

Balancing Child Protection and Freedom of Expression: A Comparative Analysis of Malaysia's Online Safety Act 2025 and International Digital Safety Frameworks

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ABSTRACT

This paper examines the interplay between child protection and freedom of expression in regulating children's access to social media, focusing on Malaysia's Online Safety Act 2025 and comparing it with laws from Singapore, Australia, and the United Kingdom. It analyses age-restriction laws, highlighting Malaysia's prohibition on under-16s using social media within international digital safety frameworks. Using comparative legal analysis, the study evaluates the hard bans in Malaysia and Australia against the risk-based age-assurance systems in the UK and Singapore. This paper employs a qualitative research methodology, utilising a doctrinal legal approach complemented by comparative analysis between the Malaysian legal position and the other three legal counterparts. The findings reveal debates over rights, privacy, and regulation, as well as implications for online service providers, including compliance burdens and the GDPR data minimisation principles. The paper concludes with recommendations for Malaysia to adopt risk-based assurance, enhance privacy protections, and promote digital literacy, while advocating for ASEAN-wide harmonisation of standards. This approach underscores the need for balanced frameworks that protect children while respecting their freedoms and ensuring service providers' compliance.

Keywords: Online Safety Act, Age-Restriction, Child Protection, Freedom of Expression, Data Minimisation Principles, ASEAN Harmonisation

INTRODUCTION

The regulation of children's access to social media has become a central issue in contemporary digital safety law. Governments worldwide are grappling with the tension between protecting minors from online harms and safeguarding their constitutional rights to freedom of expression and privacy. Malaysia's Online Safety Act 2025 is among the most stringent in ASEAN, explicitly prohibiting children under 16 from opening social media accounts (Malay Mail, 2026a). By contrast, the United Kingdom's Online Safety Act 2023 adopts a risk-based framework requiring platforms to implement "highly effective age assurance" systems without imposing a fixed age ban (Legislation.gov.uk, 2023; Ofcom, 2025). Australia's Online Safety Act 2021 similarly sets a minimum age of 16, enforced by the eSafety Commissioner (Federal Register of Legislation, 2021; eSafety Commissioner, 2025). Singapore's Online Safety (Relief and Accountability) Act 2025 and subsequent Codes of Practice require age assurance mechanisms but stop short of outright bans (Singapore Statutes Online, 2025; The Online Citizen Asia, 2026).

This comparative analysis explores the comparative laws in these four jurisdictions and the jurisprudential debates surrounding these frameworks, critiques their effectiveness, and examines the implications for online service providers or platforms tasked with implementing age restrictions. The paper concludes that the regulation of children's access to social media varies across jurisdictions. Malaysia and Australia's strict bans contrast with the UK and Singapore's assurance-based models. Several policy recommendations are made, particularly for Malaysia, Singapore and ASEAN harmonisation. The paper situates Malaysia's child-protection emphasis within a broader international context, highlighting the tenuous balance between safeguarding minors and preserving their digital rights.

COMPARATIVE LEGISLATIVE TIMELINE OF ONLINE SAFETY LAWS

Among the online safety laws compared here, Singapore's Protection from Online Falsehoods and Manipulation Act (POFMA) 2019 was the earliest to be enacted. The Minister for Law introduced the Bill in Singapore's unicameral Parliament in 2018. Despite concerns raised by the opposition, the Bill was passed, received presidential assent in 2019, was gazetted the same year, and came into force immediately.

In Australia, the Online Safety Act 2021 (ONSA 2021) was proposed in 2020 by the eSafety Commissioner and the Communications Ministry. The Bill was debated in both Houses and received strong bipartisan support in 2021, after which it was approved by the Senate and the House of Representatives before being signed into law by the Governor-General that same year. It was subsequently gazetted in the Commonwealth Gazette in 2021 and implemented in phases, beginning with cyberbullying, child safety, and platform duties. The ONSA 2021 was later amended by the Online Safety Amendment (social media Minimum Age) Act 2024, which was passed in late 2024 and came into force on December 10, 2025.

