



14 February 2021

TikTok Australia's submission on the exposure draft of the Online Safety Bill

Via email - OnlineSafety@infrastructure.gov.au

To Whom It May Concern

Thank you for the opportunity to provide feedback through the consultation process regarding the exposure draft of the Online Safety Bill.

TikTok's number one priority is user safety, and we applaud the Australian Government's continued focus on keeping Australians safe online.

Our submission is in two parts: what we do to keep our users safe, and our reflections on the draft Bill.

What we do to keep the TikTok community safe

TikTok: inspire creativity and bring joy

TikTok is a leading destination for short-form mobile video. With millions of Australian users, the platform is loved for its ability to connect users to a global community of people looking for a fun, welcoming experience where authenticity is celebrated.

On TikTok, creative ideas matter more than social connection, and people on the platform are celebrated for being their authentic selves. The content tends to be light hearted, real, heart-warming and truly fun.

TikTok in Australia was officially launched in May 2019, with our first local employee joining late in 2019. Since then, we have opened our local office and have a growing local team that is focussed on ensuring Australian users and content thrive on the platform. Supporting the Australian operation is an extensive global team that includes experts who focus on safety across time zones, in dozens of languages, and specialise in a wide range of areas related to ensuring users stay safe while using our platform.



Transparency and Accountability Centres

At TikTok, we believe that accountability and transparency are essential to facilitating trust with our community – and we're committed to leading the way when it comes to being transparent in how we operate, moderate and recommend content, and secure our platform. That's why we opened our global [Transparency and Accountability Centres](#) for experts and policy makers to see first-hand how we're working to build a safe and secure platform for our growing and diverse community.

While our Centres are currently only accessible virtually given the pandemic, once they are reopened, we will be able to facilitate interaction with our algorithm and source code in a safe and secure environment.

Our Centres are at the forefront of the technology industry and allow participants to see how our moderators review content and accounts that are escalated via user reports and technology-based flagging. This includes walking visitors through our safety classifiers and deep learning models that proactively identify harmful content and our decision engine that prioritises potentially violating content to help moderation teams review the most urgent content first.

We also demonstrate our object detection models that flag things like hate symbols to our human moderators for further review. At our physical Centres, guests are able to sit in the seat of a content moderator, use our moderation platform, review and label sample content, and experiment with various detection models.

Our Centres and tours also go into considerable detail about the extensive privacy and security measures we take to protect our community's information and stay ahead of evolving security challenges.

TikTok is striving to be the most transparent and accountable company in the industry when it comes to how we are keeping our users safe. In addition to the above, we regularly publish [Transparency Reports](#) to provide insight into the volume and nature of content removed for violating our Community Guidelines or Terms of Service, and how we respond to law enforcement requests for information, government requests for content removals, and copyrighted content take-down notices.

Managing content and behaviour on the platform

As you would expect from a platform of our nature, we have clear terms and policies that outline appropriate use.

Our **Terms of Service** (Terms) are available online, [here](#).



These Terms include:

- TikTok reserves the right to disable a user account at any time, including if the user has failed to comply with the Terms, or if activities occur on a user's account which would or might violate any applicable laws or regulations; and
- A user's access to and use of the TikTok platform is subject to our Privacy Policy and Community Guidelines.

Our **Privacy Policy** is available online, [here](#). In line with industry standards, our Privacy Policy covers information on the following topics:

- The types of personal data we collect from our users;
- How we use the information about users;
- Information about cookies;
- Who we share user's information with and how we share that data;
- Where we store user's personal data;
- How long we keep hold of user information; and
- How we notify users of changes to the privacy policy.

Our **Community Guidelines** are an important code of conduct for a safe and friendly environment on TikTok. We created our Community Guidelines so users know exactly what is, and what is not allowed on the platform. Our Community Guidelines can be found online, [here](#). Our Community Guidelines cover the following distinct content types:

- Violent extremism;
- Hateful behaviour;
- Illegal activities and regulated goods;
- Violent and graphic content;
- Suicide, self-harm and dangerous acts;
- Harassment and bullying;
- Adult nudity and sexual activities;
- Minor safety;
- Integrity and authenticity; and
- Platform security.

In consultation with relevant stakeholders, we update our Community Guidelines from time to time to evolve alongside new behaviours and risks, as part of our commitment to keeping TikTok a safe place for creativity and joy. Most recently, they were [updated in December 2020](#). These guidelines apply to everyone and everything on TikTok. We proactively enforce them using a mix of technology and human moderation. We also encourage our community



members to use the [tools we provide on TikTok](#) to report any content they believe violates our Community Guidelines.

