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

To: Office of the Australian Information Commissioner (OAIC)

1. Introduction and Context

We commend the OAIC's development of the Children's Online Privacy Code 2026. As an interdisciplinary research team funded by the Australian Research Council (DP250103014), our work synthesises media studies and developmental psychology to investigate children's mobile "gamble-play" cultures. **Gamble-play**, a concept developed by project CI [redacted], refers to the embedding of gambling mechanics—such as the operationalisation of risk and chance to attain rewards—into everyday digital and material leisure, often without explicit or immediate monetisation. The initial phase of our research has found gamble-play to be a pervasively available presence in children's everyday lives, including through digital apps and games.

Drawing from this research, we write to highlight how gamble-play cultures widely available to children may be a regulatory blind spot. Given these apps and games are not strictly gambling, they are not age-restricted and many are freely available to young children. We thus offer targeted recommendations to strengthen the Exposure Draft.

2. The Current Regulatory Gap: "G" Rated Gamble-Play

The 2024 Guidelines for the Classification of Computer Games successfully restrict explicitly monetised gambling content, imposing an "M" rating for paid loot boxes and an "R18+" rating for simulated casino games. However, the guidelines explicitly exclude video games that feature "chance-based mechanics or rewards but no way to directly or indirectly use real world currency".

As a result, **gamble-play apps and games remain widely accessible to children, often retaining a "G" rating or not having proper gatekeeping age restriction mechanisms**. Examples include apps to control claw machines remotely, such as *ClawCrazy: Real Claw Machines* and *Claweee* (both recommended for 4+ in Apple's App Store, and rated G in Google's PlayStore), as well as sports betting "training" apps such as *TipsTop: Sports Betting Tips* (recommended for 12+ in Google's Play Store) or

BetGPT (recommended for 3+). These games are free to play, with some containing in-app purchases.

These apps and games camouflage risk-taking built around gambling-like play dynamics as benign, everyday entertainment. While they may not extract real-world currency, many such examples intensely harvest children's personal data to fuel and optimise addictive gamble-play loops. The Code must ensure these platforms cannot freely harvest data simply because they evade the 2024 videogame classification guidelines.

3. Recommendations for the Exposure Draft and Explanatory Statement

A. Broaden "Manipulative Practices" to Include Gamble-Play Mechanics (Sections 14 & 21)

- **Context:** Sections 14(3)(a) and 21 of the Exposure Draft state that consent is not voluntary or obtained through fair means if it is coerced or manipulated. The Explanatory Statement clarifies this includes "nudge techniques" like persistently prompting a child to consent to the use of their personal information for a particular activity. As the Explanatory Statement outlines, such design practices "compel an individual to consent to more handling of personal information than they would otherwise agree to", using design features that "incentivise them to eventually just agree to such handling" (p. 13).
- **Recommendation:** The definition of manipulative "nudge techniques" in the Explanatory Statement could be expanded to explicitly include the **procedural rhetoric** and **visual tactility** of gamble-play, which are built around compelling **interplays of risk and chance**. The gamble-play games captured in our taxonomy feature potentially addictive stimuli—such as near-miss mechanics, simulated claw machine or "blind box" style games, and spinning lottery wheels—as sensory mechanisms of seduction and control designed to sustain and deepen children's engagement. When these mechanics are deployed to solicit data sharing or prolong engagement, they act as coercive psychological nudges that fundamentally invalidate "voluntary consent".

B. Define the "Best Interests of the Child" Against Gamble-Play Exploitation (Sections 10 & 11)

- **Context:** Sections 10 and 11 require that the collection, use, and disclosure of a child's personal information be consistent with the "best interests of the child". The Explanatory Statement notes this involves assessing the impact on the child's psychological and cognitive development across evolving capacities and age groups.

- **Recommendation:** The OAIC should formally list "exposure to gambling-like mechanics and risk-taking behaviours" as a specific harm factor entities must evaluate. Our research maps the pervasive availability of gamble-play and how this escalates across developmental stages (ages 5-7, 8-13, and 14-17). Through child-centred research, we are currently investigating how these gamble-play apps and games may operate as a gateway to hard gambling. Collecting or using a child's data to personalise, target, or sustain gamble-play loops—monetised or otherwise—exploits their developmental vulnerabilities. The Explanatory Statement should clarify that harvesting data to fuel these addictive architectures inherently violates a child's best interests.

C. Mandate Gamble-Play Screening in Privacy Impact Assessments (Section 38)

- **Context:** Section 38 requires entities to conduct Privacy Impact Assessments (PIAs) that include "an assessment of the risk of harm to, and the potential impact on, children resulting from the handling of their personal information" (p. 23). Of Subsection 38(2), the Exposure Draft and Explanatory Statement note that assessments should consider potential harms and impacts “of a physical, emotional, developmental or material nature” (p. 22; p. 24).
- **Recommendation:** We urge the OAIC to provide explicit guidance that PIAs must assess the presence of **gamble-play mechanics**, even when those features are unmonetised. Because gamble-play ambiently mimics the sensory thrills of physical games and toys pervasively available to children (like arcade claw machines or blind boxes), it poses unique psychological risks. PIAs should evaluate whether data collection is being used to optimise these risk and chance-based reward systems, as they may have detrimental emotional and developmental impacts on children.