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MS26-000476



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 – approving the new legislative rule

Critical Date: Please action by 24 March 2026 to allow for the rules to be registered the following day to ensure swift commencement.

Recommendations:

1. That you **sign** (page 1) the Online Safety (Age-Restricted Social Media Platforms) Amendment Rules 2026 (the Rules) at **Attachment A**.

☒ Signed / Not Signed

2. That you **approve** the Explanatory Statement for the Rules at **Attachment B**.

☒ Approved / Not Approved

The Hon Anika Wells MP

Date: 25.3.26

Comments:
Key Points:

1. Subparagraph 63C(1)(a)(iv) of the *Online Safety Act 2021* provides that you may, by legislative instrument, set further conditions that a service must satisfy to meet the definition of an 'age-restricted social media platform' (paragraph 63C(1)(a)). This rule-making power was introduced to allow you to narrow or further target the definition, which is otherwise fairly broad.
2. The Rules at **Attachment A** explicitly tie the minimum age obligation to four design features associated with online harm to young people: recommenders (algorithms), endless-feeds (infinite scroll), feedback features (e.g. displaying numbers of 'likes'), and time-limited features (e.g. disappearing 'stories').
3. The practical effect is that a platform would be considered an 'age-restricted social media platform' if it meets all the conditions specified in the Act, as well as the Rules. That is:
 - a. It has a sole or significant purpose of enabling online social interaction (s63C(1)(a)(i)), and
 - b. It allows users to post material and interact with others (s63C(1)(a)(ii)-(iii)), and

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- c. It has a recommender feature that is account-based (i.e. it relies on information connected with the user's account) (the Rules – s4A(2)), or
- d. It has any other harmful feature, at least one of which is available *exclusively* to logged in users (the Rules – s4A(3)-(6)).

A detailed outline of the Rules is in the **Additional Information**.

4. eSafety's view is that the Rules would not change the platforms currently assessed as in or out of scope of the SMMA. That said, subject to your agreement to the Rules, eSafety will conduct a formal re-assessment (including giving platforms the chance to make representations).

Sensitivities:

5. A consequence of the Rules is that platforms that do not employ any of the four harmful features would not be in scope of the SMMA. This addresses concerns previously raised by mental health organisations about maintaining children's access to 'less harmful' platforms and would, in practice, give effect to 'an exemption framework for safer services'.

6. The framing of the Rules also mean that the following theoretical platform may be excluded from the SMMA (noting eSafety is yet to identify such a platform):

- a. It does not have a recommender feature, or its recommender feature is not account-based, and
- b. Any other design feature on the service is available to users with and without an account.

s42

7. Given the significance of recommender features in maintaining engagement on platforms and contributing to online harms, the department and eSafety consider that exclusion to be appropriately targeted.

Financial impacts: N/A

Stakeholder Implications:

s47C

Consultation: The Rules were drafted in consultation with AGS, in consultation with the department (including Legal Services Division) and the Office of the eSafety Commissioner.

Media Opportunities: We will work with your office on a public communications approach.

Attachments:

Attachment A: Online Safety (Age-Restricted Social Media Platforms) Amendment Rules 2026

Attachment B: Explanatory Statement

Attachment C: Rules – detailed outline

Attachment D: Rules – in and out of scope (including cameos)

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

Contact Officer: Anthea Fell
Branch: 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:** Summer Brady

PDMS Distribution List: Jim Betts, David Mackay, Sarah Vandebroek, Anthea Fell
s22(1)(a)(ii)

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ADDITIONAL INFORMATION

Detailed outline of the Rules

The Rules amend the Online Safety (Age-Restricted Social Media Platforms) Rules 2025 by inserting a new subsection (4A):

4A Additional conditions a service must satisfy to be an age-restricted social media platform

Paragraph	Text of rule	Intent/purpose
(1)	For the purposes of paragraph 63C(1)(a)(iv) of the Act, it is a condition that the service has either or both of: (a) a recommender feature; (b) a logged-in feature.	These conditions are in addition to those specified in paragraph 63C(1)(a) of the Act, which provides that a platform is an age-restricted social media platform if: - its significant purpose is to enable online social interaction - it allows users to interact with each other - it allows users to post material. The purpose of the Rules is to tie the SMMA more explicitly to design features which contribute towards online harm amongst young people.
(2)	A service has a recommender feature if the service can: (a) select material by reference to any information that the service has associated with an end-user's account; and (b) display that material to the end-user while the end-user is using the service.	Recommender features allow a platform to provide personalised material to an end-user that is designed to be extremely engaging, which can contribute to the end-user finding it hard to stop using the service. It can also contribute to the proliferation of harmful content on social media services, which can significantly impact the health of young people and encourage risky health behaviours. Examples of a recommender feature may include 'for you', 'explore', and 'discover' feeds. Note that the definition of 'recommender feature' is limited to those that draw on account information.

