

s22(1)(a)(ii)

From: Neal Mohan <s47F >
Sent: Tuesday, 19 November 2024 5:13 PM
To: Minister.Rowland.MO; s22(1)(a)(ii)
Cc: s47F, s47F
Subject: Letter regarding Australia's proposed social media ban

Dear Minister Rowland,

I hope this letter finds you well. I'm grateful that you were able to attend the Google Showcase at Parliament House earlier this year. I was especially thrilled to hear about your meetings with our YouTube creators, The Wiggles and Black As. They exemplify the incredible breadth and diversity of talent on YouTube and create high-quality content for audiences of all ages around the world.

I am writing to you today regarding the government's proposal to introduce a legislated minimum age to access social media services.

YouTube is fundamentally different from other platforms. In recognizing YouTube's differentiated offering in its Digital Platforms Services Inquiry interim report 6 on social media services, the ACCC noted that YouTube "lack(s) features designed to facilitate social connections" and is "used by users differently (for example, YouTube is often accessed through connected TV)". YouTube viewers are increasingly watching content in shared family spaces like the living room, rather than on their mobile phone or computers. Views on connected TVs have increased more than 130% in the last 3 years.

The experiences of kids and teens are also significantly different on YouTube. This work is personally and professionally critical to me as both a father of three and leader of YouTube. As CEO, I've directed my teams to further invest in ways to ensure our platform is a safe and enriching place for kids and teens. This commitment is reflected in the recent changes we've made like developing additional safeguards for content recommendations for teens and new partnerships with the World Health Organization (WHO), Common Sense Networks and other experts in this field. Guiding our work in this space are [YouTube's Youth Principles](#), established during my first year as CEO. These Principles give clear direction to teams that the safety, mental health and wellbeing of kids and teens must be their top priority in every feature we build and every policy we implement.

YouTube was one of the first platforms to offer experiences designed specifically for young people, and over the years we've pushed this work further to build separate age-appropriate experiences for kids, tweens and teens through [YouTube Kids](#), [supervised experiences](#) and our new [teen supervision](#) feature.

Further, YouTube's large body of high-quality [educational content](#) also supports the work being done in the classroom. According to an August 2024 Ipsos study, 84% of teachers surveyed in Australia use YouTube on at least a monthly basis to help their students learn. Australian teachers also recognize the quality content on YouTube. In the same study, 82% of teachers surveyed in Australia said they would recommend YouTube to students to support their learning.

Lastly, consistent with the objectives of the government's national cultural policy, YouTube supports a thriving creator ecosystem where Australians can develop their skills, share Australian stories with local and international audiences and build sustainable businesses. These creators are the building blocks of YouTube's creator economy in Australia, an ecosystem that supported more than 15 thousand full-time equivalent jobs in Australia and contributed over AUD 890 million to Australia's GDP in 2022.

My team and I would welcome the opportunity to meet with you to discuss the bill and how YouTube takes a responsible approach regarding our youngest users. ^{s47F} [REDACTED]
(^{s47F} [REDACTED]), YouTube's local policy representative in Australia, will follow-up in hopes that we can meet.

Regards
Neal Mohan



Neal Mohan
CEO
^{s47F} [REDACTED]

| ^{s47F} [REDACTED]

s22(1)(a)(ii)

From: s47F <s47F>
Sent: Monday, 25 November 2024 9:53 AM
To: Rafizadeh, Shervin
Subject: Call Follow Up
Attachments: [For Submission] Google Submission - AU Online Safety Amendment (Social Media Minimum Age) Bill 2024 - Google Docs.pdf

Hi Shervin,

Thanks again for your time yesterday and the opportunity to discuss the Online Safety Amendment (Social Media Minimum Age) Bill.

I promised to come back to you with some alternative text that would see the Bill better focused on the services that are intended to be in scope. To do so, we suggest the following:

Replace 63C(6)(b) with “the service is not designated” rather than exemption language.

