Law Council
OF AUSTRALIA

23 July 2026

Senator Varun Ghosh
Chair
Senate Environment and Communications Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: ec.sen@aph.gov.au

Dear Senator Ghosh

Online Safety Amendment (Strengthening Enforcement for the Social Media Minimum Age) Bill 2026

1. The Law Council of Australia welcomes the opportunity to provide a submission to the Senate Environment and Communications Legislation Committee on proposed reforms to the *Online Safety Act 2021* (Cth) (the **Act**) through the *Online Safety Amendment (Strengthening Enforcement for the Social Media Minimum Age) Bill 2026* (the **Bill**).

2. As highlighted in the Law Council's 2025 *Call to Parties* and *Best Practice Legislative Development Checklist*,[1] robust and transparent consultation processes such as the present inquiry are important to provide adequate scrutiny of any proposed coercive powers and ensure appropriate safeguards.

3. The Law Council understands that the Bill would expand the eSafety Commissioner's information-gathering powers under section 63G of the Act relating to the social media minimum-age framework.

4. Specifically, the Bill would enable the Commissioner to compel the production of documents (in addition to information) where the Commissioner believes on reasonable grounds that a person has such documents relevant to compliance by a provider of an electronic service that is, or may be, an age-restricted social media platform.[2] This would also extend to documents relevant to whether an electronic service is a service specified in the legislative rules for the purposes of paragraph 63C(1)(b) or 63C(6)(b) of the Act.[3] As with current section 63G of the Act,

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1 Law Council of Australia, '*Best Practice Legislative Development Checklist*' (Policy Statement, 25 June 2025) 1; Law Council of Australia, '*Call to Parties 2025*' (Policy Statement, March 2025) 4-5.
2 Online Safety Amendment (Strengthening Enforcement for the Social Media Minimum Age) Bill 2026 (Cth) sch 1 item 4.
3 Ibid.

the Commissioner may then issue a written notice requiring that the person produce those documents within the period and in the manner specified in the notice.[4]

5. Notably, proposed section 63G of the Bill would apply to "a person". Currently, section 63G applies to a person only if that person is a provider of an electronic service.[5]

6. We understand that the term "person" in proposed section 63G is intentionally drafted in broad terms to enable the Commissioner to obtain information from a range of third parties in the social media minimum-age framework, such as age-assurance providers or app-store operators,[6] and to ensure it remains adaptable to developments in the social media landscape.

7. We also understand that it is not the Government's intention that this power be exercised to obtain information from children or their parents or guardians. However, we are concerned that the scope of proposed section 63G extends beyond its intended operation. As drafted, the provision appears capable of applying to any person, including end-users who are children and their parents or guardians, where they possess relevant information or documents.

8. Receiving a notice to provide information or documents would be a significant matter for an individual, and especially a child, particularly given that failure to comply may attract a civil penalty of up to 1000 penalty units under proposed section 63H. We note that the Bill proposes to double the maximum penalty under section 63H, despite, to our knowledge, no enforcement action yet being taken in relation to failure to comply with a requirement under section 63G.

9. The Bill's Statement of Compatibility with Human Rights suggests that the Commissioner's information gathering powers are reasonable and targeted, and that personal information may be collected to the extent that it is relevant to the compliance matters specified in the provision.[7] If the power is not intended to apply to children and their parents or guardians, its scope should be revised to ensure that it is appropriately targeted. If the power is capable of applying to children and their parents or guardians, it must be reasonable, necessary and proportionate to achieve its objectives in its application to them in order to be consistent with their right to privacy under Article 16 of the Convention on the Rights of the Child[8] and Article 17 of the International Covenant on Civil and Political Rights.[9] Again, however, we understand this is not the Government's intention as to how the power will be exercised; the maximum civil penalty for non-compliance raises further concerns in this regard.

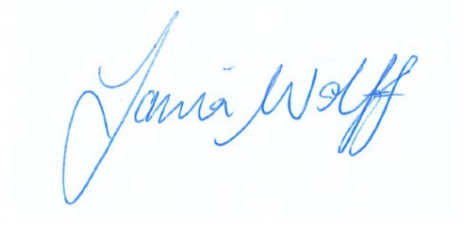
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4 Online Safety Amendment (Strengthening Enforcement for the Social Media Minimum Age) Bill 2026 (Cth) sch 1 item 4.
5 *Online Safety Act 2021* (Cth) s 63G(1)(a), s 63G(2)(a).
6 Explanatory Memorandum, *Online Safety Amendment (Strengthening Enforcement for the Social Media Minimum Age) Bill 2026* (Cth) (July 2026) 3.
7 Ibid 5.
8 Opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).
9 Opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976).

10. The Law Council therefore recommends that the Bill be amended to ensure that it better reflects the Government's policy intention and provides certainty that children and their personal information are not inadvertently captured by the expanded information-gathering power.

11. If the Law Council can be of further assistance on this matter, in the first instance, please contact John Farrell, Executive Policy Lawyer [redacted]

Yours sincerely



Tania Wolff
President