# Tuned marketing, alcohol and privacy laws: where Australia falls short

Last month the Australian Government tabled the [Privacy and Other Legislation Amendment Bill 2024](https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;page=0;query=BillId%3Ar7249%20Recstruct%3Abillhome), which has been described as a first tranche of measures to be implemented out of the review of the Privacy Act.

After extensive government consultation, almost one year ago, the Australian Government agreed, or agreed in principle, to over 100 of fundamental changes to the Act that would better protect Australians when online [in their response to the recommendations from the review](https://www.ag.gov.au/rights-and-protections/publications/government-response-privacy-act-review-report).

However, very few of these proposals were present in the Bill tabled recently.

There were some important first-step measures such as the development of a Children’s Online Privacy Code and a statutory tort for serious invasion of privacy.

It is being proposed that a Children’s Online Privacy Code be developed by the Australian Information Commissioner rather than by industry as is the case in many other Codes under the Act.

This acknowledges the inherent commercial conflicts of interest held when it comes to the collection, use and disclosure of children’s data. It would also require the Australian Information Commissioner to consult with the eSafety Commissioner and the National Children’s Commissioner in its development.

However, the reforms encapsulated in the Bill fall well short of the fundamental reforms identified through the review that would bring our laws up to speed with the current digital world in which we now live, including protecting children and others most at risk of harm.

This includes requiring that companies have regard to the best interests of the child when considering whether data collection, use or disclosure is fair and reasonable in the circumstances, and prohibiting companies trading in the personal information of children, targeting and marketing to children when they are online.

Privacy reform is urgently needed, with few checks and balances for data-driven marketing practices. This is most evident when you look at what is happening with kids data online.

By a child’s 13th birthday, [advertising technology companies have collected more than 72 million data points on them](https://www.superawesome.com/superawesome-launches-kid-safe-filter-to-prevent-online-ads-from-stealing-childrens-personal-data/). Companies like Meta have been shown [to gather data for psychological insights](https://www.theaustralian.com.au/subscribe/news/1/?sourceCode=TAWEB_WRE170_a&dest=https%3A%2F%2Fwww.theaustralian.com.au%2Fbusiness%2Fmedia%2Fdigital%2Ffacebook-targets-insecure-young-people-to-sell-ads%2Fnews-story%2Fa89949ad016eee7d7a61c3c30c909fa6&memtype=anonymous&mode=premium&v21=HIGH-Segment-2-SCORE&V21spcbehaviour=appendend) on Australian children, including monitoring kids in real time to know their mood and when they feel overwhelmed and anxious.

The ability to identify real-time mood to target advertising is extremely concerning. In the moments that a person is feeling down, stressed, or anxious, they can be identified and targeted with ads for alcohol, an addictive product that is shown to negatively impact our mental and physical health.

Digital platforms conduct real-time experiments on us, using the extensive data they collect and generate about us, to target us with advertising we will be most susceptible to. This is deeply invasive and creates new harms when it comes to online marketing.

Consider the harm that can come from this [tuned advertising](https://www.croakey.org/investigating-the-power-of-big-tech-from-a-landmark-judgement-to-changing-research-paradigms/) for an addictive and harmful product like alcohol. Where people who are already at most risk of harm are targeted with ads at the times they are most likely to crave alcohol, with a limited time promotion for their most consumed alcoholic product, telling them that this product can help them unwind. That with a click of a button they can be sold and delivered the product into their homes within minutes.

Alcohol companies themselves are directly investing in the business of data, with the alcohol and gambling corporation, Endeavor Group, developing an [AI-powered engine](https://www.itnews.com.au/news/endeavour-group-builds-an-ai-powered-personalisation-engine-565124) for tuning alcohol advertising, fuelled by the extensive data they collect and access. This includes data they collect on [6.2 million Australians through their My Dan program](https://www.afr.com/companies/infrastructure/dan-murphy-s-loyalists-drive-endeavour-group-20220331-p5a9lf), and that is collected through the Woolworths Everyday Rewards program.

Alcohol companies have also been[found to directly upload data about Australian children](https://www.vichealth.vic.gov.au/resources/resource-download/citizen-voices-against-harmful-marketing) to social media company marketing algorithms, and that these social media companies generate advertising tags for children related to alcohol. It then comes as no surprise that kids are being targeted with alcohol ads when they are online.

While the introduction of a Children’s Online Privacy Code to the Privacy Act is a welcome measure, the proposals in the Bill tabled last month fall well short of the Government’s response to its multiyear review of the Privacy Act just one year ago.

We are already well behind the rest of the world when it comes to data protections and our privacy laws haven’t been meaningfully updated since before the internet and social media.

Wholesale privacy law changes are a crucial foundation to ensuring the safety and wellbeing of Australians, and ensuring it is prioritised ahead of the profits of tech companies and companies selling harmful products like alcohol.