From:	Codes <codes@eSafety.gov.au>
Sent:	Thursday, 14 November 2024 11:39 AM
Subject:	eSafety regulatory updates and materials – Phase 1 Codes and Standards, Phase 2 Codes, BOSE [SEC=UNOFFICIAL]

Categories:	to do

Dear all,

We are writing with some regulatory updates from eSafety about Phase 1 Codes and Standards, Phase 2 Codes, and the Basic Online Safety Expectations (**BOSE**).

Phase 1 Codes and Standards (Class 1 Material)

Industry Standards Regulatory Guidance

Phase 1 Industry Standards will regulate Relevant Electronic Services (**RES**) and Designated Internet Services (**DIS**) in relation to Class 1 material. The Standards are due to commence on 22 December 2024. eSafety has now published regulatory guidance to assist industry in implementing the Standards.

The existing regulatory guidance for Phase 1 Industry Codes has also been updated. This includes updates noting that:

- eSafety will not take enforcement action against services which are currently required to comply with the Social Media Services Code for not providing an annual compliance report, where they are now required to comply with the RES standard from 22 December 2024.

- eSafety will not take enforcement action against services who do not participate in an annual forum in year one of the codes' application (that is, 16 December 2023 – 15 December 2024), as required by the Social Media Services, Equipment Services, and App Distribution Services Codes. This follows a request from the industry associations in Australia.

Both sets of regulatory guidance can be found on the eSafety website: Regulatory schemes | eSafety Commissioner

Following Parliamentary scrutiny, eSafety has also published supplementary explanatory statements to the RES and DIS Standards, to provide further clarity on protections in relation to end-to-end encryption, and the treatment of Class 1B material, amongst other matters. The supplementary explanatory statements can be found on eSafety's register of industry codes and standards: Register of industry codes and industry standards for online safety | eSafety Commissioner, as well as the Federal Register of Legislation.

Annual code compliance reports – suggested templates

Mandatory annual code compliance reports covering the first year of Phase 1 Industry Codes operation are required to be provided to eSafety by **15 February 2024,** by the following service providers:
- Tier 1 social media service providers (that are not required to comply with the RES Standard)
- Tier 1 equipment services/operating system providers

eSafety has published suggested code compliance report templates and guidance to assist these service providers prepare and complete their annual code compliance reports. While these templates are optional, they provide information and guidance on what eSafety considers are helpful to include in a code compliance report. These templates can be found on eSafety's website: Industry codes and standards compliance | eSafety Commissioner
We encourage industry associations responsible for developing the Social Media Services Code and the Equipment

Services Code to share the suggested code compliance report templates and guidance with their members.

Industry Codes and Standards Compliance Portal

Service providers regulated by Phase 1 Industry Codes can now access eSafety's Industry Codes and Standards Compliance Portal to communicate with and provide eSafety the following information and reports as required by the applicable industry code:

- Changes to the functionality of their service or a new feature
- App removals notifications
- Code compliance reports.

Portal Link: eSafety Commissioner - Codes and Standards Industry Compliance Portal - Codes and Standards Industry Compliance Portal

Service providers can also submit general enquiries through the portal. All other information or notifications required to be provided to eSafety should continue to be sent to codes@esafety.gov.au. We encourage industry associations to share the portal link with their members.

Phase 2 Industry Codes (Class 1C and Class 2 Material)

eSafety received interim draft Phase 2 codes from industry associations on 3 October 2024, as required by the notices for code development issued in July. eSafety thanks everyone who contributed to the production of the draft codes. As required under the *Online Safety Act,* public consultation on the draft codes has now commenced and will be open until 22 November 2024. We look forward to receiving final draft Phase 2 codes for assessment by 19 December 2024. After this time eSafety will consider whether the codes contain appropriate community safeguards and should be registered, or if there is a need to develop any industry standards. Further information about the Phase 2 codes and public consultation can be found on the eSafety website: https://www.esafety.gov.au/industry/codes, as well as the industry associations' website: Phase Two Codes | Online Safety

Basic Online Safety Expectations

eSafety will continue to use its transparency powers in relation to the BOSE to improve transparency and accountability. The regulatory guidance for the BOSE, which was updated in July 2024 to reflect the amended BOSE Determination (which was broadened to include explicit expectations on issues like generative AI and the safety of recommender systems), is available on the eSafety website: Regulatory schemes | eSafety Commissioner

Please do not hesitate to contact the relevant eSafety team if you have any questions on the above.

Kind regards,

eSafety

eSafety acknowledges all First Nations people for their continuing care of everything Country encompasses — land, waters and community. We pay our respects to First Nations people, and to Elders past, present and future.

