

From: [EDUCATION- Privacy](#)
To: [OAIC - COPC](#)
Subject: Submission in relation to the Exposure Draft of the Children's Online Privacy Code [SEC=OFFICIAL]
Date: Wednesday, 3 June 2026 5:22:44 PM

Dear Children's Online Privacy Code team

Thank you for the opportunity to comment on the Exposure Draft of the Children's Online Privacy Code (COP Code).

The Department of Education (department) as a government agency, is subject to a range of existing obligations that operate to protect the personal information that it handles. However, the department supports the development of the COP Code and ensuring appropriate privacy protections are in place for children in the online environment.

It will, of course, be important that the COP Code strikes the right balance between best practice approaches to the handling of children's personal information and appropriately targeted regulation. In particular, we make the following comments about the draft terms of the COP Code:

Section 38 – Privacy impact assessments

Australian Government agencies are already bound by *Privacy (Australian Government Agencies – Governance) APP Code 2017* (Privacy Code). Accordingly, we would welcome further consideration of how the obligations in the Privacy Code interact with the COP Code. In particular, the Privacy Code already requires Australian Government agencies to undertake a Privacy Impact Assessment (PIA) for all 'high privacy risk' projects (i.e. projects that involve new or changed ways of handling personal information that are likely to have a significant impact on the privacy of individuals). However, the current drafting of paragraph 38(1)(a) would also require APP entities, such as the department, to conduct a PIA if it *'proposes to provide a new service or a new activity that is likely to be accessed by children or will be primarily concerned with the activities of children'*. This would seem to significantly expand the circumstances of where an APP entity is required to undertake a PIA, noting there is no requirement for these activities to involve new or changed ways of handling children's personal information or a significant impact on the privacy of children.

Paragraph 38(1)(a) also introduces a different test to the one outlined in paragraph 38(1)(b), relating to changes to existing services. It is not clear why there would need to be a different test depending on whether the project involves a new service rather than a change to an existing one. The department supports mirroring the threshold requirements under the Privacy Code where possible to avoid unnecessary confusion and to ensure privacy resources can be appropriately targeted at projects having greater privacy impacts.

Further, the COP Code typically uses the language of 'the service'. However, the drafting in subsection 38(1) introduces the concept of a new or changed 'activity'. This language doesn't seem to be used elsewhere, and its meaning and use is unclear. Any 'activity' that is accessed by children or primarily concerned with the activities of children is very broad and would seem to go beyond what is intended to be regulated by the COP Code.

Accordingly, we suggest deleting the reference to 'activity' in section 18.

Commencement of the COP Code

While we understand the COP Code must be finalised and registered by 10 December 2026, it will be important to ensure sufficient time is given to entities (e.g. at least six months) to consider the final terms of the Code and implement the relevant requirements. Given the department's portfolio responsibilities, a considerable amount of work may be required to identify activities to which the COP Code applies and subsequently fulfil relevant obligations under the COP Code.

Kind regards

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