We will remove any content – including video, audio, livestream, images, comments, and text – that violates our Community Guidelines. Individuals are notified of our decisions and can appeal if they believe no violation has occurred. We will suspend or ban accounts and/or devices that are involved in severe or repeated violations; we will consider information available on other platforms and offline in these decisions. When warranted, we will report the accounts to relevant legal authorities.

Our online [safety centre](#) provides tools and resources for users of all ages to facilitate safe use of an online environment. This includes resources specifically for parents and younger people (such as our [Family Pairing](#) features), as well as advice on wellness, safety and privacy. The safety centre resources and tools compliments the in-app features TikTok has, including nudge notifications for users who have been on the platform for more than a specified time period, screen time management capabilities, algorithmic mechanisms to support diversity of content to avoid "[filter bubbles](#)" and the ability for any user to use TikTok in restricted mode which filters out content that may not be appropriate for all audiences.

Safety policies focussed on younger people

Importantly, we are constantly evolving our safety policies and practices to keep our users safe. Most recently, and of notable relevance to the consultation process, we have updated our policies as they relate to younger users (it should be noted that TikTok is only for users aged 13 and over). As young people start their digital journey, we believe it's important to provide them with age-appropriate privacy settings and controls, so we have made a number of changes for users under age 18 aimed at driving higher default standards for user privacy and safety.

In January 2021, we changed the default privacy settings for accounts registered with an age of 13-15, to private, meaning only someone who the user approves as a follower can view their videos. Additional changes we're rolling out to promote a safe experience for our younger users include:

- Tightening the options for commenting on videos created by those aged 13-15. These users can choose between Friends or No One for their account; the Everyone comment setting is being removed.
- Changing Duet and Stitch settings to make these features available on content created by users age 16 and over only. For users aged 16-17, the default setting for our Duet and Stitch features will be set to Friends.
- Allowing downloads of videos that have been created by users 16 and over only. Other users can decide whether they want to allow downloads of their videos, though for



users ages 16-17 the default setting will be changed to Off unless they decide to enable it.

- Setting "Suggest your account to others" to Off by default for users ages 13-15.

These changes build on previous updates we've made to promote child safety, including:

- Restricting direct messaging and hosting live streams to accounts 16 and over.
- Restricting the buying, sending, and receiving of virtual gifts to users below 18.
- Enabling parents and caregivers to set guardrails on their teen's TikTok experience through our Family Pairing features.

Further details of this important policy update are available [online](#).

The Exposure Draft

We now turn to the draft legislation and through this section, we focus on key issues of relevance to TikTok Australia. TikTok Australia is a member of the Communications Alliance and we have actively participated in their submission process. Notwithstanding this, we want to take this opportunity to emphasise specific matters of importance to us.

At the outset we wish to make clear that we support the intent of this draft legislation and we are in lock-step with the Government in seeking to address this incredibly serious issue. Therefore, our comments should be read from the perspective of wanting to ensure the legislation achieves its intended purpose in the most efficient way, with the lowest possible risk of unintended outcomes.

Removal Notices

TikTok Australia is supportive of the provisions that allow for the eSafety Commissioner to compel removal of content, images and materials within 24 hours of the notice being given to the provider (which is a reduction of the current timeframe which allows providers 48 hours for removal).

In the vast majority of instances, we proactively identify (either through our own moderation methods or through user reports) content and materials which violate our Community Guidelines and remove this from the platform. In some instances, we receive requests to remove content or materials from the eSafety Commissioner's office, and indeed, other regulatory and police enforcement agencies.

More often than not, when we receive requests (informal or otherwise) from the eSafety Commissioner's office, TikTok has actioned those requests within 24 hours. The small number of instances where we were not able to action a request within 24 hours, the delay can be



attributed to there not being enough information in the original request to allow us to investigate the request fully and take any appropriate action.

- We would welcome consideration of what could be done to make allowances for takedown requests that may not include sufficient detail to enable ready identification and action. In doing so, it's important to acknowledge that the Commissioner's office may itself not have been provided with that detail, and we encourage provision to be made for such situations.
- Similarly, we would be favourable to consideration of how allowances could be made for content removal requests that may be contested, for example, where there may be genuine public interest considerations at hand. We acknowledge a constructive and cooperative working relationship with the Commissioner's office allows for this to happen informally, but a clear process in the legislation would be welcome.
- We would also welcome the opportunity to work with the Commissioner's office, and indeed any other relevant enforcement agency, to establish a standardised template which outlines the minimum information TikTok and platforms like ours would require in order to investigate requests as quickly as possible. The aim of such a pro forma document being to avoid delays in processing requests.

