



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

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About Amnesty International

Amnesty International is a global movement of more than 10 million people in over 160 countries - the world's biggest human rights organisation - who take injustice personally.

We campaign for a world where human rights are enjoyed by all. We investigate and expose the facts, whenever and wherever abuses happen. We lobby governments as well as other powerful groups such as companies, making sure they keep their promises and respect international law.

By telling the powerful stories of the people we work with, we mobilise millions of supporters around the world to campaign for change and to stand in the defence of activists on the frontline.

We support people to claim their rights through education and training. Our work protects and empowers people – from abolishing the death penalty to advancing sexual and reproductive rights, and from combating discrimination to defending refugees' and migrants' rights.

We help to bring torturers to justice, change oppressive laws, and free people who have been jailed just for voicing their opinion.

We speak out for anyone and everyone whose freedom or dignity are under threat and we advocate for laws and policies that ensure peoples human rights are respected.

1. Summary

- 1.1 Amnesty International Australia welcomes the opportunity to make a submission to the inquiry into the Online Safety Amendment (Social Media Minimum Age) Bill 2024 (the Bill).
- 1.2 Amnesty welcomes the Bill's objective of protecting children and young people from the harmful impacts of social media. This is consistent with Australia's obligations under the Convention of the Rights of the Child (CROC).
- 1.3 However, in addition to risks, social media provides young people benefits such as inclusion, social connection and belonging that are protective of mental health. It is critical that governments acknowledge that social media also young people to realise their human rights; to freedom of expression, and to freedom of peaceful assembly and association.
- 1.4 This Bill risks also risks impacting on people's human rights to privacy through age verification technologies that are untested and unproven, and put data in the hand of social media companies
- 1.5 Rather than banning children and young people from social media, Amnesty International Australia calls on the Albanese government to prioritise the human rights of young people by regulating social media platforms so that children and young people can be safe online, while protecting everyone's human rights including their right to privacy.

Recommendations

Amnesty International calls on the inquiry to recommend:

- 1) The Online Safety Amendment (Social Media Minimum Age) Bill 2024 not be passed.

- 2) The inquiry recommends that the government implements regulations for social media platforms to ensure safety of children online and protection of their right to privacy. The includes the development of laws and policies that uphold human rights, safeguarding the safety and well-being of children and young people and striking a balance that empowers them without compromising their rights.
- 3) The government accepts the Parliamentary Joint Committee on Human Rights' recommendation to legislate a Human Rights Act, ensuring the protection of human rights in our federal laws.

2. International legal human rights framework

- 2.1 Article 17 of the Convention on the Rights of the Child (CROC) encourages the development of appropriate guidelines to protect children from information and material that harms their well-being while Article 19 of the CROC that requires Governments to take measures to protection children from violence, abuse, and maltreatment.
- 2.2 The CROC also protects children's rights to freedom of expression and access to information in Article 13, to freedom of association and peaceful assembly in Article 15, to education and development in Articles 28 and 28, to culture, leisure and play in Article 31, to the highest attainable standard of health, including through access to relevant information in Article 24, and the right to privacy in Article 16.
- 2.3 The International Covenant on Civil and Political Rights protects everyone's rights to privacy in Article 17 which stipulates that "no one shall be subjected to arbitrary or unlawful interference with his privacy."

3. The Bill and the human rights of children

- 3.1 Amnesty has researched the impact of social media on human rights and has repeatedly called for governments to regulate social media companies to protect people's human rights.¹ Amnesty has surveyed hundreds of young people who have expressed their concerns with the addictive nature of algorithms, the toll harmful content takes on their mental health, and their feelings of powerlessness faced with a complete lack of control over their privacy on social media platforms.²
- 3.2 Social media also allows young people to connect, to learn, to express themselves, and to hold the powerful to account. It is for these reasons that so many LGBTQIA+ young people have expressed their concerns with the proposed Bill. A ban that furthers isolation, that obliterates connections and community, will not meet the government's objectives of improving young people's lives.

