



4 October 2024

Online Safety Team

***Re: Consultation on the draft Consolidated Industry Codes of Practice for the Online Industry
(Class 1C and Class 2 Material) under the Online Safety Act 2021***

The Australian Youth Affairs Coalition (AYAC) is the national voice and advocate for the more than 4.5 million young people across the country. As a national peak body, our members include young people, youth-led groups, and youth sector organisations that support and work with young people. We welcome the opportunity to provide feedback on the draft Consolidated Industry Codes of Practice for the Online Industry (Class 1C and Class 2 Material) under the Online Safety Act 2021.

AYAC appreciates the efforts made by the industry association in formulating the draft codes and seeks to share some perspectives on online safety offered by the young people and practitioners that form our networks. These perspectives encompass concerns relating to data capture, transparency and minimisation, which are particularly salient in relation to the proposed age assurance measures. They also touch upon potential limitations regarding the robustness of code enforcement, as well as the opportunities for furthering youth empowerment by embedding meaningful collaboration and co-design between young people, industry and government.

Age Assurance – Data Capture, Transparency and Minimisation

AYAC recognises the benefits of limiting young people’s access to harmful online content. With regards to the proposed Class 1c and Class 2 codes, we can see the merits in creating more robust forms of age assurance for certain content relating to sexual activity, high impact violence, crime, and drug and alcohol dependency. However, through our work with young people we have uncovered issues around data capture, transparency and minimisation that complicate how this might be achieved.

The young people we work with *tend* to express concerns regarding the collection of their data. These young people feel that the full extent of data collected, its uses and the length of its storage are not sufficiently clear. They have also expressed a desire that data capture is minimised as much as practicable. Some contributions from young people on this matter are:

- “Don’t collect data unless it’s absolutely necessary- there should be restrictions in place to limit what data companies collect.”
- “Companies should not be able to ask young people to consent to use their data in certain ways. Some things are off limits, and young people shouldn't be asked to think about the full extent of risks.”

- “Give us more power to control our data by offering more choices to use platforms without data collection or choosing what data they collect, and give the choice to delete data.”
- “There should be more options that only collect strictly necessary data and then everything else is an add-on-top choice.”
- “Companies should be communicative and clear about how they use our data. If they share or sell or use it for diagnostic purposes, it should be clear.”

For some young people, such concerns sit alongside a sense that the terms and conditions around data capture, storage and use are not especially accessible for most young people. To counteract this issue, some young people have proposed:

- “All information about how data is collected and used should be available in youth-friendly formats (including video and non-written formats).”

These concerns align with those expressed by practitioners:

- “Young people are very concerned about privacy and the harvesting of their data... This [the proposed age assurance measures] feels like another opportunity for young people’s information to be used in ways that they aren’t fully informed about or understand... I would say the terms and conditions are generally not accessible, and I would say the majority of young people do not engage with them. Young people accept that they need to click accept in order to access the platform, which is their key motivation, but there's little to no effort made to create accessible, simple information regarding terms and conditions.”
- “I’m not sure how I feel about things like credit card checks and facial recognition... I kind of think about privacy concerns and data breaches and that sort of thing. I think things might not need to be taken to that extent to be effective... I think on a lot of the social media platforms, there are disclaimers and terms and conditions, things that pop up and say something's changed in the terms and conditions, and you have to agree to it. But I think a lot of people don't actually read into what it is... It's not something that young people read the fine print of... It's just jargon that a lot of young people aren't going to understand, and no one has time to go and read through all of that... I think it definitely needs to be condensed into a youth-friendly version – like have easy English.”

Ultimately, if the age assurance measures proposed are to prove effective in gaining buy-in with young people, it must be made clear to them in terms they understand what data is being collected, why it is being collected, how long it is being stored for and the uses that it is being put.

Recommendations:

1. AYAC recommends that data should only be collected through age assurance when it is strictly necessary.
2. AYAC recommends that platforms must be clear about what data is collected, why it is being collected, how long it is stored for and its uses.

3. AYAC recommends that platforms do more to ensure that there are young person friendly explainers of terms and conditions when age assurance is sought.

Enforceability and Utility

AYAC works with young people who have expressed concerns regarding the robustness and consistency of existing enforcement mechanisms for restricting and removing harmful content. These young people have argued that although it's important that all "platforms have a strong and enforced system to get content taken down in a timely fashion," reporting harmful content is not always effective and some young people will always find a way around restrictions to access certain content. Similar sentiments are expressed by practitioners:

- "I just think that young people will always find a way to get around things like that [the age assurance measures]. They're some of the most internet savvy, technology savvy people about. Some young people know how to navigate the dark web. If they can navigate that, they could definitely navigate some kind of filtering system. Even if it's using credit cards, I'm sure they could use their parents credit card. People who really want to find a way always do. Yeah, there is very much limits to those types of measures."
- "I think it's a little unknown [whether the codes will be effective]. Really, in a sense, it looks like young people are being used as guinea pigs for new systems, which doesn't feel like an empowering and respectful way to treat young people. And, they may not work. The likelihood is young people will find ways around those kind of systems in order to get full access to the internet, which is likely to be something they see as they're right."

AYAC suggests that these concerns should be considered alongside the limitations to co-regulation in Australia flagged by policy experts.

