



**Yoti Ltd:** Fountain House, 130 Fenchurch Street  
London, EC3M 5DJ United Kingdom

**Yoti Australia Pty Limited:** Level 2, 696 Bourke Street  
Melbourne, Victoria 3000 Australia

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Mr Jonathon Thorpe  
General Manager Digital Identity and myGov  
Digital Transformation Agency  
50 Marcus Clarke Street  
Canberra ACT 2601  
Australia

By email: [digitalidentity@dta.gov.au](mailto:digitalidentity@dta.gov.au)

***Phase 2 Consultation - Australian Trusted Digital Identity Framework Legislation  
Consultation Response - Yoti***

Dear Mr Thorpe

On behalf of Yoti, we appreciate the opportunity to provide our submission to Phase 2 of the Consultation with the DTA in respect to the Digital Identity Legislation Position Paper.

**Summary / About Yoti**

1. This response is made on behalf of Yoti Australia Pty Limited (ABN 49 634 795 841) a wholly owned subsidiary of Yoti Holdings Ltd (registered in England and Wales with company number 09537047) and Yoti Ltd (registered in England and Wales with company number 08998951) together referenced in this submission as “Yoti”.
2. Yoti owns and operates a free digital identity app and wider online identity platform that allows organisations to verify who people are, online and in person. This could be using the Yoti app, which allows individuals to share verified information about themselves on a granular basis or it could be using Yoti’s ‘embedded’ services which allow organisations to add a white label identity verification flow into their website or app. It could also be using Yoti’s authentication algorithms such as facial recognition, age estimation, voice recognition or lip reading.
3. Yoti has a team of around 230 based in London, with offices in Bangalore, Los Angeles, Melbourne and Vancouver. There have been over 10 million installs of the Yoti app globally, following its launch in November 2017. Similarly, over 470 million checks have been conducted using the Yoti age estimation algorithm since 2019.





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4. Yoti holds the ISO 27001 certification and continues to be audited every year. Further, Yoti is certified to SOC 2 Type 2 for its technical and organisational security controls by KPMG. The SOC 2 standard is an internationally recognised security standard. Yoti also holds the Age Verification Certificate of Compliance, issued by the BBFC. Yoti is certified to the publicly available specification PAS:1296 Age Checking.
  5. If there are any questions raised by this response, or additional information that would be of assistance, please do not hesitate to contact Yoti at:

**Darren Pollard**

Regional Director Australia - Yoti

Director - Yoti Australia Pty Limited (ABN 49 634 795 841)

[darren.pollard@yoti.com](mailto:darren.pollard@yoti.com)

**Julie Dawson**

Director of Regulatory & Policy

[julie.dawson@yoti.com](mailto:julie.dawson@yoti.com)

6. Yoti is happy for this response to be published.

**Section 5: Scope of the Digital Identity Legislation**

*Figure 2 - legislative provisions*

7. The table does not appear to contain provisions regarding parity of digital identity checks under the TDIF and existing ID "standards" already prevalent across Australia. Nor does it appear to contain provisions regarding how the TDIF intends to "supersede" those existing standards.
8. In particular, the:
  - a. "100 point check" (an identification system adopted by the Australian Government to combat financial transaction fraud enacted by the Financial Transactions Reports Act 1988), and;
  - b. the "Verification of Identity" (VOI) - created by the conveyancing industry for property purchase and settlement;





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should be clearly superseded by checks carried out under the TDIF.

9. The government should use the legislation to mandate sectors shift to a digital identity first model, thereby ensuring that all industries relying on existing identity checking standards move to the new, more robust standards under the TDIF.

### **Section 7: Privacy and consumer safeguards (original [here](#))**

*Allow a User who has a digital identity, or whose compromised identity has been used to create a digital identity, to consent to investigators to access stored Biometric Information in relation to a specific fraud or security incident*

10. This requirement needs clarification. It is currently unclear whether the requirement merely requires users to be able to share biometric data from their digital identity platform with an investigator, or if the requirement expects digital identity platforms to be able to share biometric data without any active participation of the user (beyond the user giving permission for their biometric data to be shared).
11. If it is the former interpretation, there is no problem. However, if it is the latter interpretation, it works on the assumption that digital identity platforms will hold an accessible repository of biometric data, which can be decrypted and shared at will. That is an incorrect assumption. Privacy-centric digital identity platforms, like Yoti, cannot provide access to a user's biometric data. Only the user can provide access to that data.

*It is proposed the Bill will specify that metadata and activity logs be retained by Accredited Participants for a period of seven years (consistent with many of the disposal authorities under the Archives Act and retention obligations under the Corporations Act 2001 (Cth)) after a User deactivates their digital identity or their account is deleted for inactivity, or in the case of an identity exchange, seven years after it is collected. It is proposed the Minister may make rules to change the record-keeping period and may commission a PIA to consider for this purpose.*

12. This requirement conflicts with a number of international data protection regimes. Yoti recommends that the period be reduced to three years, to bring it in line with other regimes, such as the Illinois Biometric Information Privacy Act (BIPA).





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13. If the Bill does not align with international data protection regimes in terms of retention periods, the Bill must clarify that the only metadata and activity logs retained for seven years are those generated because of interactions within the TDIF. Otherwise, international digital identity platforms will be forced to store all users' data for seven years, irrespective of whether that user is interacting with TDIF participants or not. That would be disproportionate.

### **Section 9: Liability and Redress Framework (original [here](#))**

*It is proposed that the Legislation will enable the Minister, if needed, to make rules to provide limitations on the liability that would otherwise arise from non-compliance with the legislative rules and requirements.*

14. Yoti recommends that the rules limiting liability are published as a matter of urgency. If participants under the TDIF are forced to take part in a framework that has de facto unlimited liability, it will have extremely detrimental consequences for participants' ability to obtain insurance.

Yoti looks forward to working closely with the DTA as the Australian Trusted Digital Identity Framework Legislation progresses during the second half of 2021.

If you have any questions or concerns in respect to our submission, please do not hesitate to contact me on 0450 399 790 or via email at [darren.pollard@yoti.com](mailto:darren.pollard@yoti.com)

Yours sincerely,

A handwritten signature in blue ink, consisting of several overlapping loops and lines, representing the name Darren Pollard.

**Darren Pollard**

Regional Director Australia - Yoti Ltd

Director - Yoti Australia Pty Limited

Tel: +61 (0) 450 399 790

Email: [darren.pollard@yoti.com](mailto:darren.pollard@yoti.com)

