

21 December 2020

Randall Brugeaud

By way of upload: Online submission through the DTA portal

Dear Mr Brugeaud

I am writing to you in relation to the Digital Transformation Agency's (DTA) Digital Identity Legislation consultation. As Australia's eSafety Commissioner, I welcome the Digital Transformation Agency's public consultation on both the proposed legislation and changes to the DTA's Digital Identity system.

The eSafety Commissioner is Australia's national independent regulator for online safety. eSafety leads, coordinates, educates and advises on online safety issues and aims to empower all Australians to have safer, more positive online experiences. As you may know, imminent reforms proposed under the Australian Government's new Online Safety Act will expand eSafety's regulatory remit and my functions and powers as eSafety Commissioner. These new proposed powers and functions will improve the effectiveness, reach and impact of eSafety's work.

Age and identity validation, verification and authentication have attracted increased attention as potential technological measures to assist in addressing and preventing some forms of online harm amongst the online safety community in recent years. These range from utilising age verification for the purpose of limiting children's exposure to age-inappropriate content, through to verifying the identity of those using anonymous, imposter, impersonator or fake accounts to abuse and target others.

As I know you will be well aware, the effectiveness of digital age and identity systems as harm alleviation mechanisms depend on a wide variety of factors. These include but are not limited to the availability, accuracy, safety, privacy and security of the technology itself and the source information that is being used; the types of content, services and platforms on which these solutions are implemented; the willingness and ability of society and industry to participate, engage and utilise solutions/systems; the kinds of warnings or access interventions imposed once a person has been denied access to content or services; and the broader legal, policy and cultural context in which these systems operate.

At eSafety, we strongly support the need to drive up standards of user safety in the technology community. Safety should be considered on an equal footing with security and privacy, and given equal prominence in the design, development and deployment of technological solutions and in the wider governance, legislative and regulatory systems in which these solutions exist. It is important that at all standards, guidance and compliance, including privacy and safety, be enshrined in legislation as a means of providing the greatest level of protection to users.

Equally, we understand the importance and value in considering inclusive design and digital inclusivity so as to ensure that diverse communities and those most at-risk are able to engage and navigate digital environments, technologies and systems in a safe and informed way. Users should have the right to make informed choices and maintain control over their engagement online, for example, through options to opt-in and opt-out, as well as providing informed consent. Engagement options should also be made available to end users based on their needs – particularly for children

and young people, regional, remote, and at-risk groups who may not have the same level of accessibility as others. Consultation with all at-risk and diverse groups, and in particular children and young people, is therefore vital and we are pleased to see that the DTA are publicly engaging on this matter.

eSafety's research and experience points to the fact that the general public want greater control over, trust in, and more transparency from, the digital technologies and systems that they use. We need to build trust, to educate, to raise awareness and understanding about how these systems and solutions work - and how effective they are in addressing the issues that they set out to achieve. Evaluating and assessing these systems based on the best interests and dignity of users will assist in building confidence and trust. Strong governance and accountability arrangements, including transparent auditing and public reporting by independent bodies are therefore important considerations in ensuring that these systems are understood and ultimately utilised by individuals.

Finally, as with all law reform, the importance of a coordinated approach between intersecting regulatory schemes is essential. This not only minimises regulatory overlap, but importantly, reduces complexity for the individual, which enables them to engage online and with digital services with more confidence and choice. The interoperability of all frameworks, standards and guidance, both nationally and internationally, is equally important, as it again promotes a streamlined approach that allows for mutually reinforcing benefits.

I would welcome the opportunity to meet with you in January 2021 to continue this important conversation, and for my office to engage and participate further with your Agency as your consultation process progresses.

Yours sincerely,



Julie Inman Grant

eSafety Commissioner