



Victorian Council for Civil Liberties Inc  
Reg No: A0026497L  
GPO Box 3161  
Melbourne, VIC 3001  
t 03 9670 6422  
info@libertyvictoria.org.au

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22 November 2024

Committee Secretary  
Senate Standing Committees on Environment and Communications  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
By email: [ec.sen@aph.gov.au](mailto:ec.sen@aph.gov.au)

Dear Members of the Committees,

**The *Online Safety Amendment (Social Media Minimum Age) Bill 2024***

1. Liberty Victoria welcomes the opportunity to provide a submission to this inquiry on the *Online Safety Amendment (Social Media Minimum Age) Bill 2024 (Cth) (Bill)*.
2. We are incredibly disappointed that there has been such a limited time made available to interested individuals and organisations to make submissions on the Bill. This is an important issue that, if passed, will affect the lives and rights of all young people in Australia and is very likely to have deleterious consequences to a very vulnerable cohort. There is simply no proper justification to impose such a short period.

## **Liberty Victoria**

3. The Victorian Council for Civil Liberties, known as Liberty Victoria, is one of Australia's leading civil liberties organisations. We have worked to defend and extend human rights and freedoms in Victoria since 1936. For more than eighty years we have advocated for civil liberties and human rights. These are spelled out in the United Nations international human rights treaties, agreed to by Australia. We speak out when such rights and freedoms are threatened by governments or other organisations.

## **The Online Safety Amendment (Social Media Minimum Age) Bill 2024**

4. The Bill, introduced on 21 November 2024, amends the *Online Safety Act 2021* (Cth) by introducing a new definition for an "age-restricted social media platform". An "age restricted social media platform" is defined as a platform "whose sole or significant purpose is to enable users to post material online and interact socially with other users".
5. Under the proposed amendment, newly defined age-restricted platforms are to take "reasonable steps" to prevent people under the age of 16 from having a user account, including those under 16 who already have an existing account.
6. Industry, state and federal governments and the eSafety Commissioner will have 12 months from enactment to introduce appropriate systems and processes.

## **Liberty Victoria's concerns**

7. Liberty Victoria opposes the amendments proposed in the Bill that will see young people banned from social media in Australia.
8. The Bill would, if passed, impose a tremendous limitation on the ability of young people to communicate and express themselves. Relevantly:
  - a. Banning children under the age of 16 from social media platforms poses serious implications on young people's ability to engage with political issues. There is serious risk that it could take away an important tool for community organising, mobilisation and education among adolescents, particularly around important social justice and environmental issues;
  - b. Australia is a signatory to the Convention on the Rights of the Child (CRC). According to International Convention on the Rights of the Child General comment No. 25 (2021) on children's rights in relation to the digital environment, young people have the right to access information through technology and "that the

exercise of that right is restricted only when it is provided by law' (United Nations 2021: Para. 50);<sup>1</sup>

- c. There are also significant issues that arise in relation to existing content held by persons under 16 on existing accounts and their ability to retain access to that material. Social media is used by many people, including people under 16, for diverse purposes and this can include generating income through content or simply uploading content that has individual personal value, such that social media operates as a form of personal record keeping. The erasure of accounts in response to this legislation would deprive people under 16 of a form of personal property; and
- d. It is noteworthy that the Australian Human Rights Commission also opposes the proposed ban, noting the likely effect on the right to freedom of expression and access to information, to young people's inclusion and participation, privacy risks and lack of effectiveness.<sup>2</sup>

9. Such a significant limitation on rights and freedoms should only be imposed where it is a reasonable and necessary measure to address a serious issue. The evidence does not support the ban being a reasonable and necessary measure.

10. First, there is a complete lack of evidence that a ban is necessary or justified. Social media use undoubtedly causes some risk to young people. However, there is very limited evidence that social media is the cause of the issues the Bill purports to address, nor that the Bill will remedy any such issues. The evidence supporting bans is limited.<sup>3</sup> In jurisdictions in which they have been enforced, such bans have proven to be ineffective.<sup>4</sup>

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<sup>1</sup> United Nations. (2021). General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment. <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation>. Accessed 21 November 2024.

<sup>2</sup> The Australian Human Rights Commission, 'Proposed Social Media Ban for Under-16s in Australia', 21 November 2024, <https://humanrights.gov.au/about/news/proposed-social-media-ban-under-16s-australia>.

<sup>3</sup> Miah Hammond-Errey, 'Byte-sized diplomacy: On social media for young people, Australia needs to aim higher', 25 September 2024, <https://www.lowyinstitute.org/the-interpreter/byte-sized-diplomacy-social-media-young-people-australia-needs-aim-higher>.

<sup>4</sup> See for instance, McAlister K, Beatty C, Smith-Caswell J, Yourell J, Huberty J, Social Media Use in Adolescents: Bans, Benefits, and Emotion Regulation Behaviors, JMIR Mental Health, 2024, Vol 11:, e64626, <https://mental.jmir.org/2024/1/e64626>, DOI: 10.2196/64626.

