



Exposure Draft of the Privacy (Children's Online Privacy) Code 2026

Submission to the Office of the Australian
Information Commissioner

18 June 2026

Recommendations

This submission recommends the Office of the Australian Information Commissioner:

1. Specify that artificial intelligence systems and services that collect or process children's data are explicitly included, with clear definitions and coverage in both the Privacy (Children's Online Privacy) Code 2026 and Explanatory Statement.
2. Ensure all default privacy settings for children are set to "high-privacy" as a non-waivable minimum standard.
3. Raise the minimum age for independent consent to the collection, use, or disclosure of personal information to 16 years, aligning with the *Online Safety Act 2021* (Cth).
4. Introduce a risk-based verification framework for parental or guardian consent, specifying stronger forms of verification for higher-risk data practices.
5. Prohibit the use of manipulative nudge techniques, dark patterns, or deceptive design practices in connection with children's personal information.

About this submission

The Australian Communications Consumer Action Network is pleased to provide this submission to the Office of the Australian Information Commissioner on the exposure draft of the Privacy (Children's Online Privacy) Code 2026.

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ACCAN is the peak national consumer organisation advocating trusted, accessible, inclusive, affordable and available communications and digital services.

1. Introduction

The Australian Communications Consumer Action Network (**ACCAN**) welcomes the opportunity to comment on the Office of the Australian Information Commissioner (**OAIC**) exposure draft of the Privacy (Children's Online Privacy) Code 2026 (**the draft Code**). ACCAN supports the objectives of the draft Code, which seeks to strengthen protections for children and young people online. We support the OAIC's commitment to enhancing the safety of children and young peoples' personal information in the digital environment.

2. Background

Failing to protect children's privacy online exposes them to serious harms, such as identity theft, manipulation, and misuse of their personal information. These risks directly harm children's wellbeing and make them vulnerable to manipulative commercial practices for financial gain.¹ Clear and effective privacy codes are essential to safeguard children online and ensure they can engage with technology safely.

The right to privacy is a human right.² However, protecting children's privacy is more complex due to their vulnerability and their developing capacity to provide informed consent. Effective regulation must protect children's rights, minimise potential harms, and, where appropriate, balance consent between children and their parents or guardians in line with the child's best interests. Countries such as Canada, the United States, the United Kingdom, and Europe have already implemented or are finalising similar changes to privacy laws to protect children's interests.³

We support the scope of the draft Code applying to online communications services, such as messaging apps, email platforms, and online games with chat functions, as well as internet-based services including apps, websites, cloud storage, and streaming platforms (excluding health services, such as telehealth or digital medical records) that primarily focuses on children's activities or those likely to be used by children.

3. ACCAN's endorsement of OAIC's approach

3.1. Ensure the "best interests of the child" principle guides legislative requirements

ACCAN supports the OAIC's approach to embedding the "best interests of the child" test, a fundamental legal principle, throughout the draft Code. We recognise that the draft Code already

¹ Bridget Kelly, Rebecca Bosward and Becky Freeman, 'Australian children's exposure to, and engagement with, web-based marketing of food and drink brands: cross-sectional observational study' (2021) 23(7):e28144 *Journal of Medical Internet Research*.

² *Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, UN Doc A/810 (10 December 1948) art 12.

³ Franziska Köhler-Dauner, Lena Peter, Emily Sitarski, Katrin Chauviré-Geib, Ann-Christin Haag and Jörg M Fegert, 'Digital child protection in social networks: age verification and age-tiered regulation in Europe' (2025) 19(1) *Child and Adolescent Psychiatry and Mental Health* 3.

incorporates this principle in alignment with Article 3 of the Convention on the Rights of the Child, which requires that the best interests of the child are a primary consideration in all actions relating to children.⁴

The “best interests of the child” principle is critical at every stage of handling children’s personal information and privacy. We support the draft Code’s commitment to ensuring that all data collection, use, sharing, and storage practices are assessed against the child’s best interests, and that services are designed and operated to prioritise children’s safety, privacy, and wellbeing.

ACCAN supports the proposed measures that require online services to collect, use, or share only the minimum amount of personal information necessary to operate an app, game, or website, unless the end-user chooses otherwise. We also support the draft Code’s preventative approach to privacy protection, which requires organisations to consider the impact of their data practices on children during both the design and implementation of services.

3.2. Strengthening children’s rights over personal information

ACCAN supports the OAIC’s approach to enhancing protections for children’s digital personal information. We recognise and endorse the measures already suggested in the draft Code, which reflect an understanding that children and young people are engaging with online services from an early age, often without fully understanding how their personal data is collected, used, or shared. The robust safeguards proposed are essential to ensuring online platforms act responsibly and prioritise the best interests of children.

ACCAN supports the proposed changes, which will introduce the right for a child to request the deletion of their personal information and impose requirements that prevent online services from tricking, confusing, or pressuring children into granting permission for their data to be collected, used, or shared. We believe these suggested measures will improve transparency, encourage appropriate parental or guardianship involvement, and empower children to have greater control over their personal information, ultimately creating a safer and more privacy-focused digital environment.

3.3. Person with parental responsibility consent requirements

ACCAN supports the objective of the draft Code, particularly the measures requiring online services to involve both the child and their parent or guardian before collecting, using, or sharing personal information beyond what is strictly necessary to operate the service. We endorse the approach already suggested in the draft Code, including situations such as targeted advertising or the collection of sensitive information of users under the minimum age. These reforms represent a positive step, as they strengthen protections for children’s privacy by ensuring that decisions about personal data are

⁴ United Nations General Assembly, *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 3.

made with appropriate parental or guardian oversight, while also respecting the child's voice in the process.

