

ChildFund Australia’s submission regarding proposed amendments to the Online Safety (Basic Online Safety Expectations) Determination 2023

February 2024

ChildFund Australia welcomes the opportunity to provide a submission to the review of the *Basic Online Safety Determinations* (BOSE), as it pertains to Australia’s online safety framework.

[ChildFund Australia](#) is an independent international development organisation that works to reduce poverty for children and young people in developing communities around the world. We have deep expertise in child protection, including the protection of young people’s digital rights. ChildFund Australia’s [Swipe Safe program](#) began in Vietnam in 2017 and has since been rolled out across Cambodia, Indonesia, Timor Leste, Solomon Islands, and Fiji. ChildFund is uniquely positioned on online safety through both our programmatic expertise and our regional reach.

ChildFund Australia welcomes several proposed recommendations to the BOSE, as it progresses implementation of children’s rights in relation to the digital world, as is the duty of the Australian Government through the ratification of United Nations Convention on the Rights of the Child (the Convention).

The Convention ensures children the right to protection from harm and obliges State parties to “protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.” This includes ensuring safety and protection in the online world.

The *UN General Comment 25 on Children’s Rights in Relation to the Digital World* asserted that “children should be protected from all forms of exploitation prejudicial to any aspects of their welfare in relation to the digital environment. Exploitation may occur in many forms, such as economic exploitation, including child labour, sexual exploitation and abuse, the sale, trafficking and abduction of children and the recruitment of children to participate in criminal activities, including forms of cybercrime. By creating and sharing content, children may be economic actors in the digital environment, which may result in their exploitation.”

Specifically, ChildFund Australia welcomes improvements through:

- the introduction of the ‘best interests of the child’ principle;
- proposals to enhance protections for children through increased coverage of different systems, including recommender systems, generative AI and proposals to enhance user controls. We note the latter includes default privacy and safety settings for children specifically, including those aged 16 and 17, as per the Online Safety Act’s definition of a child, which the Taskforce has been advocating for extensively.

However, we note a number of areas that should be enhanced to advance children’s rights and take steps to ensure that Australia’s online safety framework meets emerging international standards.

We endorse the Australian Child Rights Taskforce’s submission and therefore recommend that the Department of Industry, Transport, Regional Development, Communications, and the Arts (the Department):

- Undertake genuine consultation with diverse groups of children and young people as the BOSE is developed and implemented, that incorporates a wide range of experiences
- Align the BOSE requirements with the National Child Safe Standards and the National Strategy to Prevent and Respond to Child Sexual Abuse;
- Ensure the BOSE make clear that protections for children, for example high-privacy-by-default protections and geolocation data protections are afforded to all under 18-year-olds, rather than limiting these protections to under 16-year olds;
- Include an additional requirement in section 6(2A) that ‘best interest assessments’ are to be undertaken and published as an enhanced transparency measure, or include this as a requirement for annual transparency reports in subsection 18(A);
- Include additional expectations around systems that have been shown to affect children’s safety online, in subsection 8;
- Improve proposed requirements regarding recommender systems in subsection 8B. Specifically:
 - That friend recommender as well as content recommender systems be covered by safety requirements;
 - That an additional example of a reasonable step be included to allow child users to turn off recommender systems;
 - That the proposals to require complaint mechanisms as a reasonable step be amended to require that these complaint mechanisms be child friendly and age appropriate for child-users;
- An additional example of a reasonable step is included in subsection 8A, regarding the ‘retraining generative artificial intelligence that has been trained on illegal material’;
- Improving requirements around age assurance in subsection 12(2). Specifically:
 - Existing proposals for codes regarding class 2 materials be replaced with proposals for Industry Standards drafted by the Office of the eSafety Commissioner in the first instance;
 - Some sort of trial or pilot of age assurance technology be supported by regulators;
 - Requiring platforms to produce periodic transparency reports regarding the development and implementation of, and accuracy of, age assurance mechanisms in place on their platform, potentially as part of transparency reporting under subsection 18(A);
- Enhance transparency and accountability overall. Specifically:
 - Data provided to meet requirements regarding transparency needs under subsection 18(A) to be subject to independent oversight and review;
 - Changes to the Online Safety Act to ensure the BOSE are enforceable. We appreciate this is beyond the scope of this consultation, and that it has been included in the Terms of Reference for the upcoming Online Safety Act review.

The full details for each recommendation can be found in the Australian Child Rights Taskforce submission to this review, of which ChildFund Australia is a steering member.

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