

**Concept Note for a General Comment on Children’s Rights in Relation to the Digital Environment**

**Introduction**

YACSA is the peak body in South Australia representing the interests of young people, aged 12-25, youth workers, organisations and networks throughout the non-government youth sector. Policy positions are independent and not aligned with any political party or movement. YACSA supports the fundamental right of all young people to participate in and contribute to all aspects of community life, particularly the decision-making processes that impact them.

YACSA is pleased to have the opportunity to provide a response to the Concept Note for a General Comment on children’s rights in relation to the digital environment. With young people growing up with and using technology as second nature, YACSA consistently advocates for young people to be considered as the experts in their own use of information and communication technology and as such must be consulted and involved in any initiatives impacting their use of such technologies.

YACSA supports the development of the General Comment on children’s rights in relation to the digital environment as it is an important statement acknowledging and recognising the inherent rights of young people to engage in the world around them. The General Comment will act as a starting point for all policy and legislation related to the digital environment. It will also provide a mechanism to hold governments to account to ensure the rights of young people accessing the internet is equitable and unfettered by erroneous perceptions about young people or the technology, apps or sites they use.

**How can children’s views and experiences be expressed and taken into account when formulating policies and practices which affect their access to, and use of, digital technologies?**

YACSA believes that young people are the experts in their own lives and are best placed to engage with government about the issues that affect them and their communities. Young people have a range of experiences, thoughts, ideas and perspectives that can enrich decision-making processes and lead to more relevant and whole of community decisions, projects, policies, programs, use of resources and outcomes. YACSA strongly endorses the importance of ensuring that equitable measures are put in place so that political and decision-making processes are accessible to all young people.

The digital environment is an area in which young people have a great deal of experience and knowledge as many of them have spent their entire lives using the internet. Young people are surrounded by and use computers, videogames, smart phones, and social media regularly, so the digital environment is second nature to them. Digital environments are also an increasingly important mechanism for education, leisure and social connections[[1]](#footnote-1), and a vital way in which young people connect, debate, mobilise, campaign and influence the political decisions that impact upon them[[2]](#footnote-2).

By comparison, parents, caregivers, teachers and politicians have varying degrees of interest in, knowledge of, and competency using digital technologies. As such, it is vital that young people are regularly consulted and engaged in decision-making in relation to the use of technology and the digital environment.

YACSA believes that young people should be continuously involved in the structure and decision-making processes of government. This engagement can be undertaken using a variety of mechanisms and can be informal or formal. However, to be effective, engagement should be continuous, representative and meaningful. Engaging with young people in relation to their use of digital environments means that the policy decisions of governments will be appropriate, relevant, supported and responsive to the needs of young people[[3]](#footnote-3).

**How can discrimination (originating offline or online) be effectively addressed, to ensure all children have their rights realised in a digital world?**

The right to be free from discrimination is a foundation principle of all major international treaties, charters and covenants on human rights. Australia, as a signatory to those treaties, covenants and charters, is compelled to ensure that all citizens are equal before the law and experience the equal application of human rights[[4]](#footnote-4). However, governments in Australia regularly impinge on the rights of young people with policy and legislation that is based on political ideology, populism and a perception that young people are somehow less deserving of rights and the other benefits of citizenship.

For discrimination to be addressed both in the online and offline realm, there needs to be a cultural and societal shift where governments and the broader community view young people as full citizens, acknowledge their inherent rights and ensure that human rights and evidence provides the basis for all policy decisions. With human rights breaches in government policy increasing in Australia[[5]](#footnote-5), governments must also acknowledge and comply with their international human rights obligations and not ignore or creatively interpret their obligations for political gain.

**How should the General Comment treat the role of parents and other caregivers?**

With home internet access steadily climbing in Australia since 2004 (now sitting at 86% in 2016-17[[6]](#footnote-6)),

it’s clear that the vast majority of young people’s access to the internet occurs in “safe” physical locations, where there is at least the possibility of adult supervision. Therefore, the stakeholders with the greatest ability to influence the ways in which children and young people access the internet and use information technology are the stakeholders most likely to be present in those physical locations – parents, caregivers and teachers[[7]](#footnote-7).

