



9 September 2022

By email: digitalmonitoring@accg.gov.au

SUBMISSION TO THE *DIGITAL PLATFORM SERVICES INQUIRY – MARCH 2023 REPORT ON SOCIAL MEDIA SERVICES*

Thank you for the opportunity to provide a submission to the Inquiry as it prepares its report on social media services.

Children and Media Australia (CMA) strongly urges the ACCC to use this opportunity to make robust recommendations to keep children safe online, to protect their privacy, and stop their exposure to age-inappropriate content. All such reforms should be based on a clear recognition that children have a right to access online services safely; and that the necessary safety guarantees require government action.

CMA is a peak not-for-profit national community organisation whose mission is to support families, industry and decision makers in building and maintaining a media environment that fosters the health, safety and wellbeing of Australian children.

CMA membership includes ECA (Early Childhood Australia), ACSSO (Australian Council of State Schools Organisations), APPA (Australian Primary School Principals Association), AHISA (Association of Heads of Independent Schools Australia), AEU (Australian Education Union), Parenting Research Centre, Council of Mothers' Union in Australia, SAPPA (South Australian Primary Principals Association), and other state-based organisations and individuals.

CMA's core activities include the collection and review of research and information about the impact of media use on children's development, and advocacy for the needs and interests of children in relation to media use.

This submission has been written by our President, Professor Elizabeth Handsley, in consultation with our Hon CEO, Barbara Biggins OAM.

CMA is pleased at the prospect of the ACCC's significant power being brought to bear in the interests of consumers in this field; and we hope and trust that the special needs of the child consumer will receive special attention. Only a robust government regulation program has the capacity to institute the 'safety by design' approach that is needed, to remove or at least drastically minimise relevant risks without shifting responsibility onto already overburdened parents and teachers.

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CMA notes that the risks to children from social media use are not limited to misleading or deceptive conduct; they extend to:

- exposure to age-inappropriate content, including advertising for harmful products such as tobacco, alcohol and gambling;
- bullying;
- harassment;
- grooming;
- radicalisation;
- appearance-related pressures; and
- over-use.

All of these can and should be considered as matters of consumer protection.

When considering the question of misleading and deceptive conduct from the point of view of children and young people, it is important first to remember that social media platforms generally have a minimum age of 13 for users to have an account. It is also generally known that large numbers of under-13s lie about their age in order to establish an account. We are not aware of the platforms having any system for identifying and removing such accounts.

Second, much of children's activity in accessing the online world, including social media, is on mobile devices away from parental supervision.

Third, children are more credulous than adults; that is, conduct that is not misleading or deceptive to adults might well be misleading or deceptive to a child. In this connection, we note that advertising content, as a rule, is not clearly identified as such on social media platforms. Rather, for example, content might be labelled as 'sponsored', which children are even less likely to understand than 'advertising'. This presents significant opportunities for young users to be misled or deceived when they engage on those platforms, as any critical faculties that a child might possess for distinguishing advertising from entertainment and decoding its intent are less likely to be operationalised. In addition, practices such as adver-gaming represent an inherent blurring of the lines between advertising and entertainment.

However, there is a bigger, and deeper, issue with social media platforms, arising from the fact that they are free to the user and raise their revenue largely from advertising. For this reason the platform has no contractual obligations to the 'consumer'. The 'consumer' is actually the product, and the real consumers are the advertisers. It seems that many adults do not have a full understanding of this fact; even fewer children would. Therefore the risks of misleading or deception are not limited to particular instances of exposure to particular content; they are structural, baked into the nature of the relationship between the user and the platform. Any reforms to the consumer protection provisions regarding misleading and deceptive conduct need to take all these matters into account.

Another major area for intervention is in children's and young people's data privacy. A recent study by CMA revealed that some 59% of popular children's apps transmit users' data to ad-linked companies, including social media platforms. Two issues arise here: first, the Australian government and public don't know how those companies use that data, and we should. Therefore there should be some reporting and transparency requirements regarding such matters. Second, we question whether those companies should be allowed to buy children's information at all.

In light of the range and nature of the risks to children's wellbeing listed above, CMA believes there is justification for further consideration of the age cutoff for children to have a social media account. As is well known, the minimum age of 13 exists because of US legislation, the *Children's Online*

Privacy Protection Act (COPPA). Social media platforms have adopted the age cutoff because some of their practices would be illegal in the US if carried out in relation to a younger user. However, many of the risks listed above require a mature outlook and judgment in order to navigate them, such that a cutoff of 16 or even 18 would be logically justifiable. On the other hand, as also noted above, children and young people have a right to use online services safely. This is at least in part due to the significant benefits that social media can bring to the lives of adolescents. Ultimately this may serve mainly to illustrate and underline the imperative of making such services safe for young users.

In any case, whatever the cutoff, there should be regulation to require proactive steps to verify that users meet it. As mentioned, the social media platforms do not appear to have systems for identifying and removing underage users. CMA submits that it would be reasonable to require them to institute such systems. These would not be foolproof and they would not reach 100% effectiveness. However, CMA submits that this does not constitute a reason not to have them. Just as with other activities, such as drinking alcohol and gambling, society can send a strong message through legal regulations that certain activities are inappropriate under a certain age, and also slow down access to those activities by making it more difficult. Verification systems would still have the potential to improve countless children's lives, and again, send a message to other users that the age cutoff is taken seriously.

One necessary part of attending to the special needs of children is to support parents and carers who are more and more required to swim against the tide as pressures mount on children to engage in social media experiences that are neither designed nor intended for them. Therefore we would like to see the ACCC give consideration to setting up a unit, possibly in cooperation with the National Children's Commissioner, the content classification authorities and Department of Social Services, to reach out to parents and carers, letting them know that they are not alone, and educating them as to the benefits of staying closely involved in their children's online life.

In summary, CMA would like to see:

1. Safety by design in any service that is or might be used by children or young people
2. Special consideration of children's and young people's needs in relation to all risks associated with social media use (including but not limited to misleading and deceptive conduct)
3. A ban on social media platforms seeking or receiving young users' personal information from other sources
4. Failing that (and in the meantime), transparency requirements as to how children's and young people's personal data are used, especially in targeting advertising
5. An age cutoff to get a social media account that balances the risks and benefits of social media use for children and young people
6. Measures to properly verify the age cutoff and systems for identifying and removing accounts that do not meet it
7. Measures to support parents and carers in minimising or eliminating the risks to their children's wellbeing from social media use

Thank you once again for the opportunity to make this submission. We should be happy to answer any questions on it, at your convenience.