We support the emphasis on parental or guardian consent and involvement, as children often have a limited understanding of privacy risks online, such as third-party tracking, which increases their vulnerability to privacy harms.⁵ Furthermore, we believe these requirements as suggested help prevent the misuse of sensitive information and encourage greater transparency and accountability from online platforms.

3.4. Mandate consent and best interest approach for direct marketing to children

ACCAN supports the OAIC's approach to strengthen protections relating to the use of children's personal information for direct marketing. We endorse the measures already suggested in the draft Code, recognising that as children and young people increasingly interact with online services from an early age, many may not fully grasp how their data can be used to shape the commercial content and advertising. The proposed safeguards are essential ensuring that online platforms act responsibly and prioritise the best interests of children in all marketing activities.

ACCAN supports the proposed measures, which will limit the use of children's personal information for targeted advertising, increase transparency, and ensure that any direct marketing involving children requires proper consent and prioritises their best interests. We agree with the draft Code's approach to introducing restrictions that prevent online services from using children's data for profiling or targeted advertising in ways that are excessive, manipulative, or harmful.

4. Proposed amendments to the draft Code

4.1. Include artificial intelligence (AI) in the draft Code (Sections 4 and 5)

ACCAN recommends that Section 4 of the draft Code include a definition of AI that encompasses AI systems, AI chatbots, generative AI tools, and other AI-driven services that collect, use, or disclose end-users' personal information.

ACCAN further recommends that Section 5 and the Explanatory Statement be amended to expressly provide that the draft Code applies to entities that provide AI services likely to be accessed by children or are primarily concerned with the activities of children.

⁵ Jun Zhao, Ge Wang, Carys Dally, Petr Slovak, Julian Childs, Max Van Klee, Nigel Shadbolt, 'I Make Up a Silly Name': Understanding Children's Perception of Privacy Risks Online' (Conference Paper, Proceedings of the 2019 CHI Conference on Human Factors in Computing Systems, 4-9 May 2019).

4.2. Ensure “high-privacy” by-default (Section 9)

ACCAN recommends amending Section 9 to clearly state that a “high-privacy” by-default setting must be a non-waivable minimum for all end-users identified as, or reasonably likely to be, under the minimum age. This means default privacy settings should always be set to “high-privacy”, which includes disabling location collection and tracking, blocking targeted advertising, and limiting algorithmic influence.

If location tracking is necessary, only essential, non-granular location data should be collected. This approach aligns with the United Kingdom’s Age Appropriate Design Code and the European Union’s General Data Protection Regulation, both of which provide strengthened protections for children’s personal data.⁶

4.3. Raise the minimum age from 15 to 16 years of age (Section 13(1))

ACCAN recommends that Section 13(1) be amended to raise the minimum age at which a child may independently consent to the collection, use, or disclosure of their personal information from 15 to 16 years of age. This would align the consent threshold with the definition of an age-restricted user under Section 5 of the *Online Safety Act 2021* (Cth). ACCAN also recommends that the Explanatory Statement to the draft Code be updated to acknowledge this alignment with the *Online Safety Act 2021* (Cth).

Amending the minimum age of consent to 16 will support consumer confidence and reduce fragmentation between the draft Code and Australia’s broader regulatory framework for children’s online safety.

4.4. Strengthen requirements for obtaining parental or guardian consent (Section 13(2))

ACCAN recommends that Section 13(2) be amended to introduce a risk-based verification framework for consent given by a person with parental responsibility, consistent with the risk-based approach already adopted in Section 8(2) for age assurance. The draft Code and Explanatory Statement should include clearer, stronger requirements to ensure that online services use appropriate and effective methods to obtain consent from a person with parental responsibility. Consent processes should be designed to ensure consent is genuinely informed, verifiable, and provided by a person with parental responsibility, rather than relying on ineffective measures such as self-declaration or easily bypassed age checks.

⁶ European Parliament and Council of the European Union, *Regulation (EU) 2016/679 on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data (General Data Protection Regulation)* [2016] OJ L 119/1; Information Commissioner’s Office (UK), *Age Appropriate Design Code* (2020).

The draft Code should further require entities to implement proportionate verification measures that reflect the level of privacy risk involved. Higher-risk activities, such as the collection of sensitive information, targeted advertising, or extensive data sharing, should require stronger forms of parental or guardian verification. Appropriate methods may include verified email confirmation, multi-step authentication, payment card checks, government-issued identification verification, or other secure methods that reasonably confirm the identity of the person with parental responsibility.

Strengthening these requirements by further clarifying the Explanatory Statement on how parental or guardian consent must be obtained would help ensure that parental consent mechanisms are meaningful, effective, and capable of properly protecting children's personal information online.

4.5. Prohibit the use of manipulative nudge techniques and deceptive design (Section 21)

ACCAN supports the proposed drafting of Section 21 of the draft Code. However, we recommend that a specific clause should be included to directly prohibit entities from using nudge techniques, dark patterns, or other deceptive design practices in connection with the collection, use, or disclosure of children's personal information. This clause should denote the importance of entities not distorting the environment in which the individual makes, or is likely to make, a decision.⁷

5. Conclusion

Strengthening privacy protections for children online is essential to safeguarding their rights, wellbeing, and future opportunities. The proposed draft Code is a crucial step toward ensuring that digital platforms prioritise the best interests of children and provide transparent, high-standard safeguards for their personal information.

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. ACCAN is committed to reconciliation that acknowledges Australia's past and values the unique culture and heritage of Aboriginal and Torres Strait Islander peoples.

⁷ See Section 28B(2)(a)(ii) of the Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026.



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