11. Second, there does not appear to have been a sufficient effort to explore alternative options. The most obvious of those options would be to regulate the companies that profit from the provision of social media to young people.
12. Further, Liberty Victoria considers that the debate around the ban is unbalanced and biased heavily towards the purported harmful effects of social media on mental wellbeing and the promotion of harmful practices and illegal content, conduct and activity such as but not limited to child exploitation, bullying, privacy intrusion and harassment.<sup>5</sup> This ignores the many ways in which social media can have positive uses for children under the age of 16.
13. Many expert bodies have expressed concerns about banning young people from social media platforms. In October 2024, more than 140 legal experts and community advocates wrote an open letter to the Prime Minister and Premiers expressing that “a ‘ban’ is too blunt an instrument to address risks effectively”.<sup>6</sup>
14. Cohorts of adolescents experience some health and wellbeing enhancing benefits from social media, including increased social connection, reduced loneliness, and a safe space for young people to interact.
15. A ban will inevitably push children to engage in this activity “underground” and without supervision, which will actively make children *less* safe.
16. Vitally, the final report of the Joint Select Committee on Social Media and Australian Society (the Committee) tabled on 18 November 2024 did not make a recommendation to adopt this policy. It noted that there had been “contrasting views on whether making it safer for children means preventing them from accessing social media until they reach a certain age”. The Committee recognised the “widespread agreement that a ban alone was not sufficient to curb harms on social media”.<sup>7</sup>

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<sup>5</sup> A Bruns, ‘Inside the moral panic at Australia’s ‘first of its kind’ summit about kids on social media’, Crikey, 15 October 2024, <https://www.crikey.com.au/2024/10/15/social-media-summit-chris-minns-peter-malinauskas/>. See also H Christensen et al, ‘Social media: the root cause of rising youth self-harm or a convenient scapegoat?’, 18 November 2024, <https://apo.org.au/sites/default/files/resource-files/2024-11/apo-nid328988.pdf>, DOI: 10.5694/mja2.52503.

<sup>6</sup> Australian Child Rights Taskforce et al, ‘Open Letter from academics Re: Proposed social media bans for children under 16-year olds’, <https://au.reset.tech/uploads/ACRT-Open-letter-re-social-media-bans.pdf>, Dated 9 October 2024.

<sup>7</sup> Joint Select Committee on Social Media and Australian society, Social media: the good, the bad, and the ugly – Final report, 18 November 2024.

[https://www.aph.gov.au/Parliamentary\\_Business/Tabled\\_Documents/8314](https://www.aph.gov.au/Parliamentary_Business/Tabled_Documents/8314).

17. We also consider that there are several fundamental issues with the mechanics of the Bill. Importantly, the Bill does not specifically outline how designated social media platforms are to comply with their obligation to prevent people under 16 from having an account. It does not specify what form, approach and/or tools of age assurance and parental consent verification will be relied upon to enforce the ban. The inevitable requirement to provide individual personal information or, more crucially, government verified identification, to social media platforms poses a significant risk to privacy rights.
18. While platforms such as Facebook, Instagram, TikTok and Snapchat would likely fall under the new definition of an “age-restricted social media platform”, other major online platforms such as the messaging app WhatsApp, the video sharing platform YouTube, and anonymous web-based forums such as 4chan, are unlikely to fall within the ambit of the definition.<sup>8</sup> This inconsistent approach is problematic and will result in the Bill not achieving its purported aims. It will be simple for children to engage in social media on other platforms and/or use means to conceal their identity and age.

## **Recommendations**

19. There needs to be a more considered approach. Liberty Victoria advocates for more targeted interventions that aim to minimise harms while preserving social media’s benefits for children under the age of 16. A blanket ban will be ineffective and indeed will make matters worse – and expose children to more harm – as the use of social media by children is pushed underground.
20. Liberty Victoria advocates the importance of drawing from the evidence base and critically including the diverse voices and perspectives of children and parents in any legislative and policy approach. This includes recognising young people as rights-holders in relation to the digital online environment and engaging with young people themselves to understand their social media use and their perspectives as to what a proposed ban would mean.<sup>9</sup> This is an argument underpinned by the need to improve social media literacy (and

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<sup>8</sup> D Angus, ‘The government has introduced laws for its social media ban. But key details are still missing’, The Conversation Australia, 21 November 2024, <https://theconversation.com/the-government-has-introduced-laws-for-its-social-media-ban-but-key-details-are-still-missing-244272#:~:text=There%20are%20evidence%2Dbased%20alternatives,people%20from%20social%20media%20platforms>.

<sup>9</sup> See, for instance Save the Children’s work on this issue: <https://www.savethechildren.net/news/australias-social-media-ban-under-16s-could-put-children-greater-risk>.

information literacy more broadly) for young people. A blanket prohibition does nothing to improve the manner in which young people engage with social media.

21. Liberty Victoria supports approaches that increase the accountability of social media corporations to all users, including those under the age of 16. Liberty Victoria recommends that the Federal Government adopt and implement the Committee's recommendations, including that it:

- (1) "consider options for greater enforceability of Australian laws for social media platforms, including amending regulation and legislation, to effectively bring digital platforms under Australian jurisdiction";
- (2) introduce "a single and overarching statutory duty of care onto digital platforms for the wellbeing of their Australian users, and requires digital platforms to implement diligent risk assessments and risk mitigation plans to make their systems and processes safe for all Australians"; and
- (3) prioritise recommendations from the review of the *Privacy Act* especially to afford "greater protections" over the personal information of Australians and children, as part of its privacy reforms, for instance the Children's Online Privacy Code.

22. Thank you for the opportunity to make this submission. Please do not hesitate to contact the Liberty Victoria office at [info@libertyvictoria.org.au](mailto:info@libertyvictoria.org.au) if we can provide any further information or assistance.

**Michelle Bennett**  
**President, Liberty Victoria**