In the United Kingdom, the Online Safety Act 2023 was introduced in the House of Commons in 2021 by the Secretary of State for Culture, Media and Sport. The Bill underwent extensive parliamentary debate from 2022 to 2023, during which several amendments were adopted to strengthen safeguards for freedom of speech. It was subsequently approved by both the House of Commons and the House of Lords and received Royal Assent in 2023. The Act was gazetted in the same year and implemented in 2024 through a phased rollout focused on illegal content, child safety, and platform accountability.

In Malaysia, the Online Safety Act 2025 was introduced in the Dewan Rakyat in December 2024 by the Minister of Communications. The Bill was passed by the Dewan Rakyat on December 11, 2024, and approved by the Dewan Negara on December 16, 2024. It subsequently received Royal Assent on May 6, 2025, and was published in the Federal Gazette on May 22, 2025. The Act came into force on April 1, 2026, as part of a phased regulatory approach to strengthen platform accountability and user protection, particularly for children and families.

METHODOLOGY

This study adopts a *comparative legal research methodology*, combining doctrinal analysis with policy evaluation. The doctrinal component involves a close reading of statutory provisions, parliamentary debates, and regulatory codes and guidance under Malaysia's Online Safety Act 2025, the UK's Online Safety Act 2023, and Australia's Online Safety Amendment Acts 2021–2025. These texts were examined to identify the scope, rationale, and enforcement mechanisms of age-restriction provisions. The comparative dimension situates Malaysia's prohibitionist model alongside the UK's risk-based approach and Australia's rigid ban, highlighting convergences and divergences in regulatory philosophy. Policy evaluation was conducted using secondary sources, including regulatory reports, academic commentary, and civil society critiques. This triangulation ensures that the analysis is not limited to black-letter law but incorporates practical impacts on online service providers, particularly regarding compliance burdens and privacy safeguards. The same triangulation also has another significant practical impact on data minimisation principles. The methodology integrates *doctrinal precision with functional assessment*, aligning with established practices in comparative law research (Siems, 2018).

AGE RESTRICTIONS LAWS IN THE COMPARATIVE JURISDICTIONS

In Malaysia, section 18 of the Online Safety Act 2025 and the most recent subsidiary codes (the Children's Protection Code and the Risk Mitigation Code 2026) introduce one of the most stringent measures in the region by prohibiting children under 16 from opening social media accounts. Enforcement is tied to mandatory document-based verification, requiring users to upload identity cards or passports (Malay Mail, 2026a; The Malaysian Reserve, 2026). While this provision is praised for its clarity and strong child-protection focus, critics highlight privacy risks and the exclusion of marginalised youth without access to formal identification (Bernama, 2026; Badawi et al., 2024).

However, in Singapore, the Online Safety (Relief and Accountability) Act 2025 and subsequent Codes of Practice require platforms to implement age assurance systems but stop short of outright bans (Singapore Statutes Online, 2025; The Online Citizen Asia, 2026). This approach integrates parental and educational initiatives, reflecting a balance between protection and autonomy. However, concerns remain about executive dominance and the effectiveness of age assurance technologies (Freedom House, 2025).

In tandem with the Malaysian counterpart, the Online Safety Act 2021 in Australia establishes a clear minimum age of 16 for social media accounts, enforced by the eSafety Commissioner (Federal Register of Legislation, 2021; eSafety Commissioner, 2025). This hard ban provides certainty but raises questions about technological feasibility, the risk of false positives in age detection, and the risk of excluding children from beneficial online spaces (Montgomery, 2024).

In contrast to the Malaysian model, the United Kingdom Online Safety Act 2023 adopts a risk-based framework that requires platforms to implement "highly effective age assurance" systems to prevent children from accessing harmful content, with oversight by Ofcom (Legislation.gov.uk, 2023; Ofcom, 2025). Unlike Malaysia and Australia, the UK does not impose a fixed age ban; instead, it emphasises proportionality and regulatory oversight. Scholars note, however, that intrusive age-assurance technologies may compromise privacy and risk over-blocking legitimate content (Livingstone & Byrne, 2023).

