Woodley and Green: submission in response to the Online Safety (Basic Online Safety Expectations) Amendment Determination 2023

16 February 2023

Background

This submission is based on research undertaken as part of an Australian Research Council funded Discovery Project (DP190102435) *Adolescents' perceptions of harm from accessing online*. Through the collection and analysis of 90+ interviews, this research examines teens and their parents' perspectives of online sexual content, including pornography, with the aim of identifying evidence-based strategies to minimise risks associated with the potential harms of teens' exposure to sexual content online. The research responded to calls for more information about teens and sexual content, pornography and age assurance measures made by the Federal government. It also compares Australian teens and teens in Greece, Ireland and Norway, helping foreground young people's voices within policy debates of relevance to their lives. The project was conducted with Partner Investigators at the University of Oslo in Norway, The University of Athens in Greece, Technology University Dublin (Ireland), and the University of Iceland.

Engaging with teens directly allowed them to share and explore their experiences with online encounters that they perceive as harmful or challenging. The data underpinning this submission, however, is gathered from Australian teens (aged 11–18) and enables a focus on the Australian teen context. Thirty Australian teens were initially interviewed, with 19 reinterviewed a year later to collect semi-longitudinal data. Quotations are provided here from the raw dataset. Participants have been deidentified to protect their privacy.

Researchers contributing to this submission comprise:

Giselle Woodley, PhD Candidate, ECU (Research Officer)

Dr Lelia Green, Professor of Communications, School of Arts and Humanities, Edith Cowan University (ECU) (Chief Investigator)

Submission

This submission addresses, *The best interests of the child* and *Restricting access to age-inappropriate materials online,* with a focus on online sexual content. Even so, comments made may apply to other age-inappropriate materials, such as violent content.

Additionally, the following core expectations are pertinent:

12 Core expectation—provider will take reasonable steps to prevent access by children to class 2 material.

(1) The provider of the service will take reasonable steps to ensure that technological or other measures are in effect to prevent access by children to class 2 material provided on the service.

(And) Examples of reasonable steps that could be taken

(2) Without limiting subsection (1) of this section, reasonable steps for the purposes of that subsection could include the following:

(a) implementing age assurance mechanisms;

Valuing young people's input

It is imperative to include and acknowledge the voices and perspectives of children, relevant to the evolving capacities of the child. Children and young people's perspectives should be acknowledged, and their input valued in public policy that affects them[1] (Mason & Danby, 2011). This helps identify young people's rights in digital contexts and supports associated individual and societal wellbeing outcomes. Indeed, input from citizens including children and young people can provide nuance as well as offering vital perspectives on protecting their legitimate interests (Maxwell et al., 2023).

Our research indicates that harm from exposure to online sexual content is principally related to uninformed or unintentional exposure, as opposed to a position of more educated and prepared exposure. Teens support greater information, media literacy and preparedness as being more useful than simply banning content. Many felt confident that age verification measures could be circumvented but accepted that some precautions can and should exist, deterring particularly, younger underage users from accessing such content.

Complete blocking of age-inappropriate materials is impractical.

Young people spoken to in our research argue that sexual content is easily accessible online and difficult to completely avoid.

When Shelby (17) was interviewed in our research, she noted that "*It's not possible to fully restrict the internet like that 'cause people will always find a way around it*", with many others similarly commenting that age assurance mechanisms are easily circumvented. Comments align with previous research which found restrictions, such as age verification checks, may be overcome by those the restrictions are designed to protect (Thurman & Obster, 2021). Indeed, one teen in our research suggested that finding ways to circumvent restriction measures is a challenge that can also be *a bit of fun*:

---

[1] South Australia's Commissioner for Children and Young People, EU Kids Online

> Roy (16, first interview) — "*But there's [nifty little] ways around it you can find out or they don't have it on their computer or stuff like that so that part doesn't work. The only block the government can provide in the sense of those [notices] 'you have to be 18 to be able to view this website.' I think they're the least effective out of all of them just due to the simplicity of being able to get around them. I think that's one thing that all kids have, is this knack and want to kind of – there's a little thing, 'oh, I can get 'round it, it's a bit of fun'. [....] As I said before there will be loopholes that people will find and there'll be younger generations finding little knickknacks of ways to get through it*".

When asked directly about proposed age verification strategies, teens generally expressed that such technology would be difficult to implement and would eventually be bypassed. Specifically in response to face scanning: Maxine (13, first interview) commenting "*They won't be able to* [use biometrics or face identification to block] *Even if they do, somebody's going to find out a way, tell everyone and everyone just gets past it*". While Thomas (14, first interview) initially conceded that face scanning "*actually sounds pretty smart",* he quickly proposed a potential approach to circumvent the block, *"I reckon like you could just print out a picture of some random adult's face*". Regardless of whether this is a valid possibility, it exemplifies Roy's (16, first interview) assertion that teens are capable and willing to experiment with ways around restrictions. A small minority of teens did feel that some proposed measures might work. Jamison (13), for example, offered "*They would probably work, like the face ID"* (Jamison, 13, first interview).