The General Comment could articulate the role of parents, caregivers and teachers as the facilitators of young people’s digital literacy as they navigate digital environments. However, we urge that this role is predicated on the digital literacy of parents, caregivers and teachers and government and educational institutions have an important role assisting parents, caregivers and teachers to develop the knowledge they need to support the safe use of the internet and to keep up with advances in technology.

Broadly, YACSA believes that we can protect young people online by enhancing their digital literacy with education and support structures, while at the same time educating and assisting those stakeholders most able to influence young people’s use of the internet to assist in online safety[[8]](#footnote-8).

**How should the practices of businesses operating in the digital environment support the realisation of children's rights?**

General Comment number 16 outlines the obligations that business has in ensuring the rights of young people while they are engaging with business and services[[9]](#footnote-9). Businesses must ensure that due diligence is undertaken to prevent abuses of the rights of young people. However, it is the Australian government that has ultimate responsibility for taking all necessary, appropriate and reasonable measures to prevent businesses from breaching the rights of young people[[10]](#footnote-10).

Australian governments need to promote the rights of young people and the obligations of businesses operating in the digital environment to ensure those rights are realised. Online businesses need to ensure that their platforms are safe, secure and that they provide youth‐friendly, plain language privacy policies to assist young people to make informed decisions about privacy and disclosing their personal information[[11]](#footnote-11).

**How can States better realise their obligations to children's rights in relation to the digital environment?**

States should, as a matter of course, develop policy and legislation based on international human rights treaties, charters and covenants, particularly the Convention on the Rights of the Child (UNCRC)[[12]](#footnote-12). However, this does not always occur. The current Australian government and the governments of Australian states and territories must regularly be reminded of their obligations under international treaties, charters and covenants in a range of areas but particularly in relation to youth justice legislation and policy[[13]](#footnote-13).

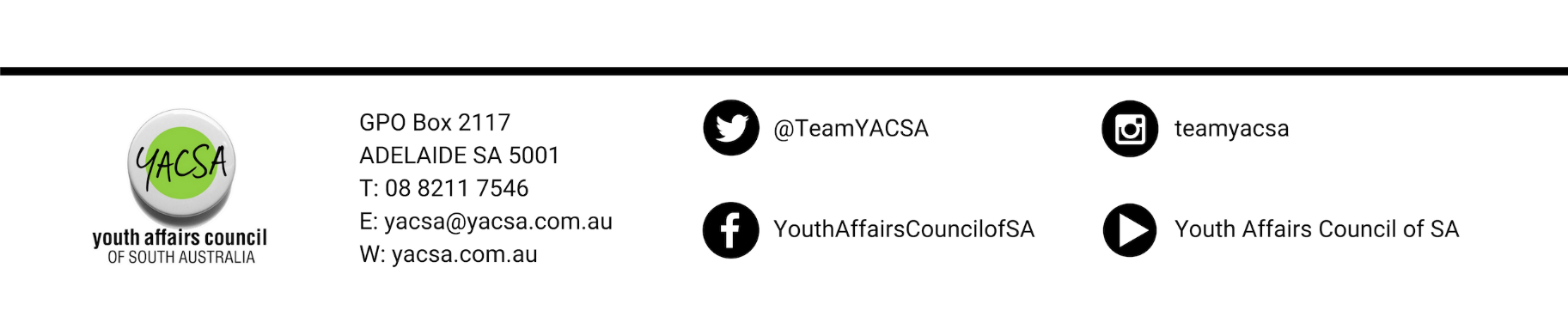
This is no surprise when you consider that in 2017, the United Nations Human Rights Committee roundly criticised Australia’s human rights record in relation to a range of key areas including the treatment of refugees, Indigenous rights, inadequate protections for human rights and the lack of a national human rights act[[14]](#footnote-14). This is part of a disturbing trend in recent years with Australian parliaments increasingly enacting laws that diminish human rights[[15]](#footnote-15).

To better realise the rights of young people in relation to the digital environment, Australian governments need to demonstrate greater respect for and an adherence to human rights that recognises young people as full citizens. Further, laws and policies created to address issues related to young people more broadly, and the digital environment more specifically, need to transcend political ideology and the election cycle and be unfettered by sensationalism and knee-jerk policy decisions.

