



12 November 2021

Via email: OnlineSafety@infrastructure.gov.au

To Whom It May Concern

Thank you for the opportunity to provide feedback about the exposure draft of the Online Safety (Basic Online Safety Expectations) Determination 2021 (BOSE). Additionally, we greatly appreciated the clarifications provided by the Department through the FAQs and the recent consultation roundtable for industry.

TikTok is an entertainment platform, powered by our community. User safety is our priority, and we support the Australian Government's continued focus on keeping Australians safe online. We have previously provided a [high level overview](#) of some of the work we do to keep our community safe, through our submission to the Online Safety Act consultation process earlier this year. This detail remains highly relevant, and it is worth noting that we have continued to build on these efforts since making our submission, including, but not limited to: initiatives that [support our community's mental health and wellbeing](#), updates to our [Family Pairing features](#) to support families and their teens' digital journeys, as well as furthering our work on [safety and privacy default settings for teens](#) on TikTok.

Basic Online Safety Expectations (BOSE)

It's important for us to emphasise that our focus in providing this feedback to the draft BOSE Determination is to try to ensure that the instrument achieves its intended purpose, with the lowest possible risk of unintended consequences.

Clarification of terminology in the BOSE

We appreciate that in drafting the BOSE, there has been an effort made to not be overly prescriptive, in order to allow for flexibility across a diverse range of industry participants with differing approaches to effectively address online safety issues. However in taking this approach, the BOSE unfortunately has a high degree of ambiguity, which then makes it challenging for industry to understand their specific obligations, and to ensure compliance with them.



An illustrative example of this is the use of 'reasonable steps' throughout the Draft Determination. In the absence of further clarity (or detailed case studies or examples), it is extremely difficult for industry participants to understand what 'reasonable steps' could be deemed to be.

It is important to stress that each service the BOSE covers has its own systems, structures and processes, and it's critical that there is adequate provision made by the Commissioner to account for this.

The Commissioner's role is also clearly a critical one, and it's important that the BOSE should not enable such a high degree of discretion so as to allow for a significant variance in interpretation and application, dependant on who may be in the Commissioner's position. To that end, we strongly urge that the final BOSE Determination is resolved in a way that 'future-proofs' for the potential uncertainty that may come with a future change in office holder.

Anonymous accounts

We were appreciative of the additional clarification provided by the Department on this section of the draft BOSE. As an entertainment platform, the overwhelming majority of our users behave responsibly and safely on TikTok. TikTok carefully considers the type and amount of personal information collected that ensures operation of the platform, safety and integrity, and personal privacy. We collect various means for potentially identifying end users, including email and/or phone number, as well as age and IP address. We collect these pieces of information to ensure integrity and safety for our community.

As a general principle, and consistent with the Australian Privacy Principles, there is genuine, intrinsic value in allowing people to be online and interacting with platforms, such as ours, in a way that has proper regard for their privacy and does not necessarily compel the individual to provide high volumes of personal, identifying information. TikTok requires some information that allows us to potentially take remedial action against accounts and individuals, where behaviour is not safe and constitutes a breach of our terms of service and Community Guidelines, but we are extremely mindful of our privacy obligations, as set out in Australian law, and we seek to ensure we strike the right balance with what we collect and require to this end.

Wherever we identify content which breaches our [Community Guidelines](#), we have a range of levers available to us to address those behaviours. Significantly, when it comes to the issue of anonymity, these levers include device level bans where that is warranted.



Cooperation with other service providers

As a general proposition, TikTok is open to collaborating with our industry peers in a constructive and appropriate manner for the purposes of supporting user safety. As Government is aware, there are a range of structures in place that facilitate such processes on key issues such as TikTok's partnership with the [Technology Coalition](#), which helps to facilitate wider engagement and maximise impact.

That said, and in reference to the draft BOSE, it remains unclear to us how it is envisaged the Additional Expectations set out at item 10 would functionally work, what the threshold may be for action, how user privacy could be protected, and whether indeed, the collaboration as described was even desirable (for example in instances of political expression, perhaps during an election period).

While we appreciate and are aligned on the motivation to reduce behaviours that would constitute bullying or harassment (behaviours which are not allowed under our Community Guidelines), it becomes extremely challenging for platforms to be in a position where our moderation practices would need to take account of activity that may largely be happening on another platform, or could be interpreted as stifling political expression.

We would urge the Government to more closely articulate and discuss with industry, the outcomes it is seeking to achieve through this section, so discussion could be had around how functionally that could be achieved without adverse, unintended impacts on expression, or platforms being asked to moderate otherwise legitimate and compliant content from their services. It may be that its inclusion in the BOSE is not helpful in and of itself.

Reporting and complaints

TikTok provides our users and non-users with a range of options to report content and behaviours that may be in breach of our Community Guidelines (including, of course, for Government entities such as the Office of the eSafety Commissioner).

With regard to the additional expectations under this section, we would recommend the Department consider whether this might be rephrased to reduce the potential for the Commissioner's office being contacted and a complaint made in parallel to a direct complaint to a service provider. If users are reporting to the Commissioner and the platform at the same time, it could result in high volumes of complaints needing to be assessed by that team, when in all likelihood, it has already been actioned by the platform.



Record keeping

With regard to the additional expectation outlined at item 19, we ask that the Department consider refining this to cover only those complaints that were found to have substance. We would also request that the requirement to keep records of reports and complaints for five (5) years after the making of the report or complaint, be reconsidered to reduce the amount of personal information (by virtue of time requirements) which is held by TikTok.

Requested information to the Commissioner

Similarly to the point raised immediately above, we would respectfully suggest that retainable complaints data should be limited to those that relate to substantiated breaches of a company's Terms of Service and/or Community Guidelines.

TikTok provides detailed, regular transparency reports across key metrics of significance at a global level. Our most recent report is available [here](#).

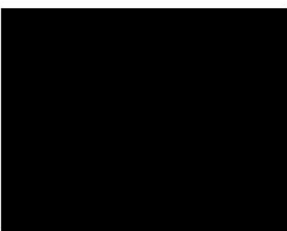
Designated contact person to the Commissioner (s.21)

TikTok maintains regular communication with the Commissioner and their Office, and has in place internal arrangements and reporting channels to ensure any issues or concerns that are flagged by the eSafety Commission are responded to promptly and accurately.

While we support the intent of Section 21 to require clear and accountable communications channels between online service providers and the Commissioner, we believe the proposed designation of an individual is unnecessary and potentially less effective than our existing arrangements with regulatory bodies.

Thank you again for the opportunity to comment on the draft BOSE. We would be pleased to provide any additional points of clarity should that be of assistance.

Sincerely,



Brent Thomas

Director of Public Policy, Australia and New Zealand