THE DEBATES ON THE AGE-RESTRICTION LAWS

The debates surrounding the age-restriction law and freedom of expression highlight three themes. Firstly, on the issue of *rights vs protection*, the central debate centres on whether safeguarding children justifies restricting their rights to digital participation. In Malaysia, critics argue that prohibiting under-16s from social media infringes constitutional rights under Article 10 of the Federal Constitution, which guarantees freedom of expression. Digital literacy is increasingly seen as a right that should not be curtailed (Badawi et al., 2024; The Star, 2026a; The Star, 2026b). In contrast, the balance in Singapore is more nuanced. Age assurance is protective but less restrictive than outright bans. The debate questions whether executive-led enforcement undermines autonomy in the name of Protection (Freedom House, 2025).

Secondly, on *privacy vs enforcement*, enforcing age restrictions often requires intrusive verification measures. In Malaysia, document-based verification raises significant privacy concerns, particularly regarding data storage and potential leaks (Malay Mail, 2026a; The Star, 2026a; The Star, 2026b). Enforcement is strong but risks eroding trust in digital governance. Nevertheless, in Singapore, age-assurance technologies are less invasive but raise questions about accuracy and the potential misuse of data. Centralised enforcement heightens concerns about surveillance (The Online Citizen Asia, 2026).

Thirdly, concerning *regulation vs autonomy*, the debate also centres on the role of regulators versus user autonomy. In Malaysia, enforcement is ministerial and exercises broad discretion, raising concerns about regulatory overreach. The autonomy of users and platforms is curtailed in favour of strict compliance (Bernama, 2026; The Star, 2026a). However, in Singapore, executive dominance in enforcement raises similar concerns, although the absence of outright bans preserves some autonomy for users and platforms. The debate focuses on whether ASEAN harmonisation could balance regulation with individual rights (ASEAN Intergovernmental Commission on Human Rights, 2025).

THE CRITIQUES OF THE AGE-RESTRICTION LAWS

Malaysia's Online Safety Act 2025 adopts one of the most stringent approaches in ASEAN by explicitly prohibiting children under 16 from opening social media accounts and requiring mandatory document-based verification (Malay Mail, 2026a; The Star, 2026a). This provision is praised for its clarity and strong child-protection focus. However, scholars and civil society groups critique it for raising privacy risks, particularly the storage of sensitive identity documents, and for potentially excluding marginalised youth from digital participation (Bernama, 2026; The Star, 2026a; The Star, 2026b; Badawi et al., 2024). The debate in Malaysia thus centres on whether constitutional rights under Article 10 of the Federal Constitution should take precedence over protectionist imperatives.

The UK's Online Safety Act 2023 takes a different path, requiring platforms to implement "highly effective age assurance" systems to prevent children from accessing harmful content, but without imposing a fixed age ban (Legislation.gov.uk, 2023; Ofcom, 2025). This risk-based model is lauded for its flexibility and regulatory oversight, yet critics argue that intrusive age-assurance technologies may compromise privacy and lead to excessive blocking of legitimate content (Livingstone & Byrne, 2023; The Guardian, 2025). The jurisprudential debate here is whether a regulator-driven, flexible model better balances rights and safety than hard prohibitions.

Australia's Online Safety Act 2021 establishes a clear minimum age of 16 for social media accounts, enforced by the eSafety Commissioner (Federal Register of Legislation, 2021; eSafety Commissioner, 2025). While this clarity is seen as a strength, concerns arise about technological feasibility, the risk of false positives in age detection, and the risk of excluding children from beneficial online spaces (Montgomery, 2024). The debate in Australia asks whether a hard restriction should be softened to allow supervised access that fosters digital literacy.