From:	Codes
Sent:	Thursday, 5 December 2024 7:57 PM
To:	ClothOff Support
Subject:	Re: Information about Australia's mandatory online safety Standards [SEC=OFFICIAL]

Dear s 47F ,

Thanks for your message and the update. The regulatory guidance has now been published and can be found here https://www.esafety.gov.au/sites/default/files/2024-11/Phase1-Standards-Class1A-and-1B-Regulatory-Guidance-Nov2024.pdf?v=1733388845794

Let us know if you have any questions.

It would be helpful to hear about the changes that have been put in place.

Kind regards,

eSafety

From: ClothOff Support
Sent: Thursday, December 5, 2024 19:48
To: Codes
Subject: Re: Information about Australia's mandatory online safety Standards [SEC=OFFICIAL]
Good afternoon! Thank you for the information, we are waiting for regulatory guidance.

Our team has already made changes on the project to meet the projected regulations.
Best wishes
--

s 47F
Support Manager

✉ support@clothoff.io
🔗 clothoff.io

Monday, November 11, 2024 3:06 AM +03:00 from Codes :

<div align="center">

OFFICIAL

</div>

Dear ClothOff,

Thank you for your question.

Services do not 'belong in' a Class 1 category. Rather, Class 1 (including Class 1A and 1B) refers to the types of harmful online material which the Industry Standards are designed to minimise and prevent harms associated with access and exposure to.

Services are required to comply with the code or standard that relates to their features and functions. ClothOff is likely to be captured by the [Designated Internet Services (DIS) Standard](#), which comes into force on 22 December 2024.

Within that Standard are different risk profiles that determine the obligations of services. Providers of generative AI services should consider whether the service meets the definition of a high impact generative AI DIS, which is defined with reference to the potential for the generation of synthetic 'high impact material'. High impact material is defined section 6 of the Standard, and includes online pornography. The specific obligations placed upon providers of high impact generative AI DISs are summarised in the table in section 12 of the DIS Standard.

eSafety will publish regulatory guidance in the next couple of weeks, which will be shared with you, and will provide further information.

Kind regards,

eSafety

From: ClothOff Support <support@clothoff.io>
Sent: Wednesday, November 6, 2024 3:29 AM
To: Codes <codes@eSafety.gov.au>
Subject: Re: Information about Australia's mandatory online safety Standards [SEC=OFFICIAL]

Greetings! Thank you for contacting the ClothOff team and for providing all the information!

As it was indicated in the document, we also able to ask some our clarification questions regarding classification of Clothoff service.

Based on your message above, we concluded that our service belongs to class 1A.

However, after studying the information we made an assumption that Clothoff service belongs to class 1C as our service is a web application with functionality of a high generative AI DIS.

Could you please help us and clarify that moment? So it could be better prepared according to Australian laws.

Best wishes

--

s 47F

Support Manager

✉ support@clothoff.io

🔗 clothoff.io

Thursday, October 3, 2024 10:09 AM +03:00 from Codes <codes@esafety.gov.au>:

OFFICIAL

Dear Clothoff.io team,

We write from the Office of the eSafety Commissioner in Australia. eSafety is the statutory regulator for online safety in Australia, as provided for by the Online Safety Act 2021.

We are reaching out to service providers who may be subject to mandatory Industry Standards, which are due to come into effect on 22 December 2024. The two industry standards – and the six other industry codes which are already in effect – can be foundat the eSafety website. For an overview of each Standard, you can download the fact sheets.

The Standards are designed to minimise and prevent harms associated with access and exposure to the most harmful forms of online material, referred to as 'class 1A' and 'class 1B' material.

- Class 1A includes child sexual exploitation material, pro-terror material, and extreme crime and violence material.
- Class 1B includes crime and violence material, and drug-related material.

Material can include text, audio or image, irrespective of whether it is computer generated.

The two standards cover:

- **Designated Internet Services (DIS)**, including apps, websites, file and photo storage services, and some services which deploy or distribute generative AI models.
- **Relevant Electronic Services (RES)**, including services which enable end-users to communicate with one another such as email, instant messaging and chat services, certain gaming services, and dating services.

We recommend considering whether your service is regulated under the DIS Standard, and in particular, under the *high impact generative AI DIS* category (as defined in section 6 of the DIS Standard). If it is covered by the DIS Standard, you may be subject to obligations such as:

- Having policies against using the service for class 1A and 1B material.
- Implementing user reporting tools.
- Implementing systems, processes and technologies that prevent end-users from generating outputs of child sexual exploitation material and pro-terror material.

eSafety will release regulatory guidance ahead of the Standards taking effect to assist service providers to understand their compliance requirements. In the event of non-compliance, eSafety has a range of enforcement powers, including issuing an infringement notice (a fine), or seek an injunction or civil penalty in court.

