scope services that function in a similar way to social media in their interactivity, but operate with a significant purpose to enable young people to get the education and health support they need. This will help to focus the new legislative framework on retaining many of the benefits of social media for young people, while minimising the dangers.

On this basis, the draft Online Safety Rules currently provide for the following types of services to be excluded from the minimum age obligation:

services that have the sole or primary purpose of supporting the education of end users;

services that have the sole or primary purpose of supporting the health of end users;

services that have a significant purpose of facilitating communication between educational institutions and students or students' families;

services that have a significant purpose of facilitating communication between providers of health care and people using those providers' services.

s47C

Discussion questions – health and education

- 3.1. Do you consider the rule on health and education services to be appropriately targeted?
- 3.2. Why or why not?
- 3.3. What implementation challenges (if any) do you foresee with this rule on health and education services?

YouTube

Based on research undertaken by the eSafety Commissioner, YouTube has consistently ranked as one of the top digital services used by children and young people in Australia. While the platform undoubtedly functions as a source of entertainment and leisure, it is an important source of education and informational content, relied on by children, parents and carers, and educational institutions. This contrasts substantially with other

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content streaming services, which are predominantly used by young people to view short-form entertainment content.⁴ On this basis, the proposed Online Safety Rules exclude YouTube from the minimum age obligation.

Discussion questions – YouTube

- 4.1. Do you support YouTube being excluded from the minimum age obligation (i.e. young people should be able to have YouTube accounts)?
- 4.2. Why or why not?
- 4.3. Are there any unintended consequences of excluding YouTube?

Other services that shouldn't be subject to the minimum age

Stakeholder views are sought on whether other services (classes or specific platforms) should be incorporated into the Online Safety Rules, and therefore exempt from the minimum age obligation. The Government is particularly interested in ensuring that children and young people continue to have access to services that support connection, creativity and curiosity, without exposing children to serious online harms that is the central purpose of the SMMA.

Discussion questions – other services

5. What other classes/types of services (if any) should be excluded from the minimum age obligation (i.e. young people should be able to have accounts with those services)? Why?

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⁴ eSafety Commissioner, 'Consultations with young people to inform the eSafety Commissioner's Engagement Strategy for Young People', 2021

Draft Online Safety Rules consultation tracking sheet

Timeline

Date	Group	Action
11 Feb 2025	Industry	Bulk of 1:1 invites sent
	Parents and child-development experts	Roundtable invite sent
	First Nations representatives	Roundtable invite sent
13 Feb 2025	Mental health organisations	Written response email sent
	eSafety Youth Council	Roundtable invite sent
	Office for Youth: Youth Steering Committee	Roundtable invite sent
17 Feb 2025	Civil society groups	Written response email sent
19 Feb 2025	Youth groups	Roundtable invite sent
21 Feb 2025	Industry (BlueSky, Quora)	Final 1:1 invites sent

1:1s – Industry and others

		Met with?	Written submission?
Friday 14 Feb			
Roblox	10-10:30	Y	
Interactive Games and Entertainment Association (IGEA)	10:30-11	Y	Y
Interaction Social Games Association	4-4:30	Y	
Monday 17 Feb			
Snap	3:30-4:15	Y	Y
Tuesday 18 Feb			
Meta	9:30-10:15	Y	Y
TikTok	10:30-11:30	Y	Y
Google	11:45-12:30	Y	Y
Apple	1:30-2:15	Y	
Wednesday 19 Feb			
LEGO	11:15-12	Y	Y
Thursday 20 Feb			
Reddit	10:15-11	Y	Y
Communications Alliance	3:30-4:15	Y	Y
DIGI	4:15-5	Y	
Friday 21 Feb			
Yahoo	9:30-10	Y	
Pinterest	10-10:45	Y	Y
Discord	2-2:45	Y	Y
Wednesday 26 Feb			
Twitch	9:15-10	Y	Y
Adobe	10-10:30	Y	Y
LinkedIn	12:30-1	Y	Y
Thursday 27 Feb			
Epic Games	11:30-12	Y	
Friday 28 Feb			
Qoria	2-2:30	Y	Y