Reset.Tech (2024a; 2024b) provide useful summaries on some of the limitations to co-regulation by situating the Online Safety Act (2021) and proposed Basic Online Safety Expectations in a global context. Some key points from these reports are:

- A more active role for policymakers in the drafting of codes can further accountability while allowing for meaningful consultation with stakeholders.
- Transparency requirements with regards to reporting can be enhanced by looking to similar policies in the UK and EU.
- Enforcement mechanisms around fines can be strengthened by looking at similar policies in the UK and EU.
- Industry-drafted codes have led to lower protections for young people in Australia with regards to privacy settings and location data sharing when compared to those drafted by regulators or legislators.

AYAC believes that if such concerns around the enforceability and utility of the codes cannot be mitigated it is unlikely that they will capture the confidence and support of young people.

Recommendation:

1. AYAC recommends that the Online Safety Team review the concerns around enforceability and utility raised by policy experts and explain to young people in an accessible way how these are being mitigated to enhance their confidence in the codes.

Embedding the Codes by Empowering Young People

AYAC believes that the proposed codes must be embedded by empowering young people in the online and policymaking spaces. Young people that we have worked with have expressed concerns regarding their capacity to control the algorithms that inform the content they see:

- “Give us more control over the content we see. Give us more power to choose the content of our feeds to control the algorithms better.”
- “There should be further transparency around algorithms. We should know what creates our feeds and where user data is going, who it’s being shared with and what it’s being used for.”
- “Give us more power to control our data by offering more choices to use platforms without data collection or choosing what data they collect, and give the choice to delete data.”

They have also expressed a desire to be actively involved in such discussions at the policy level:

- “Work with young people. Companies should work with young people to co-develop their guidelines, both the wording and saying of what’s necessary or not.”

The importance of empowering young people through deepening collaboration and codesign is recognised by practitioners:

- “I think they [the age assurance measures] are definitely something that need to be workshopped further, especially with young people [if you want to attain and maintain buy-in].
- “I think that there would need to be a working party of both young people and adults. As adults who work with young people, we can only say what we hear, whereas they can speak directly to their experiences. At the end of the day, they need to have agency over how they access platforms.”

However, it is important to acknowledge that the burden should not fall on young people to carry such work. AYAC recognises that much can be done by industry and government in terms of enhancing young people’s control over the content they see and engaging them in the policy-making process. We are calling for youth empowerment through meaningful collaboration – not for tokenistic or exploitative engagement. This should mean working closely with the youth sector to draw on its expertise and repertoires of engagement. It would also add to the robustness of the work if an independent auditor was appointed to report of the quality of youth engagement between government industry and make suggestions regarding how this might be improved. This might also incentive youth participation by providing an independent feedback process that allows them to feel heard.

Recommendations

1. AYAC recommends that more can be done to empower young people through ongoing collaboration and codesign where their perspectives are engaged with meaningfully and incorporated into the development of the codes.
2. AYAC recommends that industry and policymakers work closely with the youth sector to develop repertoires of engagement that facilitate the active participation of young people.
3. AYAC recommends the appointment of an independent auditor charged reporting on the quality of youth engagement and suggesting areas of improvement.

Summary of Recommendations

AYAC commends the following 6 recommendations for the consideration of the Online Safety Team:

1. AYAC recommends that data should only be collected through age assurance when it is strictly necessary.
2. AYAC recommends that platforms must be clear about what data is collected, why it is being collected, how long it is stored for and its uses.
3. AYAC recommends that platforms do more to ensure that there are young person friendly explainers of terms and conditions when age assurance is sought.
4. AYAC recommends that the Online Safety Team review the concerns around enforceability and utility raised by policy experts and explain to young people in an accessible way how these are being mitigated to enhance their confidence in the codes.
5. AYAC recommends that more can be done to empower young people through ongoing collaboration and codesign where their perspectives are engaged with meaningfully and incorporated into the development of the codes.
6. AYAC recommends that industry and policymakers work closely with the youth sector to develop repertoires of engagement that facilitate the active participation of young people.
7. AYAC recommends the appointment of an independent auditor charged reporting on the quality of youth engagement and suggesting areas of improvement.

A Note on the Evidence

This submission summarises the contributions made by young people involved in AYAC's youth engagement work. Direct quotes from young people can be found at the following source:

- Reset.Tech (2024c) 'Youth Perspectives: Online Safety & Privacy', *AYAC Instagram* (Accessed at https://www.instagram.com/p/DAkbhWivjSy/?hl=en&img_index=1 on 1/11/2024).

The quotes from practitioners are derived from 5 semi-structured interviews with those forming AYAC networks conducted on 6/11/2024. The research from Reset.Tech cited in the submission can be found at:

- Reset.Tech (2024a) *Does digital co-regulation function in children’s best interests?* (Accessed at <https://au.reset.tech/uploads/Digital-Co-Regulation-Roundtable-241029-V3.pdf> on 1/11/2024)
- Reset Tech (2024b) *Accountability, the Online Safety Act and the Basic Online Safety Expectations: Can safety standards be enforceable?* (Accessed at <https://au.reset.tech/uploads/Accountability-&-Safety-requirements-0424-V2.pdf> on 1/11/2024)

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