MS26-001204

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: Social media minimum age – expanding enforcement powers for the eSafety Commissioner

Timely Date: Please action as soon as possible to enable introduction of the amendment bill to Parliament in the week commencing 29 June 2026.

Recommendation:

1. That you **sign** the letter to the Prime Minister, the Hon Anthony Albanese MP, at **Attachment A**, seeking approval to amend the *Online Safety Act 2021* (the Act) to strengthen the eSafety Commissioner's enforcement powers and increase penalties in relation to the social media minimum age, s47C s47C

Signed / Not Signed

2. s47C

Approved / Not Approved

The Hon Anika Wells MP Date:

Comments:

Key Points:

1. Consistent with the eSafety Commissioner's compliance update on the social media minimum age, there are serious concerns with actions platforms are taking to comply with the obligation. As a result, a significant number of Australians under the age of 16 continue to have accounts on age-restricted social media platforms.

   a. Part 4A of the *Online Safety Act 2021* (the Act) requires age-restricted social media platforms to take 'reasonable steps' to prevent Australian users under 16 from having an account on their platforms.

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2. The social media minimum age has been in effect for six months and the eSafety Commissioner is in an active enforcement phase, investigating compliance by five platforms – Facebook, Instagram, Snapchat, TikTok and YouTube.

3. Section 63G of the Act outlines the eSafety Commissioner's current information-gathering power in relation the social media minimum age obligation. This power is limited to seeking information (rather than documents) from providers of age-restricted social media platforms.

4. In considering potential enforcement action against suspected non-compliance with the framework, the eSafety Commissioner considers additional investigation powers are required to build evidence against non-compliant platforms.

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6. Together, the proposed amendments would increase the amount of information available to the eSafety Commissioner to form a more fulsome picture of compliance efforts and expand the basis for seeking information to a wider range of relevant platforms (including those which dispute their inclusion as an age-restricted social media platform).

7. The letter also seeks agreement to increase the civil penalties for contraventions of Part 4A of the Act from a maximum penalty of 30,000 penalty units (currently equivalent to $49.5 million) to 60,000 penalty units (currently equivalent to $99 million).
    a. This increase would bring the penalties for the social media minimum age obligation in line with the recent amendments to the *Competition and Consumer Act 2010*, recognising the significant revenue of multinational platforms offering social media services in Australia.

8. The letter seeks approval s47C to add the Online Safety Amendment (Social Media Minimum Age) Bill 2026 to the s47C

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Sensitivities: N/A

Financial impacts: N/A

Legal/Legislative impacts: The amendment bill will be finalised next week for your text approval, alongside the explanatory materials and second reading speech.

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Stakeholder Implications: N/A

Consultation: Legal and Integrity Division and the Department of the Prime Minister and Cabinet were consulted on the draft letter to the Prime Minister.

Media Opportunities: N/A

Attachments:
Attachment A: Draft letter to the Prime Minister
Attachment B s47C
s47C
Attachment C: s42
Attachment D:

Cleared By: Sarah Vandenbroek
Position: First Assistant Secretary
Division: Online Safety and Classification
Mob: s22(1)(a)(ii)
Cleared Date: 17 June 2026

Contact Officer: Anthea Fell
Section: Assistant Secretary, Online Safety Branch
Mob: s22(1)(a)(ii)

Instructions for Ministerial Services: Nil

Do you require a signed hardcopy to be returned: No

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

PDMS Distribution List: Jim Betts, David Mackay, Sarah Vandenbroek, Anthea Fell, s22(1)(a)(ii)
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PROTECTED CABINET: Legal Privilege

The Hon Anika Wells MP
Minister for Communications and Minister for Sport
Member for Lilley

Ref No: MS26-001204

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

Dear ~~Prime Minister~~ PM,

I am writing to seek your agreement to amend the *Online Safety Act 2021* (the Act) to strengthen the enforcement powers of the eSafety Commissioner in relation to Australia's world leading social media minimum age framework.

Consistent with the eSafety Commissioner's social media minimum age implementation update of 15 May 2026, there are significant concerns about the compliance of some platforms with the obligation to take "reasonable steps" to prevent Australians under the age of 16 from holding accounts on their platforms.

