



TO: The Australian Information Commissioner

FROM: [Common Sense Media](#)

DATE: 04 June 2025

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

INTRODUCTION:

Common Sense Media is dedicated to improving the lives of children and families by providing the trustworthy information, education, and independent voice they need to thrive. Our ratings, research, and resources reach more than 150 million users worldwide, over 1.5 million educators, and more than 100,000 schools worldwide every year. Backed by the research that forms the foundation of everything we do, we champion quality media that entertains and inspires, and support legislation aimed at closing the digital divide and holding social media and AI platforms accountable for their effects on minors. We encourage students and educators to think critically about technology and become responsible digital citizens. And we help safeguard children's health and well-being by supporting the protection of their data privacy and reducing potential online harms.

We are pleased to submit these comments in response to your call for comments and feedback regarding the 2026 exposure draft of the *Children's Online Privacy Code*. Common Sense Media supports the Australian Information Commissioner's efforts to improve children's lives through increasing privacy protections for children in the online environment. As a trusted global brand for children and families, we look forward to helping bring American and international perspectives to consideration as the Office of the Australian Information Commissioner develops this Code.

COMMENTS:

Common Sense Media strongly supports the exposure draft of the Code and the Commission's efforts to advance strong privacy protections. We applaud the inclusion and commitment to children's privacy through the elements of consent, destruction of personal information, privacy education training, and the age assurance process. We support the Commission's attention to children's right to delete information. This draft Code works as a strong foundation to protect young people's privacy. We call attention below to a few areas where we believe the Code can be further strengthened or clarified to better support young people: direct marketing needs to be specified to include targeted advertisements, which should ideally be banned for children under 18. Additionally, age assurance data could have further protections, and there should be clarification that any interpretation of best interests includes the concept of age appropriateness.

Targeted Advertising Should Be Identified and Prohibited

We appreciate the Commission's focus on limiting direct marketing for children, but believe direct marketing should be better defined. The definition of direct marketing varies globally, and we encourage this Code to explicitly include targeted advertisements in its definition. Targeted advertising, also known as behavioral or surveillance advertising, is the tracking of an individual consumer's online activities to create consumer profiles and then using those profiles to target them with advertising personalized to their interests.¹ These ads capitalize on the cognitive underdevelopment of children and exploit children's insecurities through the collection of their online interests. Children are largely defenseless against such targeting techniques. Targeted advertising for children incentivizes the collection of children's data and creates profiles that can follow them for life. The Code should better specify that targeted advertising is a subset of direct marketing, allowing the regulation of these activities and ensuring entities are better protecting children.

The Code should also prohibit targeted advertising entirely. Targeted ads are dangerous for children in the online space and should be prohibited for children under 18 years of age. This has emerged as a widespread concern worldwide, with the European Union, the United Kingdom, and the U.S. states passing prohibitions on targeted advertising directed at children. In 2022, the European Union enacted the Digital Services Act that prohibits online platforms from presenting targeted advertisements to minors based on the profiling of their personal data.² The 2018 United

Kingdom Data Protection Act set a robust standard for digital privacy.³ The UK's 2020 Age Appropriate Design Code prohibited the use of targeted personalized advertisements to children

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<https://www.commonsensemedia.org/sites/default/files/featured-content/files/behavioral-surveillance-advertising-brief.pdf>

² <http://data.europa.eu/eli/reg/2022/2065/oj>

³ <https://www.legislation.gov.uk/ukpga/2018/12/contents>

under 18 unless the company has a compelling reason to do so.⁴ The United States has also made progress in prohibiting targeted advertising directed at children. In 2025, the state of Maryland enacted the Maryland Online Data Privacy Act (MODPA) that bans targeted advertisements and data sales if consumers are under 18.⁵ At the federal level, the United States Senate has passed updates to the Children and Teens' Online Privacy Protection Act (COPPA 2.0) that include a ban on individual-specific advertising for children and younger teens.⁶ The U.S. House of Representatives has not yet passed a similar bill. Together, these demonstrate a global movement to ban targeted advertising for youth.

Therefore, while we commend the Commission's effort to limit direct marketing for children, we believe the protection of children from advertising would be better regulated with a specification that targeted advertisements are included in the definition of direct marketing, and with a clear prohibition on targeted advertising for children under 18.

Age Assurance Can Benefit From Further Privacy Protections

We commend the Commission for highlighting age assurance as a critical safeguard for online platforms. Without strong age assurance systems, children and teens remain vulnerable and at risk. The 2024 Age Assurance Consumer Survey done by the Social Research Centre emphasizes the willingness of Australians to use age assurance technologies, with 88.85% of adult respondents supporting age assurance.⁷ Yet, 77% adult respondents have concerns about privacy for the implementation of age assurance policies.⁸

We believe age assurance under the Code can be made more privacy protective. We appreciate the Commission's commitment to privacy by default for children and, in general, the collection of information only when classified as strictly necessary. Likewise, entities must only be allowed to collect age assurance information under Division 1, 8 (3) if it is "strictly" necessary. Entities should also only retain age assurance information for as long as strictly necessary. We believe that this commitment could more strongly protect children if entities implementing age assurance must thereafter delete all information, extending beyond what is identified as sensitive (as defined in the Australian Privacy Act of 1988 in Part 2, Division 1, Section 6).⁹

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<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/childrens-information/childrens-code-guidance-and-resources/age-appropriate-design-a-code-of-practice-for-online-services/5-detrimental-use-of-data/>

⁵ https://mgaleg.maryland.gov/2024RS/Chapters_noln/CH_454_hb0567e.pdf

⁶ <https://www.congress.gov/bill/119th-congress/senate-bill/836/text>

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<https://www.infrastructure.gov.au/sites/default/files/documents/attachment-c-key-results-research-overview-adult-and-child-june2025.pdf>

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<https://www.infrastructure.gov.au/sites/default/files/documents/attachment-c-key-results-research-overview-adult-and-child-june2025.pdf>

⁹ <https://www.legislation.gov.au/C2004A03712/latest/text>

Best Interests of the Child Should Include Age Appropriateness

We support the Commission's commitment to the "best interests of the child." By drawing on Article 3 of the United Nations Convention on the Rights of the Child, online service providers must consider what is in the best interests of both the individual child and the general population of children.¹⁰ Under the Code, the collection, use, and disclosure of a child's personal information must be consistent with their best interests. We recommend that the Code should additionally clarify that those best interests with respect to collection and use are to be interpreted in an age-appropriate manner (referring to the age-appropriate definition of the 1988 Privacy Code).¹¹ Under the draft Code, this means that, based on the targeted age of the service, or if there is none specified, then it defaults to the best interest of children from ages 10 to 12. While requirements for age appropriateness appear elsewhere in the Code, they do not appear in the requirements that Collection, Use, and Disclosure (Div. 1, Sec 10-11) of personal information must be consistent with best interests. We believe the Code would benefit from such clarification.

CONCLUSION:

Common Sense Media commends the Commission for its ongoing leadership in advancing robust regulatory measures to protect children online. We see this draft privacy Code as a key step towards the broader goal to raise standards for global online safety and privacy for minors.

We appreciate the opportunity to provide feedback on the Children's Online Privacy Code. As an organization dedicated to the well-being of children and families, we are eager to continue this conversation so we can contribute our perspectives as the Australian Information Commission continues to formulate regulatory standards aimed at enhancing the online protection of Australian children.

¹⁰ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

¹¹ <https://www.legislation.gov.au/C2004A03712/latest/text>