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		Met with?	Written submission?
NSW Govt	4-4:30	Y	Y
Monday 3 March			
IGEA (follow up)	9:45-10:30	Y	Y
The Man Cave	2-2:30	Y	
Tuesday 4 March			
X (Twitter)	3:30-4:15	Y	
Wednesday 5 March			
LEGO (with Minister)	10:00-10:30	Y	Y
Thursday 6 March			
Telstra	10:30-11	Y	Y
SA Govt	4-4:30	Y	
Meta (follow up)	4:30-5:00	Y	Y
Friday 7 March			
GitHub	9:30-10	Y	Y
Friday 14 March			
Tech Council of Australia	2:30-3	Y	
Tuesday 18 March			
Snap (follow up)	4-4:15	Y	Y
Wednesday 19 March			
TikTok (follow up)	12:30-1:15	Y	Y
Thursday 20 March			
WA Govt	1-1:30	Y	
Friday 21 March			
Project Rockit	2:30-3	Pending	Y
Quora		Not available	
BlueSky		No response	
Steam (Valve)		No response	

Roundtables

		Met with?	Written submission?
Wednesday 26 Feb			
Headspace Youth National Reference Group and First Nations Youth Advisory Council	5-6	Y	
eSafety Youth Council	6-7	Y	
Thursday 27 Feb			
Parents and child-development experts	9:30-11	Y	
UN Youth Australia	3:30-4:30	Y	
Orygen Youth Advisory Council	5:30-6:30	Y	
Friday 7 Mar			
First Nations Digital Inclusion Advisory Group	12:30-1	Y	
Office for Youth: Youth Steering Committee and Australian Youth Affairs Coalition		Written only	Y

YLab		Not available	
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Written submissions

	Received	Extension
AMF	Y	
Access Now		
Australian Child Rights Taskforce		
Australian Communications Consumer Action Network	Y	
Australian Privacy Foundation		
Australian Research Alliance for Children and Youth (ARACY)	Y (joint)	
Beyond Blue	Y (joint)	
Black Dog Institute	Y	Y
Butterfly Foundation		
Carly Ryan Foundation		
Centre for Multicultural Youth		
Children and Young People with Disability Australia	Y	
Civil Liberties Australia		
Digital Rights Watch		
s47F	Y	Y
Electronic Frontiers Australia	Y	Y
Equality Australia		
Gayaa Dhuwi (Proud Spirit) Australia	Y	Y
GEN VIC		
Headspace	Y	Y
Human Rights Law Centre		
Law Council of Australia	Y	
LGBTIQ+ Health Australia		
LGBTBIQ+ Health Australia		
Liberty Victoria		
Man Cave	Met with	
NSW Council for Civil Liberties		Y
Online Hate Prevention Institute	Y	Y
Orygen		
Prevention United	Y (joint)	
Project Rockit	Y (joint)	
ReachOut	Y (single and joint)	
Reset Tech Australia		
SCOPE Disability Services		
Suicide Prevention Australia	Y	Y
The Future of Privacy Forum		
Transcend Australia		

	Received	Extension
Yourtown/Kid's Helpline	Y	Y

Parents roundtable

	Attended?	Written submission?
36 Months	Y	
ARC Centre of Excellence for the Digital Child	Y	
Australian Parents Council	Y	
Body Safety Australia	N	
Catholic School Parents Australia	Y	
Children and Media Australia	Y	
s47F	Y	
Federation of Parents and Citizens Associations of NSW	Y	
Head's Up Alliance	Y	
Isolated Children's Parents' Association of Australia	N	
Young and Resilient Research Centre, UWS	N	
Murdoch Children's Research Institute	N	
Smack Talk	Y	
The Parenthood	N	
Toni Hassan	Y	Y
UNICEF Australia	Y	
Wait Mate (W8M8)	Y	

Master list

	Stakeholder	Met with?	Written sub?
1.	13YARN	N - no response	N
2.	36 Months	Y	N
3.	Access Now	N	N
4.	Adobe	Y	Y
5.	AMF	N	Y
6.	Apple	Y	N
7.	ARC Centre of Excellence for the Digital Child	Y	N
8.	Australian Child Rights Taskforce	N	N
9.	Australian Communications Consumer Action Network	N	Y
10.	Australian Parents Council	Y	N
11.	Australian Privacy Foundation	N	N
12.	Australian Research Alliance for Children and Youth	N	Y (joint)
13.	Beyond Blue	N	Y (joint)
14.	Black Dog Institute	N	Y
15.	BlaQ Aboriginal Corporation	N - no response	N
16.	BlueSky	N - no response	N
17.	Body Safety Australia	N	N