**Is the realisation of children’s rights in the digital environment necessary to realise children’s rights in other environments?**

Young people often see no difference in their experience of the online and offline realms with the digital environment being second nature to them. It is for this reason that persistent calls to limit access to digital environments for young people is so concerning. These blanket restrictions are demonstrative of policy makers looking for a quick fix to community concerns and are not cognisant of the importance of digital environments for young people and the already significant role they have in their connections to the world around them.

YACSA believes that the realisation of the rights of young people in digital environments will assist to bolster the already articulated rights of young people more broadly. This will provide governments with an important starting point for policy debates and policy formulation and provide a way in which communities can hold government to account for human rights breaches.

******

1. J Orlando, Banning kids from technology is counter productive, The Conversation, 11 February 2015. Viewed online 8 May 2019, <https://theconversation.com/banning-kids-from-using-technology-is-counter-productive-37173>, 2015. [↑](#footnote-ref-1)
2. J. Kahne, B. Bowyer, The Political Significance of Social Media Activity and Social Networks, Political Communication, 35:3, 470-493, DOI: 10.1080/10584609.2018.1426662, viewed online 9 May 2019, <https://www.tandfonline.com/doi/full/10.1080/10584609.2018.1426662>, 2013. [↑](#footnote-ref-2)
3. Youth Affairs Council of South Australia, Government of South Australia, Better Together: A practical guide to effective engagement with young people, viewed online 10 May 2019 <https://www.yacsa.com.au/documents/item/318> [↑](#footnote-ref-3)
4. YACSA paper Sex Discrimination Amendment (Removing Discrimination Against Students) Bill 2018, viewed online, 10 May 2019 <https://www.yacsa.com.au/documents/item/641> [↑](#footnote-ref-4)
5. A Cody., M Nawaz, UN slams Australia’s human rights record, The Conversation, 10 November 2017. Viewed online 8 May 2019, <https://theconversation.com/un-slams-australias-human-rights-record-87169>, 2017. [↑](#footnote-ref-5)
6. ABS, 2018, Statistics. Household Use of Information Technology, Australia, 2016-17, Catalogue 8146.0, Australian Bureau of Statistics. Viewed online 2 May 2019, <https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/8146.02016-17?OpenDocument> [↑](#footnote-ref-6)
7. Youth Affairs Council of South Australia, Submission to the Joint Select Committee on Cyber‐Safety, viewed online 9 May 2019, <https://www.yacsa.com.au/documents/item/95>, 2011. [↑](#footnote-ref-7)
8. Ibid. [↑](#footnote-ref-8)
9. UN Committee on the Rights of the Child (CRC), General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights, 17 April 2013, CRC/C/GC/16, viewed online 9 May 2019 <https://www.refworld.org/docid/51ef9cd24.html>, 2013. [↑](#footnote-ref-9)
10. Ibid. [↑](#footnote-ref-10)
11. Youth Affairs Council of South Australia, Submission to the Joint Select Committee on Cyber‐Safety, viewed online 9 May 2019, <https://www.yacsa.com.au/documents/item/95>, 2011. [↑](#footnote-ref-11)
12. United Nations Human Rights: Office of the High Commissioner, Convention on the Rights of the Child, 1990, viewed 10 May 2019, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> 1990. [↑](#footnote-ref-12)
13. Youth Affairs Council of South Australia, Submission to the Statutes Amendment (Youths Sentenced as Adults) Bill 2017, viewed online 8 May 2019, <https://www.yacsa.com.au/documents/item/501>, 2017. [↑](#footnote-ref-13)
14. A Cody., M Nawaz, UN Slams Australia’s human rights record, The Conversation, November 10, 2017. Viewed online 10 May 2019, <https://theconversation.com/un-slams-australias-human-rights-record-87169>, 2017. [↑](#footnote-ref-14)
15. S Breheny, New Study Finds 307 Breaches of Fundamental legal Rights in Federal Laws, Institute of Public Affairs, 24 February 2017. Viewed online 8 May 2019, <https://ipa.org.au/publications-ipa/media-releases/new-study-finds-307-breaches-fundamental-legal-rights-federal-laws>, 2017. [↑](#footnote-ref-15)