Tick-box Age assurance measures

A number of pornographic websites and social media platforms used sensitivity blockers, or tick-box age-check verifications, which some teens felt had a place. Parker (12, first interview) commented that "*You should definitely have at least a warning saying this is this. Yes, the restrictions should be there*". However, many of the teens also felt that an age verification tick box could be effortlessly bypassed:

> Ruby (13, first interview) — "*Yeah, I mean I understand they make you tick a box for 18 plus but I've heard a lot of people fake their age and everything and it just means they can get into anything so it doesn't even put a line of protection there 'cause all it is ticking a box and anyone can do that. So I think there should be something else connected to that, like, saying to actually be aligned to 18 plus 'cause it also could mean that if some younger kid was accidentally going on there or someone going on there, it means they couldn't watch it at all because a lot of people I've heard they're faking their age everywhere and they can just tick a box, it's easy to get to*". Ruby later adds that "*I think that the restrictions should be in place, but I reckon it should be done a bit more better*".

Regardless of a tick box's effectiveness as an age gate, teens spoken to indicate the most useful function of a tick-box would be as a warning. It could offer a layer of informed and consenting engagement, potentially offering a rudimentary level of protection from unwanted and/or unexpected exposure. It is important to note that when teens shared moments of perceived harm from accessing sexual content these incidents were consistently associated with unwanted and/or unexpected engagement, rather than informed discovery. With this association in mind, teens argued that, to be fully informed, and to mitigate harmful exposure,

a tick box would need to be accompanied by information regarding the type of content and potential harms.

Practical Recommendations

Given teens' assuredness that they can overcome proposed age assurance measures and, additionally, considering that the Australian government (2023) has identified that more developed age assurance measures are not feasibly available at this time, we advocate for a more developed approach to the current use of tick-box age verification measures (if they are to continue to be implemented). In future, these should offer a content warning which includes practical information regarding the type of content and potential harms. This warning would produce a more informed user who actively consented to a known risk before proceeding. Information that outlines and contextualises the purpose of such content, could include:

- that depictions are staged.
- that depictions may not reflect healthy notions of consent, sex or relationships.
- that depictions should not be imitated without obtaining consent.
- evidence-based potential harms from consuming content.
- help services if content is found upsetting.
- Additional warning for violent content.

Further, messaging should be accessible, for example, available in different languages, and use concise and simple language. Such messaging should only be several dot points in length, so as not to resemble lengthy terms and conditions forms. We argue that offering such information at a tick-box checkpoint offers young people (and all users) opportunity for informed and consenting engagement. It is important to note the researchers do not advocate for the underage consumption of sexual content but offer recommendations for less-harmful access over more-harmful access in a context where sexual content is easily accessible. Further, the information that is recommended around outlining and contextualising sexual content prior to exposure is not to be conflated with explicit descriptions or imagery of such content. Informative language can allude to the nature of sexual content without becoming a form of unwanted exposure in itself.

In the context of social media platforms and messaging services, we also recommend that the industry create a technological block so that links sent via messages should not explicitly preview pornographic websites, as teen participants recalled how strangers or peers had sent links to them which automatically generated a website preview containing nudity.

Right to education and knowledge

Porn literacy was identified as key educational imperative as a means of mitigating harmful messaging from pornography. It was also likely to allow a forum in which teens could address experiences that unsettled or challenged them. Although this is mostly absent from formal educational curriculums of Relationships and Sexuality Education; there is now a range of popular culture content that could cater to this need by offering alternative educational and healthy, consensual representations of sex and relationships (Dudek et al, 2022). Such material could support porn literacy alongside content warnings and could even be a socially responsible strategy for adoptions by relevant websites.

Learning via digital means is a valuable support for young people's development of digital literacies. Social media and associated platforms can offer information of relevance to teens in this area. As Owen (16) told us: *"I think I'm more educated about* [sex] *online and* [through] *social media, stuff like that."*

When working to safeguard children from harm in the digital environment, it remains important to guard against impacting their rights as digital citizens and their entitlement to access knowledge and be heard (Green, 2020). Any efforts made to limit young people's access to sexual content, particularly on social media, should consider whether the purpose of content is to educate or, rather, to arouse. Efforts should be made to not block all sexual content through key words such as "sex", "porn" or "sexuality" where users normally need to adopt 'algospeak' (terminology used by content creators to circumvent algorithmic constraints to allow content to be seen by misspelling words and using tags such as 'p0rn' or 'seggs') (Steen et al., 2023). Instead, it should be possible for a nuanced policy to make allowances for quality content with educational intent. Children are active experiential learners well practices in using digital media to access information (Bennett et al., 2008). With comparatively little 'fit for purpose' sexual education provided by parents or schools, according to our participants, teens seek information about their sexual knowledge needs online (Dudek et al., 2022). Access to age-appropriate, evidence-based information around sex and sexuality is a human right, even for children. (United Nations Convention on Rights of the Child Article 17). Appropriate educational content that addresses important sexual information gaps helps destigmatise sex, encourage open discussion, and may enable new knowledge which can ultimately lead to a reduction in sexual violence (Schneider & Hirsch, 2020). Therefore, it is inappropriate to create a blanket ban that prohibits all sexual content. Ideally, teens would access relevant educational material first that would prompt the necessary porn literacy to ask the more challenging and critical questions of any 'conventional' pornography they subsequently encountered: such as whether is clearly attends to issues such as consent, respect, mutual pleasure and shared understandings.