4. Promoting human rights and protecting children and young people from harm

- 4.1 There are actions the government can take to protect children from harm while prioritising their human rights and protecting everyone's right to privacy. The United Nations Committee on the Rights of the Child has called on states to develop and implement policies that provide children

¹ <https://www.amnesty.org/en/tech/surveillance-giants/>

² <https://www.amnesty.org/en/latest/news/2023/02/children-young-people-social-media-survey-2/>

and young people with the opportunity to benefit from the internet, but that also ensure their safe access.³

- 4.2 The government should legislate regulations that require platforms to respect human rights. For example, the government could ban the surveillance of children for advertising purposes, ban the use of sensitive personal data for advertising purposes, and require social media platforms to carry out due diligence and to mitigate risks, as the European Union has done in the Digital Services Act. This due diligence should explicitly include the rights of children, and the requirement to take appropriate steps to prevent, monitor, investigate and punish child rights abuses by businesses. The government could also prevent companies from making access to their service conditional on people's 'consenting' to the collection, processing or sharing of their personal data, and guarantee access to remedies for human rights abuses.
- 4.3 We note many of these suggestions align with the recommendations of the Joint Select Committee on Social Media and Australian Society.
- 4.4 Amnesty also welcomes the proposed introduction of a duty of care in the *Online Safety Act 2021* that would require social media platforms to take reasonable steps to protect users from foreseeable harm, Amnesty believes a duty of care will help create the strong regulatory environment necessary to ensure human rights are protected online.

5. Age verification methods

- 5.1 The Bill does not stipulate the actions platforms must take to comply with the Bill. Rather, the expectation is that the platforms will implement age verification methods for users. Amnesty is concerned that social media companies will require all users in Australia to verify their age using biometrics or by uploading documents to comply with the Bill risking the abuse of people's right to privacy. Many social media companies have a poor history of protecting user's data and human rights. Indeed, the surveillance-based business models of Meta and Google is inherently incompatible with people's right to privacy and leads to systematic harm.⁴
- 5.2 The potential use of Artificial Intelligence (AI) to verify a user's age in particular risks restricting human rights. AI systems are trained on massive amounts of private and public data which reflects societal injustices, often leading to biased outcomes, and may not be accurate.
- 5.3 Critically, age assurance technology is in its infancy, as the eSafety Commissioner's 2023 Roadmap noted.⁵ Many experts do not believe an effective ban is possible. It is concerning and risks adverse outcomes if this Bill becomes law before an age verification technology trial is finished.
- 5.4 The e-Safety Commissioner raised concerns that a ban may push young people to seek out unregulated platforms with fewer safeguards, and do so in secret, which will increase their exposure to serious risk. Concerningly, if this Bill passes, there is less onus on platforms to protect young people and young people who bypass the ban would be exposed to harmful

³ <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation>

⁴ Above n1.

⁵ https://www.esafety.gov.au/sites/default/files/2023-08/Roadmap-for-age-verification_2.pdf

content, addictive algorithms, a lack of choice concerning data collected on them, without any consideration of their age.

- 5.5 Although Australia is a signatory to the CROC and the ICCPR, the rights contained in these conventions are not protected in our federal laws. Amnesty calls on the Parliament to legislate a Human Rights Act that will protect children's rights and the right to privacy, alongside the rights to health, education, and more. The Parliament Joint Committee on Human Rights released the report of its inquiry into the federal human rights framework on 30 May 2024 and recommended legislating a Human Rights Act to protect human rights in our federal laws.

Recommendation 1: The inquiry recommends that the Online Safety Amendment (Social Media Minimum Age) Bill 2024 not be passed.

Recommendation 2: The inquiry recommends that the government implements regulations for social media platforms to ensure safety of children online and protection of their right to privacy. The includes the development of laws and policies that uphold human rights, safeguarding the safety and well-being of children and young people and striking a balance that empowers them without compromising their rights.

Recommendation 3: The inquiry recommends that the government accepts the Parliamentary Joint Committee on Human Rights' recommendation to legislate a Human Rights Act, ensuring the protection of human rights in our federal law.