Singapore's Online Safety (Relief and Accountability) Act 2025 and subsequent Codes of Practice require platforms to implement age-assurance systems but stop short of outright bans (Singapore Statutes Online, 2025; The Online Citizen Asia, 2026). This balanced approach integrates parental and educational initiatives, but critics highlight executive dominance, the risk of state overreach, and uncertainty about the effectiveness of age-assurance technologies (Freedom House, 2025). The jurisprudential question is whether Singapore's executive-centric model undermines freedom of expression more than it protects children.

Taken together, these jurisdictions illustrate the tension between protectionist bans (Malaysia, Australia) and risk-based assurance models (UK, Singapore). The comparative jurisprudence debate centres on whether safeguarding children justifies restrictions on their rights to digital participation, or whether regulatory oversight and flexible models better preserve constitutional freedoms while mitigating harm.

THE IMPLICATIONS FOR ONLINE SERVICE PROVIDERS

For licensed online service providers, these laws create significant compliance burdens. In Malaysia and Australia, service providers must implement document-based verification systems, which raise liability risks if sensitive identity data is mishandled. Compliance costs are high, and platforms face reputational risks if privacy breaches occur (Malay Mail, 2026a; The Star, 2026a; Skrine & Co, 2026; eSafety Commissioner, 2025). In the UK and Singapore contexts, service providers must invest in age-assurance technologies that balance effectiveness with privacy. This investment requires ongoing innovation and adaptation to regulator guidance (Ofcom, 2025; The Online Citizen Asia, 2026).

Regarding global harmonisation challenges, online service providers operating across jurisdictions face conflicting requirements - hard bans in Malaysia and Australia versus flexible assurance in the UK and Singapore. This situation complicates compliance strategies and may stifle innovation (ASEAN Intergovernmental Commission on Human Rights, 2025). Lastly, regarding regulatory oversight, in the UK and Australia, independent regulators (Ofcom, eSafety Commissioner) play a central role, whereas in Malaysia and Singapore, ministerial or executive dominance raises concerns about discretion and overreach (Bernama, 2026; The Star, 2026a; Freedom House, 2025).

IMPACTS OF AGE-RESTRICTIONS MODELS ON DATA MINIMISATION PRINCIPLES

The *principle of data minimisation*, enshrined in Article 5(1)(c) of the EU General Data Protection Regulation (GDPR), requires that personal data collected be "adequate, relevant and limited to what is necessary" for processing. This principle provides a benchmark for evaluating how age-restriction laws in Malaysia, Singapore, the UK, and Australia affect children's access to social media and the corresponding privacy or constitutional implications.

In Malaysia, the Online Safety Act 2025 adopts a *prohibitionist model*, banning accounts of under-16s outright. Platforms must demonstrate compliance through audits and verification, often requiring the collection of broad identity data, such as through eKYC processes. This model undermines minimisation by compelling platforms to retain more personal data than necessary, thereby raising constitutional privacy concerns and surveillance risks (Haylock & Lai, 2025; ARTICLE 19, Centre for Independent Journalism, & Sinar Project, 2026; Islam, Zulhuda, Badrol Afandi, & Shafy, 2020).

In contrast, Singapore's regulatory practice emphasises selective, risk-based interventions under POFMA and PDPC guidelines. Age assurance is applied in high-risk contexts rather than universally, allowing platforms to limit data collection to specific scenarios. This approach aligns more closely with GDPR's minimisation principle, as it avoids blanket verification, though reliance on executive discretion risks uneven enforcement (Islam et al., 2020; Infocomm Media Development Authority [IMDA], 2025; Personal Data Protection Commission [PDPC], 2024).

In the United Kingdom, the Online Safety Act 2023 implements a *risk-based model*, requiring platforms to conduct risk assessments and adopt proportionate safeguards. Privacy-preserving tools such as parental controls and behavioural monitoring avoid universal identity checks, reflecting GDPR's minimisation ethos (Livingstone & Byrne, 2023). However, uneven enforcement remains a concern if platforms invest in safeguards, a point emphasised by the Information Commissioner's Office (ICO, 2025).