Consideration of protection of privacy, identity and data

Age assurance mechanisms that nonetheless allow appropriate engagement with digital environments should also ensure young people's rights to privacy (article 10) and children's control over their digital footprints. Issues of privacy were of significant concern to young

people. Regarding the perceived impacts upon privacy of proposed age verification measures, a small number of teens suggested that this might provide a deterrent. For example:

> Zoey (14, first interview) — "*I think the camera one [face recognition] is a bit much 'cause you could see into their personal life and their room or whatever and everything but then the QR code with all their personal information, I think maybe it should just have their name – or not even their name because if that gets leaked 'cause in the end it will by hackers 'cause of that. You don't want that to get leaked 'cause that could ruin your life as well.*

Children actively expect policy makers to work to protect their privacy around data use. Policy makers are invariably adult, and are seen as only interested in the protection of children, rather than balancing these with recognising children's entitlement to consultation and their positive rights (Green, 2020). Children are very aware of their autonomy and their claim to agency.

Any measures designed to protect young people must be supported with consideration of data privacy and security (Holloway & Green, 2016), with monitoring, biometrics, security and regulation balanced against the right to privacy. Privacy challenges may threaten civic engagement and children's rights to claim emergent digital citizenship[2]. Protecting children and young people from harm should not prevent children's active digital engagement and their right to autonomy. Industry responsibilities around the safety and security of children's data should not be transferred to the child or their family through Terms and Conditions documents. Communicating of terms and conditions for young users should be considered and communicated to those impacted in a way that is accessible to them, in child-appropriate language which is easily understood. Such language should also be used to explain why adult society believes that some content is not suitable for people younger than 18.

Acknowledgements

---

[2] EU Kids Online, South Australia's Commissioner for Children and Young People, Australian Human Rights Commission – National Children's Commissioner, Law Council of Australia

References

Australian Government (2023). Government response to the Roadmap for Age Verification. August 2023. https://www.infrastructure.gov.au/sites/default/files/documents/government-response-to-the-roadmap-for-age-verification-august2023.pdf

Bennett, S., Maton, K., & Kervin, L. (2008). The 'digital natives' debate: A critical review of the evidence. *British Journal of Educational Technology, 39*(5), 775-786. https://doi.org/10.1111/j.1467-8535.2007.00793.x

Dudek, D., Woodley, G., & Green, L. (2022) 'Own your narrative': teenagers as producers and consumers of porn in Netflix's *Sex Education*, Information, Communication & Society, 25:4, 502-515, DOI: 10.1080/1369118X.2021.1988130

Green, L. (2020). Confident, capable and world changing: teenagers and digital citizenship. *Communication Research and Practice, 6*(1), 6-19. https://doi.org/10.1080/22041451.2020.1732589

Holloway, D., & Green, L. (2016). The Internet of toys. *Communication Research and Practice, 2*(4), 506-519. https://doi.org/10.1080/22041451.2016.1266124

Mason, J., & Danby, S. (2011). Children as Experts in Their Lives: Child Inclusive Research. *Child Indicators Research, 4*(2), 185-189. https://doi.org/10.1007/s12187-011-9108-4

Maxwell, F., Salter, M., & Peleg, N. (2023). 'To say report it, well, it seems a little useless': Evaluating Australians' expectations of online service providers and reducing online child sexual exploitation. *Policy & Internet*, 1–27. https://doi.org/10.1002/poi3.378

Schneider M & Hirsch JS. (2020). Comprehensive Sexuality Education as a Primary Prevention Strategy for Sexual Violence Perpetration. Trauma Violence Abuse. 2020 Jul;21(3):439-455. doi: 10.1177/1524838018772855. Epub 2018 May 2. PMID: 29720047; PMCID: PMC6283686.

Steen, E., Yurechko, K., & Klug, D. (2023). You Can (Not) Say What You Want: Using Algospeak to Contest and Evade Algorithmic Content Moderation on TikTok. Social Media + Society, 9(3). https://doi.org/10.1177/20563051231194586

Thurman, N., & Obster, F. (2021). The regulation of internet pornography: What a survey of under-18s tells us about the necessity for and potential efficacy of emerging legislative approaches. *Policy and Internet*, 13, 415– https://doi.org/10.1002/poi3.250

UN General Assembly, *Convention on the Rights of the Child*, United Nations, Treaty Series, vol. 1577, p. 3, 20 November 1989,

https://www.refworld.org/legal/agreements/unga/1989/en/18815 [accessed 15 February 2024]