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18.	Butterfly Foundation	N	N
19.	Carly Ryan Foundation	N	N
20.	Catholic School Parents Australia	Y	N
21.	Centre for Multicultural Youth	N	N
22.	Children and Media Australia	Y	N
23.	Children and Young People with Disability Australia	N	Y
24.	Civil Liberties Australia	N	N
25.	Coalition of Peaks	N - no response	N
26.	Communications Alliance	Y	Y
27.	DIGI	Y	N
28.	Digital Rights Watch	N	N
29.	Discord	Y	Y
30.	s47F	N	Y
31.	s47F	Y	N
32.	Electronic Frontiers Australia	N	Y
33.	Epic Games	Y	N
34.	Equality Australia	N	N
35.	eSafety Youth Council	Y	Y
36.	Federation of Parents and Citizens Associations of NSW	Y	N
37.	First Nations Digital Inclusion Advisory Group	Y	N
38.	First Nations Media	N - no response	N
39.	First Peoples Disability Network	N - no response	N
40.	Gayaa Dhuwi (Proud Spirit) Australia	N	Y
41.	GEN VIC	N	N
42.	GitHub	Y	Y
43.	Google	Y	Y
44.	Head's Up Alliance	Y	N
45.	Headspace	N	Y
46.	Headspace Youth National Reference Group and First Nations Youth Advisory Council	Y	N
47.	Human Rights Law Centre	N	N
48.	Indigenous Consumer Assistance Network	N - no response	N
49.	Interaction Social Games Association	Y	N
50.	Interactive Games and Entertainment Association	Y	Y
51.	Isolated Children's Parents' Association of Australia	N	N
52.	Law Council of Australia	N	Y
53.	LEGO	Y	Y
54.	LGBTIQ+ Health Australia	N	N
55.	LGBTBIQ+ Health Australia	N	N
56.	Liberty Victoria	N	N
57.	LinkedIn	Y	Y
58.	Man Cave	Y	N
59.	Meta	Y	Y

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60.	Murdoch Children's Research Institute	N	N
61.	NSW Council for Civil Liberties	N	N
62.	NSW Gov	Y	Y
63.	Office for Youth: Youth Steering Committee and Australian Youth Affairs Coalition	N - unavailable	Y
64.	Online Hate Prevention Institute	N	Y
65.	Orygen	N	N
66.	Orygen Youth Advisory Council	Y	Y
67.	Pinterest	Y	Y
68.	Prevention United	N	Y (joint)
69.	Project Rokit	N	Y (joint)
70.	Qoria	Y	Y
71.	Queensland Remote Indigenous Media	N - no response	N
72.	Quora	N - unavailable	N
73.	ReachOut	N	Y (single and joint)
74.	Reddit	Y	Y
75.	Reset Tech Australia	N	N
76.	Roblox	Y	N
77.	SA Govt	Y	TBC
78.	Saltwater People	N - no response	N
79.	SCOPE Disability Services	N	N
80.	Smack Talk	Y	N
81.	SNAICC – National Voice for our Children	N - no response	N
82.	Snap	Y	Y
83.	Steam (Valve)	N - no response	N
84.	Suicide Prevention Australia	N	Y
85.	Tech Council of Australia	Y	N
86.	Telstra	Y	Y
87.	The Equality Institute – U Right Sis? Project	N - no response	N
88.	The Future of Privacy Forum	N	N
89.	The Man Cave	Y	N
90.	The Parenthood	N	N
91.	TikTok	Y	Y
92.	Toni Hassan	Y	Y
93.	Transcend Australia	N	N
94.	Twitch	Y	Y
95.	UN Youth Australia	Y	N
96.	UNICEF Australia	Y	N
97.	Victorian Aboriginal Child and Community Agency	N - no response	N
98.	WA Government	Y	TBC
99.	Wait Mate (W8M8)	Y	N
100.	X (Twitter)	Y	N
101.	Yahoo	Y	N

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102.	YLab	N - unavailable	N
103.	Young and Resilient Research Centre, UWS	N	N
104.	Yourtown/Kid's Helpline	N	Y
	Totals	46 meetings	38 responses

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