[New] Section 63CA Minister to designate age-restricted social media platform

- (1) The Minister may, by legislative instrument, make a determination that designates one or more electronic services as age-restricted social media platforms.
- (2) The effective date of any designation must afford the designated electronic service a reasonable period to comply, and must not be earlier than 12 months after the day this section commences.
- (3) Before making a determination, the Minister must consider whether the electronic service supports the health and education of end users or otherwise significantly supports the wellbeing of end users.
- (4) In making the determination, the Minister may consider any reports or advice of the Commissioner.
- (5) Before making the determination, the Minister must give the provider of the electronic service notice in writing that the Minister intends to make a determination under subsection (1) specifying the particular service or particular services.
- (6) The Minister must not make the determination before the end of the period of 30 days starting on the day on which the notice under subsection (5) is given.

I have also attached Google's submission to the Senate Environment and Communications Committee which provides some additional context.

Thank you again for your time and please reach out on the number below if you would like to discuss further.

Cheers,

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22 November 2024

Committee Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

BY EMAIL: ec.sen@aph.gov.au

Inquiry into the Online Safety Amendment (Social Media Minimum Age) Bill 2024

Google and YouTube appreciate the opportunity to contribute to the Committee's consideration of the Online Safety Amendment (Social Media Minimum Age) Bill 2024 (the Bill). We welcome the focus of the Australian Government on this important issue and the opportunity to share our views on this proposal.

We make the following recommendations:

- 1) The Bill should apply only to services that are intended to be subject to the Bill.
 - The best way to do this is through a designation regime where services are opted into scope of the Bill. This is in contrast to the current approach of casting a broad net and opting services out.
 - Alternatively, the Bill should clearly articulate services in scope by adopting a narrower definition with clear limitations.
- 2) Consideration of the Bill should be delayed pending the conclusion of the Government's Age Assurance Trial to ensure that it is both workable and evidence based.
- 3) The privacy provisions should be amended to apply only to "personal information about an individual that was collected solely for the purpose of taking reasonable steps to prevent age-restricted users having accounts with an age-restricted social media platform" to ensure consistency with data minimisation principles.

The Bill should adopt a more targeted approach to covered services which reflects the Government's stated policy intent and minimises unintended outcomes

Where regulation contemplates restricting access to the online world, it is vital that careful consideration is given to the types of services it should apply to. Adopting an overly broad and indiscriminate approach to the regulation of digital platforms risks failing to take account of the fundamental difference between services and the risk profile of those services with respect to the harms this Bill is seeking to address.

By taking an intentionally broad approach to the definition of an age restricted social media platform, the Bill imposes broad obligations on a broad range of services irrespective of the risk profile and backs



those obligations in with potentially significant penalties. This is not a risk-based or proportionate approach to regulation.

The Bill seeks to address this breadth by providing the Minister with rule making powers to declare a service is not an age restricted social media service. As we have stated in our [response](#) to this Bill, we appreciate the Government's recognition that YouTube "operate[s] with a significant purpose to enable young people to get the education and health support they need"¹ and that there needs to be a pathway to preserve access. But this intention should be reflected in the Bill itself. Deferring this commitment to legislative rules to be developed at some point in the future fails to provide necessary clarity and certainty to Australian users and to industry. This is important not just for our own business, but for the parents, educators and creators that rely on YouTube for information, education and their livelihoods.

A more targeted approach to covered services can be achieved by establishing a designation regime or alternatively creating clearer limitations and definitions for what is in scope. We know that the regulation of digital platforms can be challenging given the complexity of industry and the diversity of services. But we suggest that this complexity is better addressed by using legislative rules to opt services in rather than opt services out. That is, designate those services that are intended to be covered by the obligation rather than extend the obligation to many and narrow it later through a cumbersome exemption process. This would be a simpler approach that would minimise the risk of unintended consequences, including impacts on access to services without reasonable justification, and reduce regulatory burden on both government and industry.

Digital platform regulation is complex and requires careful consideration

When it comes to regulating children's use of social media and other digital services, we believe that well-crafted regulation can be an effective tool to build on industry efforts to keep children and teens safer online. But as governments contemplate these issues, they should carefully consider the broader impacts of regulatory proposals and take care to avoid unintended consequences.