The Australian Online Safety Amendment (Social Media Minimum Age) Act 2024 imposes a strict ban on under-16s using social media and requires mandatory age verification via ID or biometrics. This prohibition ensures certainty but directly conflicts with minimisation, as platforms must collect and retain sensitive personal data beyond what is necessary for service provision. Australian commentators contend that this expands the data footprint, increasing risks of misuse, breaches, and surveillance (Greenleaf, 2022; Australian eSafety Commissioner, 2025).

The comparative analysis indicates that Malaysia and Australia prioritise certainty and child protection. However, expanding the data footprint undermines GDPR's minimisation principle. In contrast, Singapore and the UK adopt risk-based approaches that better align with data minimisation, although both jurisdictions face uneven enforcement. The comparative lesson is that effective child safety regulation must reconcile protection imperatives with privacy safeguards, ensuring that age assurance mechanisms do not erode constitutional rights or international data protection standards.

CONCLUSION

The regulation of children's access to social media varies across jurisdictions. Malaysia and Australia adopt strict prohibitions, setting a minimum age of 16 and requiring document-based verification (Malay Mail, 2026a; The Star, 2026a; The Star, 2026b; Federal Register of Legislation, 2021). These frameworks prioritise child protection but raise concerns about privacy, exclusion, and digital literacy (Badawi et al., 2024; Montgomery, 2024; Skrine & Co, 2026; The Star, 2026a; The Star, 2026b). In contrast, the UK and Singapore emphasise risk-based age assurance, requiring platforms to deploy technologies that assess and mitigate risks without imposing outright bans (Legislation.gov.uk, 2023; Singapore Statutes Online, 2025). These models are praised for flexibility and proportionality but criticised for privacy intrusions and potential state overreach (Livingstone & Byrne, 2023; Freedom House, 2025).

The comparative analysis reveals three recurring themes. Firstly, in the context of *rights vs protection*, Malaysia and Australia prioritise safety but risk infringing on minors' rights to digital participation. At the same time, the UK and Singapore aim to balance protection with autonomy. Secondly, regarding *privacy vs enforcement*, document verification in Malaysia and Australia raises privacy risks, while age assurance in the UK and Singapore raises concerns about surveillance and technological accuracy. Thirdly, concerning *regulation vs autonomy*, independent regulators in the UK and Australia provide oversight, whereas ministerial or executive dominance in Malaysia and Singapore raises concerns about discretion and overreach.

POLICY RECOMMENDATIONS

In the Malaysian context, the Government should shift from strict bans to risk-based assurance, replacing blanket prohibitions with risk-based frameworks that allow supervised access for minors and align with international best practices (Ofcom, 2025; The Star, 2025; Skrine & Co, 2026). Secondly, Malaysia should strengthen privacy safeguards by introducing statutory limits on data retention and requiring independent audits of age-verification systems to mitigate privacy risks (Bernama, 2026; Skrine & Co, 2026). Thirdly, Malaysia should enhance digital literacy, complementing age restrictions with nationwide programs to empower children and parents (Malay Mail, 2026b; The Star, 2025).

In relation to Singapore, firstly, executive dominance should be limited, and independent oversight mechanisms should be established to ensure proportionate enforcement and accountability (Freedom House, 2025). Secondly, Singapore should improve transparency in age assurance by requiring platforms to disclose the methodologies and accuracy rates of age-assurance technologies (The Online Citizen Asia, 2026). Thirdly, regional collaboration should be enhanced, and Singapore should lead ASEAN efforts to harmonise standards while balancing protection with rights.

In the efforts toward ASEAN harmonisation, it is recommended that ASEAN develop a regional Code of Practice and adopt a shared framework for age assurance that balances child protection with privacy and autonomy (ASEAN Intergovernmental Commission on Human Rights, 2025). Secondly, regarding mutual recognition of standards, ASEAN should encourage interoperability of age-assurance technologies across member states to reduce compliance burdens for service providers. Thirdly, for rights-based safeguards, ASEAN should embed children's rights to digital participation and privacy into its harmonised framework, drawing on UNICEF and international human rights standards (UNICEF, 2025; Human Rights Watch, 2025).

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