The eSafety Commissioner is in an active enforcement stance in relation to the social media minimum age and is investigating the compliance of five platforms – Facebook, Instagram, Snapchat, TikTok and YouTube.

In considering potential enforcement action, the eSafety Commissioner considers additional investigation powers are required to build stronger evidence against non-compliant platforms. s42
s42

On this basis, I seek your agreement to amend Part 4A of the Act to expand the information-gathering powers for the social media minimum age framework, including by empowering the Commissioner to issue notices to "any person" to provide any information or produce any documents, provided the Commissioner believes on reasonable grounds that the person has information or documents relevant to compliance by a provider (or someone who may be a provider) of an age-restricted social media platform or whether an electronic service is a service specified in the legislative rules.

These amendments ensure the Commissioner has robust investigation powers and the ability to form a more fulsome picture of the compliance efforts of age-restricted social media platforms. For example, information and documents provided by third parties may refute the information provided by, or claims made by, the age-restricted social media

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platform or may show that the steps taken are not operating as claimed.

Presently, the Commissioner must believe on reasonable grounds that a person 'is' a provider of an age-restricted social media platform or electronic service before the Commissioner can seek information under s63G of the Act. s47C

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s47C Amending Part 4A of the Act to permit the exercise of the information-gathering power if the Commissioner believes on reasonable grounds that the person has information or documents relevant to compliance by a provider (or someone who may be a provider) of an age-restricted social media platform or electronic service would ensure the Commissioner is able to comprehensively regulate all relevant platforms and services.

I am also seeking your agreement to amend the contraventions of Part 4A of the Act to increase the civil penalties from a maximum penalty of 30,000 penalty units (currently equivalent to $49.5 million) to 60,000 penalty units (currently equivalent to $99 million). The civil penalty for compliance with notices issued by the eSafety Commissioner would also be increased from 500 penalty units to 1000 penalty units.

This increase will bring the penalties for the social media minimum age obligation in line with the recent amendments to the *Competition and Consumer Act 2010*, which doubled the maximum penalty for contraventions by a body corporate from $50 million to $100 million, recognising the significant revenue of multinational platforms offering social media services in Australia.

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Yours sincerely

s22(1)(a)(ii)

Anika Wells

19 June 2026

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PROTECTED CABINET

MS26-001207

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: Approval of the Online Safety Amendment (Strengthening Enforcement for the Social Media Minimum Age) Bill 2026 for introduction

Critical Date: by close of business Thursday 25 June 2026 to enable introduction on Thursday 2 July 2026.

Recommendations: That you

1. **approve** the Online Safety Amendment (Strengthening Enforcement for the Social Media Minimum Age) Bill 2026 (the Bill; **Attachment A**) and the Explanatory Memorandum (**Attachment B**).

Approved / Not Approved

2. **approve** the draft Second Reading Speech (**Attachment C**), with any changes to be settled with your office.

Approved / Not Approved

The Hon Anika Wells MP Date:

Comments:

Key Points:

1. The Bill is proposed for introduction in week 5 of the Winter sitting period (week commencing 29 June 2026). The exact date for introduction is being settled by your office.

2. The Bill will expand the eSafety Commissioner's information-gathering powers and increase penalties in relation to the social media minimum age. Your office has previously been briefed on these measures (MS26-001204 refers).

3. Timely introduction of the Bill is required to urgently address gaps in the eSafety Commissioner's ability to effectively investigate and support potential compliance action with the social media minimum age framework.

4. s47C, the Bill is expected to be introduced into the House of Representatives subject to the following:

a. Policy Approval:

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- Policy approval was sought from the Prime Minister on 19 June 2026. We will notify your office as soon as we receive a response.

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c. Second Reading Speech:
    - The draft second reading speech is at **Attachment C** for your review. The department will coordinate with your office to settle this document, should you want changes, and to facilitate printing and delivery.

s47C

Financial impacts: N/A

Legal/Legislative impacts: N/A – as outlined in paragraph and the draft Bill.

