



Submission by eChildhood - Online Safety Charter consultation

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Submission can be made public

Submitted via:

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Overview

The submission of *eChildhood* in response to the Online Safety Charter is not taking the form of answers to the guided questions as this would not sufficiently outline our recommendations. The Charter covers a number of online safety topics, whereas our expertise is the issue of online pornography and the associated harms of children and young people having unfettered access.

As such, our recommendations are focused on the issues related to children's vulnerabilities to online pornography and proposed solutions. To ensure children and young people (customers of technology firms) are not exposed to content that is only meant for adult consumption, it is our recommendation that the government gives weight to this issue, and technology firms are mandated to adopt robust measures that will protect children.

eChildhood is not proposing an amendment to the draft Charter; in its current format, it is not sufficient to ensure necessary child safety protections. The Charter poses no sanctions for non-compliance, and it is clear that the gravity of current online harms being done to children has not clearly been understood by the government.

Instead, we propose that the law and legislation be updated to reflect the seriousness of online child safety in Australia. Our response is indicative of the nature of harms, and how readily available pornographic content is negatively affecting children. These harms have been extensively outlined in the *eChildhood* [Statement of Research](#) endorsed by child youth advocates, anti-violence workers, and key academics. Harms outlined include poorer mental health outcomes and addiction, sexism and objectification, sexual aggression and violence, increases on child-on-child and peer-on-peer sexual abuse, and shaping sexual behaviors. Since our publication, the [Australian Institute of Family Studies](#) carried out a desktop review of the research to confirm similar harms, and more recent [Australian data](#) confirms that 69% of boys and 23% of girls have seen porn by age 13 or younger. We can not risk a deficit to effective measures being put in place; there is currently too great a cost on children's lives and the wellbeing of our community.

Currently, in Australia, children and young people have unlimited access to hardcore pornography at their fingertips, and not just via pornography websites. Technology firms are now places where children are being exposed and young people are accessing hardcore pornography. There has been a significant rise in child-on-child sexual abuse and anecdotal reports of youths sexual injuries in emergency centers, with much confusion over consent and what constitutes rape. Pornography is not content that a child should ever experience. Whilst further research is always welcomed, we know enough about the harms to apply the precautionary principle and implement strong measures to prevent further harms.

To ensure children and young people are protected, technology firms must take responsibility for a child's safety whilst they are customers of their service. To date, technology firms have not shown corporate social responsibility on this issue and it is the view of *eChildhood* that the proposed "community-led minimum standards for industry to protect children" is an inadequate response given

the ongoing daily harms being faced by children. As we expect in physical environments such as adult stores and alcohol and tobacco sales, the implementation of age-restriction must occur in online environments. The Charter outlines expectations that *standards of behavior online should reflect the standards that apply offline* yet does not provide the same enforceable measures to online standards as what is afforded offline. The Charter indicates that *content that is harmful to users, particularly children, should be appropriately restricted*, yet has no legal recourse to ensure this occurs.

Applicable to content that would usually be classified 18+, technology firms must be directed through updated legislation to make children's safety on their platforms a priority, whilst ensuring adults maintain the flexibility and freedom to make their own choices.

Recommendations

In September 2017, *eChildhood* produced a comprehensive overview of the current legislation and policy, digital, and education approaches. We outlined how current legislation and policies needed urgent attention. Weak and convoluted laws in Australia mean that children have unfettered access to pornography from any device connected to the internet without a filtering service installed. There are major disparities in how the government manages prohibited content hosted domestically, versus that hosted overseas.

Whilst we acknowledge focus has been given to this issue since the publication of the [Porn Harms Kids Report: Protecting our kids from online pornography harms is everyone's business](#), no changes have been made to the legislation. Our recommendations are made in consideration of our report, along with knowledge of the current measures being implemented in the UK to make it the [safest place in the world to be online](#).

With a government-appointed [eSafety Commissioner](#) and [government initiated research](#) confirming the ways in which *mainstream, online pornography can have a range of negative effects on knowledge, attitudes, and beliefs about sex and gender; sexual practices; mental wellbeing and the risk of sexual aggression* related to children and young people, Australia is well-positioned to follow the UK lead.

eChildhood puts forward the following recommendations:

1. The Australian government updates the current legislation and laws to ensure that all content that would usually be classified 18+ that is hosted or created by online technology firms, is placed behind an age-restriction service.
2. The eSafety commissioner or an independent government-supported organisation be granted the authority and power to oversee the enforcement of age-restricting content that would usually be classified 18+ that is provided or hosted by technology firms.

3. If pornography is found (either by complaint or monitoring evasion tactics) on tech platforms and not behind an age-restriction service, technology firms must:
 - a. remedy the situation;
 - b. prove they have implemented all possible measures to ensure any content that would usually be classified 18+ created or hosted by the technology firm, is placed behind an age-restriction service.
4. If a technology firm fails to ensure that content that would usually be classified 18+ is behind an approved age-restriction service, and is unable to prove they have taken all possible measures to remedy, penalties apply such as enforced removal of ISP services, fines or cessation of financial services. This measure includes clear time frames around either removing the content or ensuring it is placed behind an age-restriction service.
5. Yearly reports presented to the independent regulator on:
 - a. what measures are being taken to ensure content that would usually be classified 18+ is kept behind an age-restriction service;
 - b. how many complaints were made to the technology firm if the content was identified as not behind an age-restriction service;
 - c. and what measures were taken by the technology firm to address the issue.
6. At random, the independent regulator monitor technology firms to ensure they are upholding their obligation to implement measures designed to uphold the safety and wellbeing of the children and young people using their service.
7. When new customers sign up to use technology firms, they are to be informed that content that would usually be classified 18+ will be kept behind an age-restriction service. If applicable, customers that intend to share or create content that would usually be classified 18+ must receive guidelines on measures/ procedures to follow in order to share such content.
8. Investigate the potential to utilise technology to embed age-gating for technology firms that specifically indicate they provide services to children or 13yo+ users by implementing the same age-restriction services. This measure serves to reduce the likelihood adults who intend to harm children accessing minors; provisions to be made for protective adults of children to be nominated as safety persons, and for these platforms to be subject to higher monitoring of evasion tactics.
9. Update the current legislation on pornography and its access to ensure all content provided by pornographers, regardless of where it is hosted, is kept behind an age-restriction service. i.e. Age-verification service. Refer to the UK legislation for details on how to implement.
10. An “approved age-restriction service” list is provided by the regulator to technology firms, with guidelines on what qualifies as an approved provider of such a service.

Conclusion

The Charter acknowledges that Australia's success in improving online safety outcomes will be bolstered if we are consistent with successful overseas precedents. However, upon review, it is clear that the Charter falls well below the standards being set in the UK through the draft [Online Harms White Paper](#). The UK White Paper provides a world-leading package of measures that bolsters the impending implementation of age-verification and places rigorous demands on the same target technology firms that the Australian Charter is designed to speak to. As such, implementing the Charter would fall short of achieving new standards for online child safety, anticipated to be followed by countries around the globe.

A satisfactory and robust response to ensure the protection of children and other vulnerable users entails the implementation of a completely updated regulatory framework that encompasses new legislation to respond to the current, with the flexibility to move with new and evolving technologies. *eChildhood* is available for consultation and able to make further recommendations as the Australian government takes strides to address the urgent issue of online child protection and the impact of unfettered access to online pornography on children and young people.

For questions or clarification please contact **[redacted]**