We are concerned that the speed at which this Bill has been developed has not allowed for adequate contemplation of the complexities associated with regulating younger users' access to digital services. Specifically, rushing forward a proposal to restrict access to a broad range of services has failed to allow appropriate consideration of the feasibility of services being able to distinguish between a user who is over or under the age of 16, the impacts of limiting teens' access to services, or the scope of services to which it should apply in order to address the relevant harms.

Many of these issues are being examined through the Government's Age Assurance Trial. This includes the viability of age assurance technologies and an appropriate minimum age for access to social media services. The Trial is not due to finish its work until mid-2025. It is concerning that this Bill is proceeding in advance of the Trial's conclusion.

¹ Commonwealth, *Parliamentary Debates*, [House of Representatives, Online Safety Amendment \(Social Media Minimum Age\) Bill 2024 Second Reading Speech](#), 21 November 2024, (Ms Roland, Minister for Communications)



We respectfully suggest that this does not reflect good regulatory practice. The result is a Bill with broad obligations which defers much of the critical detail on how those obligations are to be met and implemented to regulatory instruments and guidance. This fails to provide necessary clarity and certainty for industry and users alike. Given the potential impacts of this Bill, its consideration should be deferred until the conclusion of the Trial to ensure that it is both workable and evidence-based.

We are also concerned that the rushed approach to this Bill has failed to allow adequate consultation with experts, industry, parents and caregivers, and young people themselves. While we appreciate the opportunity to provide a truncated submission for the Committee's consideration, the short timeframes for doing so and the limited opportunity for testimony, does not address this shortcoming.

The privacy protections in the Bill are inconsistent with data minimisation principles

Platforms already collect information about account holders which may be used to help estimate users' ages, like information about how account holders use the platform. To reflect data minimisation principles, the Bill should encourage platforms to make use of this existing information for the purposes of taking 'reasonable steps' under the Bill.

However, the Bill requires that any information used for this purpose must be used only for that purpose and must be deleted after use. This applies even to information that was lawfully collected for other purposes in accordance with the Privacy Act.

This approach fails to recognise how age assurance technologies are developing to make use of data already held by platforms, and incentivises platforms to collect more data about individuals, rather than rely on existing data which would then be subject to the restrictions. This issue could be easily addressed by updating the privacy provisions of the Bill to apply only to "personal information about an individual that was collected solely for the purpose of taking reasonable steps to prevent age-restricted users having accounts with an age-restricted social media platform".



The Hon Michelle Rowland MP

Minister for Communications
Federal Member for Greenway

Mr Neal Mohan
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Google LLC, D/B/A YouTube
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San Bruno CA 94066
USA

s47F

Dear Mr Mohan,

The *Online Safety Amendment (Social Media Minimum Age) Bill 2024* (SMMA) passed the Parliament on 27 November this year, with support from the Coalition in the House and the Senate.

Thank you for you and your team's engagement to date, both in the legislation consultation and while the legislation was moving through the Parliament.

As you would have noted in my Second Reading speech and the joint media statement with the Prime Minister upon passage of the legislation on 29 November, 2024, the Government made a commitment to exclude YouTube from the definition of an age-restricted service.

I am writing to reaffirm the commitment that a re-elected Labor Government would give effect to this definitional exclusion for YouTube video streaming services, including YouTube Kids.

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) will soon commence consultation on the Exposure Draft Rules in early-2025 and I encourage your team to participate in that process.

I expect those Rules to be registered in Q2, 2025 with the parliamentary disallowance period to apply. eSafety will then have carriage of implementing this definitional carve-out system with a December 2025 timeline to settle implementation overall.

Thank you for your request to meet, as I welcome further engagement with YouTube on a range of matters. My office has held time for this meeting to take place on Friday 13 December, 2024 with you and your relevant YouTube Executive team members. Once

The Hon Michelle Rowland MP
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confirmed, I hope this meeting can cover broader Duty of Care and safety by design features being considered by YouTube, and engagement on YouTube Shorts.

Please contact my Deputy Chief of Staff, s22(1)(a)(ii) on s22(1)(a)(ii) in the interim if you wish to discuss this.

I look forward to continuing to work with you throughout 2025.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Rowland', with a stylized, cursive script.

Michelle Rowland MP

9 / 12 / 2024

Cc: s47F