We would be happy to discuss the above with you further. Please feel free to reach out with any questions.
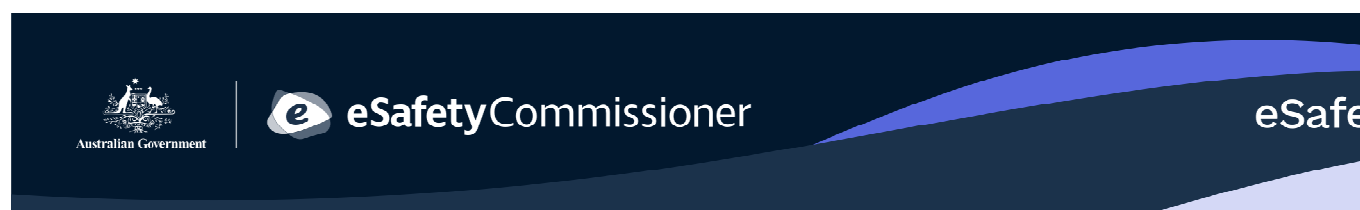
Regards,

eSafety | Industry Codes and Standards

s 22

Senior Advisor | Industry Codes

☎ s 22

From:	Codes
Sent:	Wednesday, 8 January 2025 12:25 PM
To:	support@clothoff.net
Cc:	Codes
Subject:	RE: Information about Australia's mandatory online safety Standards [SEC=OFFICIAL]

Follow Up Flag:	Follow up
Flag Status:	Completed

<div align="center">

OFFICIAL

</div>

Hi ClothOff,

Thank you for your response.

As set out in our correspondence of 14 November 2024, eSafety has now published Regulatory Guidance to assist industry in implementing the Standards, which can be found at the eSafety website: Regulatory guidance | eSafety Commissioner. We note that the Designated Internet Services (DIS) Standard referred to below is now in force.

We encourage you to read the Regulatory Guidance in full, and particularly pages 45 to 48 which contains an explanation of the scope of the 'high impact generative AI DIS' category and its respective obligations. The guidance also notes that to ensure service providers have sufficient time to prepare, eSafety will not take enforcement action in the first six months of the Phase 1 Standards coming into effect, apart from exceptional circumstances such as in response to serious or deliberate non-compliance.

Thank you for advising us that ClothOff has made changes. Could you provide us with details of what those changes consist of? We are also happy to discuss any questions you may have regarding compliance.

Kind regards,

eSafety

From: ClothOff Support <support@clothoff.io>
Sent: Thursday, December 5, 2024 7:46 PM
To: Codes <codes@eSafety.gov.au>
Subject: Re: Information about Australia's mandatory online safety Standards [SEC=OFFICIAL]

Good afternoon! Thank you for the information, we are waiting for regulatory guidance.

Our team has already made changes on the project to meet the projected regulations.

--

Best wishes

s 47F

Support Manager

✉ support@clothoff.io

🔗 clothoff.io

Monday, November 11, 2024 3:06 AM +03:00 from Codes <codes@esafety.gov.au>:

OFFICIAL

Dear ClothOff,

Thank you for your question.

Services do not 'belong in' a Class 1 category. Rather, Class 1 (including Class 1A and 1B) refers to the types of harmful online material which the Industry Standards are designed to minimise and prevent harms associated with access and exposure to.

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Kind regards,

eSafety

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Could you please help us and clarify that moment? So it could be better prepared according to Australian laws.

--

Best wishes

s 47F
Support Manager

✉ support@clothoff.io

🔗 clothoff.io

Thursday, October 3, 2024 10:09 AM +03:00 from Codes <codes@esafety.gov.au>:

OFFICIAL

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s 22

Senior Advisor | Industry Codes

📞 s 22

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From:	Microsoft Outlook
To:	ClothOff Support
Sent:	Wednesday, 8 January 2025 12:02 PM
Subject:	Undeliverable: RE: Information about Australia's mandatory online safety Standards [SEC=OFFICIAL]

Delivery has failed to these recipients or groups:

ClothOff Support (support@clothoff.io)
Your message couldn't be delivered. The Domain Name System (DNS) reported that the recipient's domain does not exist.

Contact the recipient by some other means (by phone, for example) and ask them to tell their email admin that it appears that their domain isn't properly registered at their domain registrar. Give them the error details shown below. It's likely that the recipient's email admin is the only one who can fix this problem.

For more information and tips to fix this issue see this article: https://go.microsoft.com/fwlink/?LinkId=389361.

