

Fact sheet: Registration of the Internet Search Engine Code

8 September 2023

The eSafety Commissioner (eSafety) has decided to register the Internet Search Engine Services Online Safety Code (Search Code) drafted by industry associations following revisions made to an earlier version to address risks associated with the integration of generative artificial intelligence (AI) into search services.

What content is covered by the Search Code?

The Search Code includes minimum compliance measures for providers of Internet Search Engine Services (SES Providers) to address, minimise and prevent harms associated with access and exposure to the most harmful forms of online material. Material intended to be covered by the Search Code includes:

- class 1A material, which is comprised of child exploitation material, pro-terror material, and extreme crime and violence material, and
- class 1B material, which is comprised of crime and violence material and drug-related material¹.

These types of material are subcategories of class 1 material under Australia's Online Safety Act 2021 (Cth). Serious harms are associated with these kinds of material whenever it is produced, distributed or consumed.

Importantly, the definitions of class 1 (and class 2) material under the Act capture deepfake or synthetically generated material which meet the requirements of the particular class of material. This means that commitments applying to class 1 content in the Search Code (and other codes) apply to content generated via artificial intelligence.

Why did eSafety require the Search Code be resubmitted?

In June 2023, eSafety reserved the decision to register the Search Code due to announcements from the major SES Providers (Microsoft² and Google³) regarding their intention to implement generative AI functionality into their internet search engine services.

¹ Importantly, the nature of the material, including its literary, artistic or educational merit, and whether it serves a medical, legal, social or scientific purpose, is relevant to the assessment of class 1B material. Material only falls within class 1B if there is no justification for the material.

² <https://support.microsoft.com/en-au/topic/how-bing-delivers-search-results-d18fc815-ac37-4723-bc67-9229ce3eb6a3#:~:text=Our%20Approach%20to%20Search%201%20We%20provide%20the,misleading%20information.%203%20We%20respect%20user%20intent.%20>

³ <https://blog.google/products/search/generative-ai-search/>

This significant change in functionality impacted how internet search engine services would be defined. eSafety asked industry to reconsider the scope and measures proposed in the Search Code and how it would provide appropriate community safeguards for Australian end-users, particularly in relation to the risk of class 1A and class 1B material being generated in response to search or generative queries on their services.

How does the Search Code consider Generative AI functionality?

The scope of the Search Code now makes it clear that search functionality enabled by large language models, multimodal foundation models and other artificial intelligence models, is considered part of a search engine service when integrated into the internet search engine service. The definition of search results has been expanded to include any generated content that an internet search engine service may generate using generative AI functionality.

With the changes to the Search Code, SES Providers must now review and improve their artificial intelligence functionality in the same way they will have to for the algorithmic optimisation to ensure class 1A material is not returned in search results.

What services does the registered Search Code cover?

The minimum requirements under the Search Code apply to any internet search engine services provided to users in Australia including, but is not limited to, Bing, Google Search, DuckDuckGo and Yahoo.

The Search Code does not apply to site specific or internal search tools which do not search materials on the World Wide Web, e.g., when a news site offers a search tool enabling users to search their archive of news articles.

What steps will SES Providers need to take under the registered Search Code?

Under the Search Code, SES Providers will be required to:

- take appropriate steps to ensure that the effectiveness of the internet search engine functionality is regularly reviewed to reduce the accessibility/discoverability of class 1A material and adjust the algorithms to reduce the risk accordingly
- take appropriate steps to deploy appropriate mitigations such as tuning, classifiers, adversarial testing or meta prompts to mitigate the risk class 1A materials are returned in search results
- take appropriate steps to delist or block search results that contain known child sexual abuse material (CSAM)
- implement appropriate, policies, processes, systems and technologies designed to

reduce the accessibility or discoverability of class 1A material

- provide online safety information and information about eSafety to parents and carers
- take appropriate steps to ensure that autocomplete or predictive entries that appear on the internet search engine service do not include, without justification, terms that have known associations to child sexual exploitation material based on keyword searches and input from independent organisations that have expertise in combatting child sexual exploitation material
- take appropriate steps to ensure that search results specifically seeking images of known child sexual abuse material are accompanied by deterrent messaging that outlines the potential risk and criminality of accessing images of child sexual abuse material
- take appropriate steps to improve systems, processes and/or technologies that aim to reduce the safety risks to end-users concerning synthetic materials generated by artificial intelligence that may be accessible via the internet search engine service
- respond to user reports of seriously harmful online material and to deal with complaints about how they have handled such reports
- communicate with eSafety and to provide annual reports to eSafety, and
- have easily accessible and plain language policies.

The Search Code also sets out specific generative AI measures to minimise and prevent the generation of synthetic class 1A material on internet search engine services, requiring SES Providers to:

- take appropriate steps to improve systems, processes and/or technologies that aim to reduce the safety risks to end-users concerning synthetic materials generated by artificial intelligence that may be accessible via the internet search engine service
- take appropriate steps to ensure that any features integrated in an internet search engine service that are enabled by artificial intelligence such as longer form answers, summaries or materials do not return search results that contain child sexual abuse material
- where relevant, make clear when a user is interacting with any features using artificial intelligence

What happens next?

The Search Code will come into effect six months from the date the code is registered by eSafety. This is expected to be very shortly.

eSafety will oversee enforcement of the Search Code to ensure that industry is complying with the requirements they have agreed to meet. eSafety will be able to receive complaints about compliance with the Search Code and investigate potential breaches.

Industry codes are backed up by powers to seek enforceable undertakings and injunctions to ensure compliance. Code breaches may be subject to civil penalties.