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The under-16's social media ban

ACCAN Hot Issues Blog

Background

The government has proposed banning Australian children under the age of 16 from using social media platforms. If passed, children would no longer be able to use platforms such as:

- Facebook
- Instagram
- X (formerly Twitter)
- TikTok
- Snapchat

In parliament on 25 November, the Prime Minister said a social media ban would ensure that 'children have a childhood, and parents have peace of mind'.

Social media companies could face fines of up to \$50 million if they breach the proposed law, called the *Online Safety Amendment (Social Media Minimum Age) Bill 2024*.

So why is this all happening?

The concerns of Australian parents are at the heart of the proposed ban. Prime Minister Anthony Albanese and Communications Minister Michelle Rowland have said that this law is a response to concerns from parents about screen time addiction, cyberbullying, and the effects of social media on the mental health of their children.

The Prime Minister has expressed a desire to see children “back on the sporting fields.” This law aims to reduce the time young people spend on phones and shift cultural norms around social media use.¹

Research from the eSafety Commissioner suggests that Australian teenagers use an average of four social media services, with 68% of 12-17 year olds posting photos or videos online. These numbers have almost certainly increased since the surveys were conducted in 2021.²

Research conducted by 36Months found that 59% of children use social media. That number increases to 92% for those aged 15-16.³

Researchers from the University of Sydney also found that nearly 70% of young people have used TikTok or SnapChat and typically joined social media platforms in late primary school—with or without their parents’ permission.

Given these figures, a social media ban will significantly affect the way children socialise and connect.

How will this legislation be implemented and enforced?

One of the trickier aspects of this legislation is how the ban will be implemented. The proposed legislation requires social media companies to ‘take reasonable steps to prevent children who have not reached a minimum age from having accounts’ on their platforms.⁴ The eSafety Commissioner would be responsible for oversight and enforcement of the ban.

The Government has recently launched an Age Assurance Technology Trial to determine the most effective way to assess the age of users on social media platforms. The trial is expected to be finalised by mid-2025 and will inform the implementation of the ban.

Once the Bill passes, the Minister for Communications, Michelle Rowland, will decide which social media platforms the legislation applies to. The Minister has previously said that the ban will apply to Facebook, Instagram, X, TikTok, and Snapchat.

In a Roadmap for Age Verification document relating to online pornography, the eSafety Commissioner suggested a ‘double-blind, tokenised approach’ to ID verification could best protect the privacy of Australians as they prove they are above the age cut-off. This approach may also be relevant to age verification for social media.

¹ [Speech in the House of Representatives – 25 November](#) pg. 33

² <https://www.esafety.gov.au/research/digital-lives-of-aussie-teens>

³ <https://www.mi-3.com.au/21-05-2024/36-months-industry-stalwarts-launch-campaign-raise-social-media-minimum-age-16>

⁴ https://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r7284_first-reps/toc_pdf/24150b01.PDF;fileType=application%2Fpdf#search=%22legislation/bills/r7284_first-reps/0000%22 Pg. 3

Who supports it?

Mr Albanese says that parents and community leaders have been ‘crying out’ for change in this area and claims that banning social media will make kitchen table conversations easier for parents who seek to restrict or delay their children’s social media use.

YouGov polling conducted in August this year found that 61% of Australians supported a ban on under-17s using social media.⁵ At that stage, the proposal was made by the Coalition but was not yet official government policy. Support for the law may have increased since it gained bipartisan support.

Opposition leader Peter Dutton called for a social media ban as early as June 2024, promising to implement a ban within 100 days if elected at the next federal election.⁶

Cross-party politicians and some parental groups have advocated for a social media ban as a response to what they perceive as the harmful effects of social media use and exposure to inappropriate content.⁷

Who is against it?

There has been concerted push-back from some groups against the proposed ban. In responding to the Prime Minister’s announcement, the Australian Greens claimed that the policy is ‘rushed and reckless goes against the evidence’.⁸

ReachOut, a youth mental health support service raised concerns that the bill may ‘create significant, serious unintended consequences’, as many young people use social media to access mental health information and support.

In a submission to the Senate Committee reviewing the legislation, University of Sydney academics Justine Humphry, Jonathon Hutchinson and Catherine Page Jeffery said the social media ban was a ‘blunt response to a complex issue’ and criticised the government for setting a one-day period for public submissions.⁹

The QUT Digital Media Research Centre also submitted concerns representing the views of media and communications academics. They said that the legislation had ‘critical shortcomings in definitions and a flimsy evidence base’.¹⁰ Some Coalition MPs have raised concerns that the social media bill ban would be a vehicle for a

⁵ <https://www.abc.net.au/news/2024-08-19/social-media-polling-australians-back-regulation-age-limits/104233852>

⁶ <https://www.theguardian.com/media/article/2024/jun/13/anthony-albanese-peter-dutton-social-media-ban-age-16>

⁷ See Australian Parents Council - <https://austparents.edu.au/wp-content/uploads/2024/09/Social-Media-and-Australian-Society-Submission-2024.pdf>

⁸ <https://greens.org.au/news/media-release/blunt-social-media-ban-rushed-reckless-greens>

⁹ https://www.linkedin.com/posts/justine-humphry-a194994_heres-our-meco-submission-on-the-online-activity-7265613138320924672-5ne3?utm_source=share&utm_medium=member_desktop

¹⁰ <https://www.aph.gov.au/DocumentStore.ashx?id=3df5bce8-4f53-4d8a-8ede-ac1bae16f653&subId=773067>

‘digital ID’ – which they fear would give the government undue control over internet access.¹¹

The Digital Duty of Care

In addition to the age-based ban, the government has also proposed creating a ‘digital duty of care’. A ‘duty of care’ may apply to teachers in a classroom setting, or employers in a workplace environment for example. A duty of care is an obligation to take reasonable steps to protect others from harm – health and safety risks in particular.

A ‘digital duty of care’ would perform a similar task. It would place an obligation on social media platforms to proactively keep Australians safe online.

A Digital Duty of Care brings Australia into line with similar approaches by the United Kingdom and the European Union. The government has not yet introduced legislation to create a Digital Duty of Care.

Is there a better way to protect kids from online harms?

Online safety for Australian children could also be improved through a range of measures which are not considered in this bill. Adopting ‘safety by design’ principles and strengthened privacy protections would reduce online harms for children and adults alike.

Safety-by-design measures may include greater user control over content, with the ability to reset, customise or switch off personal algorithms and mandatory participation in an external dispute resolution body.

Social media services contribute to online harm through the ‘rampant and intrusive generation, collection and monetisation of personal data’.¹² Strong privacy measures can curtail these harms by protecting users from targeted marketing and the exploitation of their data by algorithms and recommender systems – this is particularly important in the case of children, data from whom must not be harvested and misused by social media platforms.

Next steps

The Online Safety Amendment (Social Media Minimum Age) Bill 2024 will now proceed to further debate and scrutiny in Parliament, where amendments may be

¹¹ <https://www.smh.com.au/politics/federal/some-coalition-mps-have-cold-feet-on-the-social-media-ban-dutton-will-stare-them-down-20241124-p5kt2y.html>

¹² <https://www.aph.gov.au/DocumentStore.ashx?id=976d99d9-945a-4e34-8d04-d58bca5868d5&subId=759621>

proposed to address concerns raised by stakeholders and experts. If the bill passes both houses, it is expected to become law within 12 months. The implementation of the Bill will be informed by the outcomes of the Age Assurance Technology Trial. After the Bill is passed, the Minister for Communications will make rules to determine which social media platforms will be banned.

The Australian Communications Consumer Action Network (ACCAN) is Australia's peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers.

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