Paragraph	Text of rule	Intent/purpose
(3)	A service has a logged-in feature if the service: (a) has one or more of the following features: (i) an endless-feed feature; (ii) a feedback feature; or (iii) a time-limited feature; and (b) does not enable an end-user to access, or be exposed to, at least one such feature unless the end-user is using the service with an account.	The effect of this paragraph is that a platform has a 'logged-in feature' if it has an endless-feed feature (infinite scroll), a feedback feature (e.g. displaying numbers of 'likes' on a post), and/or a time limited feature (e.g. 'stories'), and at least one of those is <i>exclusively</i> available to users when logged in.
(4)	A service has an endless-feed feature if the service can display material to an end-user: (a) in a feed of material that has no end-point; or (b) in a feed of material that has an end-point, but to which additional material is added: (i) when that end-point is reached; or (ii) at time intervals; or (iii) in response to the end-user's input.	An endless feed is designed to enable seamless consumption of content, which is automatically and continuously loaded as the user scrolls, swipes, flicks, or is otherwise prompted. These features are designed to significantly reduce the friction for the user and make it difficult for them to monitor and manage their usage. Endless scroll is particularly risky for younger users, as it contributes to unintentional, unwanted or excessive use.
(5)	A service has a feedback feature if the service can display information to an end-user about: (a) the extent to which other end-users have viewed or otherwise engaged with material posted by the end-user on the service; or (b) the extent to which other end-users have opted to receive notifications about the end-user's account or material posted by the end-user on the service.	Feedback features are designed to give quick, low-effort feedback, and can form an important feedback point for adolescents of peer approval, status, and acceptance. The types of 'feedback' information displayed to an end-user may include approval or disapproval ('likes', 'upvotes'), view counts, and reaction icons. Reactions reinforce the addictive nature of false reward and temporary fulfilment due to correlation with the greater number of reactions on an end-user's posts. These quantifiable metrics have been identified as having the potential to encourage or normalise tactless behaviours, foster upward social comparisons and rumination, and contribute to feelings of exclusion or unpopularity.

Paragraph	Text of rule	Intent/purpose
(6)	A service has a time-limited feature if the service enables an end-user to view material that is available to be viewed on the service only within a limited period after it has been posted.	Time-limited features, such as 'stories' or disappearing messages, create a sense of urgency or 'fear of missing out' for end-users. Ephemeral content contributes to regular checking behaviours and extended engagement, including by stoking the user's fear of missing out. Research identifies that time-limited features may be connected to habitual, excessive and problematic use of social media, especially amongst impressionable adolescents.

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Platforms in and out of scope**In scope**

A platform is captured if:

- it has a recommender feature that is account-based (i.e. it relies on information connected with the user's account), and/or
- it has an endless-feed feature (infinite scroll), a feedback feature ('likes'), and/or a time limited feature ('stories'), and at least one of those is *exclusively* available to users when logged in.

Examples 1 and 2 below illustrate the types of platforms that will continue to be in scope, following the making of the Rules.

Example 1 (e.g. 2023 TikTok – highly limited functionality logged out)

Feature	Logged in	Logged out
Recommender (account based)	✓	X
Endless feed	✓	X
Feedback	✓	X
Time limited	✓	X

Example 2 (e.g. current TikTok – expanded functionality logged out)

Feature	Logged in	Logged out
Recommender (account based)	✓	X
Endless feed	✓	✓
Feedback	✓	X
Time limited	✓	X

Out of scope

Under the Rules, a platform that has none of the four harmful design features available will be exempt from the law. This is illustrated by **Example 3** below. We are not aware of an existing platform of this kind.

Example 3

Feature	Logged in	Logged out
Recommender	X	X
Endless feed	X	X
Feedback	X	X
Time limited	X	X

Separately, a platform may be out of scope if it meets two conditions:

- It does not have a recommender feature, or its recommender feature is not account-based (i.e. it uses information about the user that is *not* connected with their account), and

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- Any other design feature on the service (endless-feed, feedback, or time-limited feature) is available to users, *both* with and without an account.

These potential exemptions are illustrated by **Examples 4** and **5** below. While these may provide a means by which platforms can exclude themselves from the SMMA, we and eSafety consider the risk to be minimised by the significance of account-based recommender features – both in maintaining user engagement and in the overall operational models of current platforms.

Example 4

Feature	Logged in	Logged out
Recommender	X	X
Endless feed	✓	✓
Feedback	✓	✓
Time limited	✓	✓

Example 5

Feature	Logged in	Logged out
Recommender (account based)	X	X
Recommender (not account-based)	✓	✓
Endless feed	✓	✓
Feedback	✓	✓
Time limited	✓	✓

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