

Luc Delany, CEO
International Social Games Association

Friday 16th February

Department of Infrastructure, Transport, Regional
Development, Communications, and the Arts
GPO Box 594
CANBERRA ACT 2601

Dear Sir/Madam

The following correspondence is a submission from the International Social Games Association (ISGA) to be considered as part of the public consultation on proposed amendments to the Online Safety (Basic Online Safety Expectations) Determination 2022 (BOSE Determination), in accordance with the Privacy Act 1988. ISGA welcomes the opportunity to make a submission.

ISGA has thoroughly reviewed the proposed amendments to the BOSE Determination and support the need for industry-led proactive measures to protect Australians in a fast-paced online environment. We appreciate the Australian Government's commitment to enhancing the protection of users, and children in particular, online, through reasonable means. It is vital that online services take effective steps in addressing the potential for online harms. As such, we would like to provide our feedback on two key aspects of the proposals.

1. The best interests of the child and preventing access to age-inappropriate materials online

ISGA supports proposals to expand the scope of the BOSE Determination to encourage services to consider the best interests of the child throughout the development and implementation phases of an online service. All services should be expected to consider the best interests of the child generally, and act in a measured way that is proportionate to the level of risk on their service.

ISGA acknowledges that the eSafety's Age Verification Road (Roadmap) assesses age assurance technologies to be immature but developing. In support, a report¹ commissioned by the UK's Information Commissioner's Office notes that age assurance 'techniques are, at present, a nebulous concept'. Moreover, French data protection regulator (CNIL) echoes² the perceived nascency of age assurance, stating there is no 'miracle solution' to age verification since available technologies are either too intrusive or ineffectual.

To protect Australian children online, it is of paramount importance that the Government puts an impetus on alignment across its legislative tranches. ISGA has been supportive of the Government's game classification reforms announced in March which, when combined with parental controls, are very effective in filtering access to content, monitoring game activity and setting spending limits.

Throughout the development and implementation phases of our games, we ensure that strong parental controls are made available as it is important that parents are given the agency to exercise their rights on behalf of their children. Effective parental controls enable a safer online ecosystem by protecting children's privacy whilst empowering parents. As such, ISGA believes that 'appropriate' age assurance involves robust parental controls that can effectively block children from having access to content that is deemed age inappropriate.

¹ <https://ico.org.uk/media/about-the-ico/documents/4021822/measurement-of-age-assurance-technologies.pdf>

² <https://www.cnil.fr/fr/la-cnil-publie-8-recommandations-pour-renforcer-la-protection-des-mineurs-en-ligne>

2. Class 2 material

In order to create clear solutions that enable a safer, more secure online world for users, in particular children, there must be regulatory alignment. The BOSE Determination should therefore reflect complementary industry codes that apply to content that has not yet been classified. eSafety's Position Paper on the 'Development of industry codes' clarifies the scope for Relevant Electronic Services, which includes online games where end-users can play against each other: 'the codes will apply to content imported into a game environment via the game's interactive tools which is separate to the game itself and which is likely to be classified as class 1 or class 2 material'³. As such, it is made clear that in-scope class 2 material refers primarily to porn content that is generated by users, which makes it user-to-user content (in line with the UK's Online Safety Act). This clarification therefore provides certainty for online games to be able to take effective steps in managing and mitigating such content.

Conclusion

ISGA fully supports the proposed amendments to the BOSE Determination and welcomes the opportunity to engage in a dialogue with stakeholders to explore how our global perspective can contribute to the development of pragmatic policy solutions that assist services in achieving compliance with BOSE and other relevant regulations.

The importance of protecting children online is a top priority for ISGA and cannot be understated. We value the opportunity to provide feedback and would be pleased to provide further elaboration or information on this submission. Industry-led solutions in collaboration with Government result in a safer and more secure online world for children in Australia⁴.

About ISGA

ISGA (www.i-sga.org) is an international non-profit industry association established in 2013 to develop and communicate global best practices in social games. ISGA represents social (or mobile) games businesses, including Greentube, IGT, Huuuge Games, Pixel United, Playstudios, Playtika, and Zynga. Together, we promote player education through our Smart Mobile Gamers⁵ website developed with leading digital safety organisations, clinical psychologists, and games researchers.

ISGA has a regularly updated set of Best Practices Principles⁶ ('Principles') based on the core values of online safety, accountability, and transparency. ISGA is proud to be taking the lead in responsible standards for the sector and we are pleased that our Principles have been endorsed by an Australian Parliamentary committee⁷.

Thank you for considering our feedback.

Yours Sincerely,

Luc Delany, CEO
International Social Games Association

³ <https://www.esafety.gov.au/sites/default/files/2021-09/eSafety%20Industry%20Codes%20Position%20Paper.pdf>

⁴ This view is supported by Dr Aaron Drummond from the University of Tasmania. During a public hearing as part of the online gambling inquiry, he said: *'I favour an industry-led response because if we can have industry partnerships that are going to tackle this issue for the most vulnerable gamers – those people who are vulnerable to over-spending – then we can actually make progress on this in a sensible way.'*

⁵ <https://www.smartmobilegamers.org/>

⁶ <https://www.i-sga.org/best-practice-v5>

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https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/Online_verification/Government_Response