We would welcome further dialogue about the operational considerations of these provisions.

Platform operation restrictions

Overall, we would encourage the Australian Government to apply these powerful provisions to only the most serious of circumstances.

We acknowledge it is a privilege to operate in Australia and we also note that a stable regulatory environment is critical for businesses and for millions of users who rely on services for their own businesses, social connection, communication, education, entertainment and community.

Where a power exists to effectively ban a platform from operating, the bar to take this action should be proportionately high, and any appeal provisions should be reflective of the seriousness of the enforcement avenue being sought.

We accept that there should be a clear, readily understood, transparent mechanism to take enforcement measures in circumstances that demand it. But where the bar is too low, there is a risk that platforms could be turned off (or sought to be) for a moderate breach, with limited appeal avenues or oversight. Conversely, where the bar is too inflexible, it may prevent the Commissioner from taking action commensurate with the seriousness and potential immediacy of the issues at hand.



For example, we suggest the threshold to initiate a request to remove an app from an app service should be examined. A request to remove an app from an app store may well be warranted in situations of repeated, deliberate cases of non-compliance regarding sensitive materials, but given that suspension represents one of the most serious penalties for a platform, it should be applied in proportionate circumstances.

We suggest the Government review s128(4) with a focus on lifting the required bar. A demonstrated behavioural threshold may in fact be more appropriate for enforcement than requiring the current, specified low number of breaches (which may not necessarily be for more serious incidents). For example, in the case of recalcitrant non-compliance from a platform, the Commissioner may be better placed to take proportionate immediate enforcement action against the provider without a certain amount of breaches pre-existing. If such behaviour can be scoped in legislation, rather than the current threshold described in the draft Bill, we believe that could be beneficial in achieving the intended policy outcomes.

Privacy

Section 194 allows for the eSafety Commissioner to request social media platforms to provide user information (such as identity information and contract details of end-users) to the Commissioner, if the Commissioner believes on reasonable grounds that the information is, or the contact details are relevant to the operation of this Act.

Typically, TikTok would only disclose such personal and identifying information to Australian Law Enforcement Agencies further to a Court Order or a warrant, the issuance of which are subject to various procedural and legal requirements. We are concerned that the Bill contemplates the eSafety Commissioner having the ability to obtain personal information of end-users, with only the low threshold of the Commissioner believing on reasonable grounds that the information is relevant to the operation of the Act.

We are also concerned by the implications of providing the eSafety Commissioner with the personal information of end-users that are not based in Australia, and in particular instances where providing the eSafety Commissioner with such information could result in contraventions of overseas privacy laws such as the General Data Protection Regulation (GDPR - applicable to citizens of the European Union) and the Californian Consumer Privacy Act (CCPA - relevant privacy legislation in the state of California in the United States of America).

- We would ask for further consideration to be given to the implication of Part 13 on end-user's privacy and, if possible, an alignment between the Bill and the Australian Privacy Act which provides a 'safe harbour' to service providers that provide information to the eSafety Commissioner further to a request under Part 13.



- We would welcome the inclusion of an exception in Part 13, wherein service providers can inform the eSafety Commissioner that they are unable to comply with the request given the end-user is located outside of Australia.

As previously mentioned, TikTok has a transparent privacy policy which users agree to when signing up for our platform. Layered over the top of that is other regulatory measures, by market, which impact on what TikTok can and cannot do with user information, and rightly so.

We also note that there is currently a review of the Privacy Act underway in Australia.

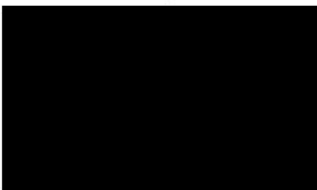
Reporting Requirements

The draft Bill proposes regular reporting to the Commissioner, ad hoc reporting to the Commissioner and reporting to the Secretary. TikTok is supportive of transparent and accountable reporting and submits that this reporting should be done in a streamlined, systematised way. There is a need to be mindful of not creating unreasonable resource burdens, through the duplication of processes, data provision and regulatory compliance where it is not necessary to do so.

We thank you again for the opportunity to provide feedback on this critical legislative proposal and we look forward to working with the Australian Government to see the implementation of a robust and measured set of protections for Australians online.

Finally, we would welcome the opportunity to meet with the Department to further discuss these important issues.

Sincerely



Brent Thomas
Director of Public Policy, Australia and New Zealand