Diagnostic information for administrators:

Generating server: ME3P282MB3805.AUSP282.PROD.OUTLOOK.COM

support@clothoff.io
Remote server returned '550 5.4.310 DNS domain clothoff.io does not exist [Message=InfoDomainNonexistent] [LastAttemptedServerName=clothoff.io] [SY3PEPF0000A78E.ausprd01.prod.outlook.com 2025-01-08T01:01:39.532Z 08DD2BE520B36D53]'

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To: ClothOff Support
CC: Codes
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Thread-Topic: Information about Australia's mandatory online safety Standards
 [SEC=OFFICIAL]
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Date: Wed, 8 Jan 2025 01:01:35 +0000
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From:	Codes
Sent:	Monday, 23 June 2025 8:46 AM
Cc:	Codes
Subject:	Correspondence from the eSafety Commissioner - Codes and Standards (Class 1) [SEC=UNOFFICIAL]

Dear all,

As you are aware the *Online Safety (Relevant Electronic Services— Class 1A and Class 1B Material) Industry Standard 2024* and the *Online Safety (Designated Internet Services— Class 1A and Class 1B Material) Industry Standard 2024* (the **Standards**) were registered on 21 June 2024 and commenced on 22 December 2024. Five industry codes in relation to Class 1A and Class 1B material have also been in force since 16 December 2023, with another commencing on 12 March 2024 (the **Codes**).

eSafety stated in its regulatory guidance it would not take enforcement action until six months after commencement of the Standards, other than in exceptional circumstances. This 6-month period was intended to give services additional time to improve their compliance with the Standards. That period has now ended.

eSafety's compliance and enforcement priorities for applicable Industry Codes and Standards for the next six months are:

i. key 'proactive' obligations, in particular the detection, disruption and deterrence of child sexual abuse material and pro-terror material;

ii. ensuring user reporting mechanisms are compliant; in particular that they are clear, harm-specific, and reports are actioned appropriately and in a timely manner;

iii. obligations in relation to generative AI;

iv. safety by design/safety feature obligations, such as privacy by default settings for children's accounts; and,

v. ensuring services have sufficient trust and safety resources, and that these possess appropriate skills, experience and qualifications to comply with applicable codes and standards.

While these will guide our prioritisation of matters for enforcement, eSafety may take action in relation to any failure to comply with the industry Codes or the Standards, in particular where there is a risk to the online safety of Australians.

eSafety will continue to proactively monitor compliance, including through use of our investigation and information gathering powers, where appropriate. This may also involve testing of services to ensure certain required features or processes are present and compliant, and/or to ascertain the risks on a service.

In general, and subject to any submissions by providers, eSafety will publish details of enforcement action taken, in the interests of transparency and to ensure specific and general deterrence.

For the avoidance of doubt, receipt of this correspondence does not necessarily communicate any specific compliance concern, but is for the information of a wide range of services.

Your sincerely,

Julie Inman Grant

1

eSafety acknowledges all First Nations people for their continuing care of everything Country encompasses — land, waters and community. We pay our respects to First Nations people, and to Elders past, present and future.

From:	s 47E(c), s 47F
Sent:	Monday, 23 June 2025 8:47 AM
To:	s 22 ; s 22 s 22
Subject:	FW: Correspondence from the eSafety Commissioner - Codes and Standards (Class 1) [SEC=UNOFFICIAL]

To note/for records

From: Microsoft Outlook <MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@esafety365.onmicrosoft.com>
Sent: Monday, 23 June 2025 8:46 AM
To: Codes
Subject: Undeliverable: Correspondence from the eSafety Commissioner - Codes and Standards (Class 1) [SEC=UNOFFICIAL]

Delivery has failed to these recipients or groups:

support@clothoff.io
Your message couldn't be delivered. The Domain Name System (DNS) reported that the recipient's domain does not exist.

Contact the recipient by some other means (by phone, for example) and ask them to tell their email admin that it appears that their domain isn't properly registered at their domain registrar. Give them the error details shown below. It's likely that the recipient's email admin is the only one who can fix this problem.

For more information and tips to fix this issue see this article: https://go.microsoft.com/fwlink/?LinkId=389361.

Diagnostic information for administrators:

Generating server: ME3P282MB3603.AUSP282.PROD.OUTLOOK.COM

support@clothoff.io
Remote server returned '550 5.4.310 DNS domain clothoff.io does not exist [Message=InfoDomainNonexistent] [LastAttemptedServerName=clothoff.io] [SY1PEPF00005A9D.ausprd01.prod.outlook.com 2025-06-22T22:46:07.940Z 08DDB1099F3F6BFD]'

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 (Class 1) [SEC=UNOFFICIAL]
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