Stakeholder Implications:
5. The introduction of the Bill comes six months after the legislation came into effect. Messaging should focus on the demonstrated lack of compliance by platforms, which necessitates the need to ensure the eSafety Commissioner has the appropriate powers to enforce the framework.

Consultation:
6. The Public Law Branch assisted the Online Safety Branch in instructing on the Bill and preparing supporting documentation.

7. The Office of Parliamentary Counsel, the Australian Government Solicitor, the eSafety Commissioner, the Department of the Prime Minister and Cabinet and the Attorney-General's Department were consulted on the Bill.

Media Opportunities: N/A

Attachments:
Attachment A**:** Online Safety Amendment (Strengthening Enforcement for the Social Media Minimum Age) Bill 2026
Attachment B: Explanatory Memorandum
Attachment C: Second Reading Speech

s47C

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MS26-001207

Cleared By: Anthea Fell
Position: Assistant Secretary
Division: Online Safety
Mob: s22(1)(a)(ii)
Cleared Date: 24 June 2026

Contact Officer: Anthea Fell
Position: Assistant Secretary
Branch: Online Safety
Mob: s22(1)(a)(ii)

Instructions for Ministerial Services: Nil

Do you require a signed hardcopy to be returned: No

PDMS Distribution List: Jim Betts, David Mackay, Sarah Vandenbroek, Anthea Fell, s22(1)(a)(ii) s22(1)(a)(ii) Christie McClure, Paul Toole, s22(1)(a)(ii) s22(1)(a)

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FOI 27-092 – Document 2 Attachment C

SECOND READING SPEECH

Online Safety Amendment (Strengthening Enforcement for the Social Media Minimum Age) Bill 2026

Introduction

Keeping Australians safe online – particularly children and young people – is a priority for the Albanese Government.

The Government is committed to ensuring that providers of social media platforms are held to account for their role in protecting young users and complying with Australia's social media minimum age framework.

In March 2026, the eSafety Commissioner released a public compliance update which found that, while platforms have removed, deactivated or restricted access to more than 5 million accounts, a substantial proportion of Australian children under the age of 16 continue to hold or create new accounts, or are able to bypass existing age assurance systems.

The Commissioner is actively investigating compliance by 5 major platforms: Facebook, Instagram, Snapchat, TikTok and YouTube, with decisions on potential enforcement action expected later this year.

The eSafety Commissioner's compliance update points to a number of poor practices by platforms regarding the social media minimum age obligation -

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reinforcing the need to ensure the Commissioner has appropriate powers to effectively investigate and enforce compliance with the social media minimum age obligation.

This Bill responds to these challenges by strengthening the enforcement framework underpinning the social media minimum age requirements.

Measures

Social media companies are among the largest and most influential digital platforms globally. We know they have the capability and resources to meet their obligations and protect their users.

The Bill increases the maximum civil penalty for non-compliance with minimum age obligations from 30,000 to 60,000 penalty units – bringing the maximum penalty up to $99 million.

This aligns with recent amendments to the *Competition and Consumer Act 2010*, and reflects the scale and resources of multinational platforms operating in Australia.

These changes are intended to strengthen deterrence and reinforce the expectation that providers of platforms take their minimum age obligations seriously.

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Increasing the civil penalty for breaches of the Act by platforms is not all we're doing by amending this legislation. We're also strengthening the eSafety Commissioner's information-gathering powers so that they can get the information they need from platforms to assess compliance.

The Bill expands the eSafety Commissioner's ability to obtain information needed to assess compliance. In particular, the amendments enable the Commissioner to issue notices requiring the provision of information *and documents* from any person where the Commissioner reasonably believes they hold material relevant to compliance with the minimum age framework.

We are also doubling the penalties for failure to comply with information-gathering notices from the eSafety Commissioner.

These changes will provide the Commissioner with more detailed information on what platforms are doing (or not doing) to comply with the social media minimum age, supporting more effective investigation and potential enforcement action.

Conclusion

This Bill strengthens the enforcement framework supporting Australia's social media minimum age framework and enhances the eSafety Commissioner's ability to protect children online.

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While there is more work to be done, this Bill represents an important step in strengthening protections for young Australians online and ensuring platforms are held to account.

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