

Human Rights Explainer

Proposed Social Media Ban for Under-16s in Australia

What is the Social Media Ban?

The Australian Government is proposing laws to introduce a minimum age for access to social media. The proposed laws will require technology companies to restrict individuals under the age of 16 years from accessing their social media platforms.

At this stage, the details have not been finalised, and it is not clear exactly how social media will be defined and whether there will be exemptions to allow continued access to certain types of platforms or content.

Given the potential for these laws to significantly interfere with the rights of children and young people, the Commission has serious reservations about the proposed social media ban. We are releasing this explainer ahead of the legislation being released and will update it once the bill is available.

What human rights will be impacted?

The social media ban is designed to protect children and young people from online harms and the negative impact social media is having on their well-being. This aim is consistent with the requirement in Article 17 of the Convention on the Rights of the Child (CRC) to encourage the development of appropriate guidelines to protect children from information and material that harms their well-being and Article 19 of the CRC that requires Governments to take measures to protect children from violence, abuse and maltreatment.

However, such a social media ban is likely to also have negative human rights impacts on children and young people. Where rights are limited to protect children from online harms, any limitations must be lawful, necessary and proportionate. This means using the least restrictive option available to achieve the intended purpose. If there are less restrictive options available to achieve the aim of protecting children from harm, they should be preferred over a blanket ban.

The UN Committee on the Rights of the Child, for example, has noted that content moderation and content controls should not be used to restrict

children's access to information in the digital environment; they should be used only to prevent the flow of harmful material to children.

The proposed social media ban will affect various human rights contained in international human rights treaties, such as the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and the CRC. Some of the key rights that the social media ban will impact include:

- Freedom of expression and access to information (Article 19 ICCPR; Article 13 CRC);
- Freedom of association and peaceful assembly (Article 22 ICCPR; Article 15 CRC);
- The right to education and development (Articles 28 & 29 CRC);
- The right to culture, leisure and play (Article 13, ICESCR, Article 31 CRC);
- The right to the highest attainable standard of health, including through access to relevant information (Article 12, ICESCR, Article 24, CRC); and
- The right to privacy (Article 17 ICCPR; Article 16 CRC).

Specific human rights principles applying to children

In addition to the above rights and freedoms, the CRC sets down additional considerations relating to children and young people.

The CRC requires that the best interest of the child be a primary consideration guiding all actions concerning children (Article 3(1) CRC) and that children are given meaningful opportunities to have their voices heard in matters that affect them.

Article 17 of the CRC notes the important function performed by the mass media (which includes social media) and obliges governments to ensure that children have access to information from a diversity of national and international sources, especially information aimed at promoting the social, spiritual and moral well-being and physical and mental health the child.

Article 12 of the CRC requires that the evolving capacities of children are taken into account. This recognises that children who are older have the capacity to express their views. Laws that impact children should be developed with their direct input – especially where those laws may negatively impact upon their enjoyment of human rights.

The CRC also recognises that it is parents and legal guardians that have the primary responsibility for the upbringing and development of their children (Articles 5 & 18 CRC).

Key Reasons to Introduce a Social Media Ban

Some of the key reasons to consider introducing a social media ban for under-16s in Australia include:

- **Protection from Harm**
Social media exposes children and young people to a range of potential risks, including cyberbullying, harmful content and online predators. Restricting access will help to safeguard their psychological and emotional well-being.
- **Promoting Healthy Development**
Studies suggest that excessive social media use can interfere with healthy brain development, sleep, and academic performance. The proposed law supports a safer developmental environment.
- **Addressing Online Privacy Concerns**
Social media platforms collect vast amounts of personal data from users, and children may not fully understand how their data is collected, used, or monetized. Banning access for younger users may help to mitigate privacy violations and the exploitation of personal data by large technology companies.
- **Supporting Parents**
Restricting access helps to empower parents and guardians to better guide their children's online activities and ensure that they engage with technology in a supervised manner.

Key Reasons Against a Social Media Ban

- **Right to Freedom of Expression and Access to Information**
Social media is a vital platform for young people to share their ideas and opinions, engage in dialogue, and participate in social and cultural activities. It can be a valuable educational tool by providing access to diverse perspectives, news and learning opportunities, as well as vital information about health, well-being and safety. A blanket ban risks unjustly curtailing these freedoms.
- **Inclusion and Participation**
Social media is integral to modern communication and socialisation. Excluding young people from these platforms may isolate them from their

peers and limit their ability to access much-needed information and support. This is particularly important for young people from marginalised, vulnerable or remote communities.

Privacy Risks for Every Australian

The social media ban will rely on effective age assurance processes being adopted, which means that all Australians may be required to prove their identity in order to access social media. This may potentially require all Australians to provide social media companies with sensitive identity information, which poses a risk to our privacy rights in light of recent examples of data breaches and personal information being stolen.

- **A Blanket Ban will not be Effective**

Technological workarounds – such as VPNs and false age declarations – may undermine the effectiveness of the ban. Additionally, a ban will not address the root causes of online risks or make the platforms safer for everyone.

Are there Alternative Options?

It is clear that we need to better protect children and young people online. On balance, the Australian Human Rights Commission does not believe that a blanket ban on social media for under-16s is the right response.

There are less restrictive alternatives available that could achieve the aim of protecting children and young people from online harms, but without having such a significant negative impact on other human rights.

One example of an alternative response would be to place a legal duty of care on social media companies. This would require them to take reasonable steps to make their products safe for children and young people. Introducing a statutory duty of care would be a proactive way to increase the accountability of social media companies and improve online safety for everybody. The Commission understands that such a duty of care is being considered by the government.

We also need to help children and young people to better navigate online spaces by ensuring the national curriculum includes a specific focus on teaching digital literacy and online safety. Young people should be taught to think critically about what they see online and how they engage with social media. Parents and teachers also need better tools and resources to help them provide appropriate guidance and support.

Our assessment of the proposed social media ban

There are arguments for and against the introduction of a social media ban for under-16s. While a ban may help to protect children and young people from online harms, it will also limit important human rights.

The Australian Human Rights Commission has developed a [Child Rights Impact Assessment \(CRIA\) tool](#) to assess the impact of proposed laws on children's human rights. Undertaking a CRIA assessment will help the government assess how children's rights and wellbeing will be affected by the proposed ban, as well as ensuring that the unique needs and voices of children and young people are heard.

Based on the information currently available, the Australian Human Rights Commission has serious reservations about the proposed social media ban for children under 16 years of age.