

Submission on the Online Safety Amendment (Digital Duty of Care) Bill 2026

September 2026

The Australian Retail Council (ARC) welcomes the opportunity to provide feedback on the Online Safety Amendment (Digital Duty of Care) Bill 2026 (the Bill).

ARC represents the Australian retail sector. Valued at \$444 billion, retail supports more than 1.4 million jobs, including employing more young Australians than any other industry. Retail is embedded throughout the economy and plays a critical role in Australian supply chains.

ARC advocates for policies and reforms that drive growth, resilience and long-term prosperity for Australian retail and the millions of Australians who rely on it. Our comments in this submission relate to our members that operate online platforms, e-commerce marketplaces and commercial websites.

General comments

ARC's key concern with the Bill is that the proposed duty of care would apply broadly to all online service providers, regardless of their risk profile. As drafted, the Bill applies a common duty across services with materially different risk characteristics, without clearly distinguishing between high-risk platforms and lower-risk commercial services.

Online retail platforms, e-commerce marketplaces and commercial websites operated by retailers would be captured alongside online services designed around open-ended user-generated content, social interaction and engagement-driven feeds. This would impose compliance obligations on retailers that are designed for materially different online services, even where their platforms present substantially lower online safety risks.

ARC recommends that online retail services with limited or no user-to-user interaction be exempt from the Duty. Alternatively, online retail services should only be subject to obligations that are proportionate to their assessed level of risk. This would recognise their low-risk profile, avoid unnecessary compliance burden and align their treatment with the existing codes and standards.

Detailed comments

1. The Duty should be proportionate to risk

The Bill applies a uniform duty of care (the Duty) across a broad range of online services without adequately differentiating by risk. To comply with the Duty, services may be required to manage design features, conduct risk assessments and take effective measures in response to those assessments. This approach risks imposing obligations on low-risk commercial services operated by retailers, including small and family-owned businesses, that are not comparable to the obligations appropriate for platforms with extensive user-generated content, social interaction or algorithmically driven engagement.

Online retail platforms, e-commerce marketplaces and commercial websites should not be treated in the same way as services designed to host, promote or amplify user-generated content. Retail services generally enable

commercial transactions, product discovery and customer support, rather than open-ended user-to-user engagement. The framework should therefore recognise the lower-risk profile of retail services and avoid imposing obligations that are disproportionate to the harms being addressed.

2. The Duty should focus on systems and processes within a provider's control

The Duty is outcome-based, requiring providers to “ensure, so far as reasonably practicable, a safe environment”. ARC considers that the obligation should instead focus on whether a provider has maintained effective systems and processes to identify, assess and manage relevant online safety risks. This would ensure providers are held accountable for matters within their reasonable control, rather than for outcomes that may be influenced by external factors beyond the design or operation of the service.

3. Online retail services should be exempt or subject to proportionate obligations

Online retail services, including marketplaces, product listing sites and commercial platforms with limited or no user-to-user interaction, should be exempt from the Duty or subject only to obligations proportionate to their level of risk. These services have already been assessed under the existing codes and standards as posing a low level of risk for the harms the Duty is seeking to address. A proportionate approach would reduce unnecessary compliance burden while preserving appropriate safeguards where genuine online safety risks arise.

4. The treatment of common retail design features should be clarified

As drafted, the Bill deems certain design features to have a “negative behavioural impact”, including recommender features, logged-in features, endless-feed features, feedback features, time-limited features and any other design feature determined by the Minister. This could inadvertently capture standard retail functionality, such as product recommendation tools that surface commercial product listings rather than harmful content. A product recommender on an online store should not be treated in the same way as an engagement-driven social media feed where the risks and intended use are materially different.

While the provision that uses the concept of “negative behavioural impact” appears to relate to social media services, the definition as drafted risks characterising all listed features as inherently negative. ARC considers this over-inclusion to be unintended and recommends clarifying the definition so that standard commercial tools used by retailers are not captured unless they are connected to the harms the Bill is intended to address.

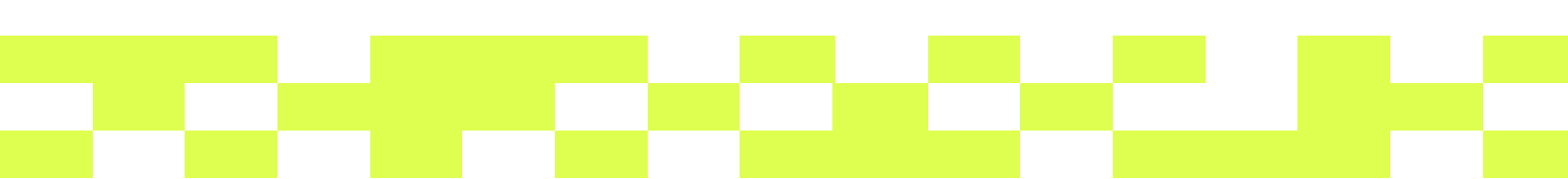
5. Risk assessment obligations should be appropriately confined

Every in-scope service would be required to conduct annual written risk assessments, retain records for six years and produce those records within 30 days. For online retailers, whose risk profiles are generally consistent and low, this would generate repetitive compliance outputs at significant cumulative cost, with limited additional safety benefit. The framework should recognise the low-risk nature of commercial retail services and exempt them from full annual assessment obligations or allow a simplified assessment pathway.

The risk assessment obligation should also be confined to risks directly relevant to the online safety harms addressed by the Bill. As drafted, the obligation to identify “all reasonably foreseeable risks” appears broader than the Duty itself and could create an open-ended compliance burden for retailers. ARC recommends that assessments be limited to risks clearly connected to the online safety standard established by the Bill.

6. User empowerment tools should not create unintended impacts for retailers

There remains uncertainty about which services may be required to introduce user empowerment tools. ARC recommends that any requirements for such tools be clearly targeted to services where they are necessary and



effective in addressing identified online safety risks. The Bill should also avoid unintended consequences for retailers' ability to communicate with customers and reach audiences through legitimate commercial channels, including social media engagement.

Please contact policy@retail.org.au if you have any questions about this submission.

About ARC

ARC represents the Australian retail sector. Valued at \$444 billion, retail is the nation's largest private sector employer, supporting more than 1.4 million jobs, including more young Australians aged 15 to 24 years than any other industry. ARC's membership is diverse. From family-owned small and independent businesses, comprising 95 per cent of our membership, to large national and international retailers supporting communities across metropolitan and regional Australia. With more than 155,000 retail outlets nationwide and a growing online presence, the retail sector is embedded throughout the economy, playing a critical role in the supply chain of Australian businesses. ARC advocates for policies and reform that drive growth, resilience, and long-term prosperity for Australian retail and the millions who rely on it. At a time of rapid change, from technological disruption and international competition to shifting consumer behaviour and sustainability expectations, effective policy settings are critical for retailers, workers, consumers, and communities.