

Global platforms, partial protections: Design discriminations on social media platforms

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Executive summary

This report documents several ways the privacy and safety offered to young people varies around the world on digital platforms that offer a 'global product'.

It looks at WhatsApp, Instagram and TikTok, and explores differences in their policies and practice in different countries, including:

1. Minimum age requirements
2. Provision of privacy policies in accessible languages
3. Defaulting 17 year-old accounts to public or private accounts

It finds significant variation between countries on seemingly identical platforms, which we describe as a form of design discrimination. This design discrimination means some young people are afforded less privacy and safety on a platform than others on the same platforms, depending on where in the world they live.

For example, in some countries Instagram defaults new accounts created for 17 year-olds to public, in others it prompts them to choose between public or private. In Europe, TikTok claims to offer young people "an age-appropriate experience" by turning "certain features" off, but it does not claim to turn them off in other countries. Likewise, WhatsApp offers greater clarity about the minimum age for young users in Europe than it does in the rest of the world. By and large, European children enjoy higher levels of privacy and protection than other children.

Regulations that require the prioritization of children's best interests are essential in ensuring children and young people's digital worlds are as safe, private and rights advancing as possible. These sorts of regulations are in place in the UK, Ireland, the Netherlands, France and Sweden, which may explain why European children are afforded more protections. But proposals are in consideration in California, Australia and the EU as a whole. Policymakers and civil society actors from around the world should give these regulations serious consideration to ensure that all young people are afforded the protection they deserve.

In addition, individual platforms should act in compliance with these requirements globally, not just in countries where they have legal obligations.

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Introduction

In many ways the digital world may be a great leveling force, giving children all over the world equal access to information and services. But it also creates new inequalities.

Children's rights are universal, and all children should be afforded them equally. Last year, the UN Committee on the Rights of the Child confirmed this with the release of the *General Comment no 25 on Children's Rights in Relation to the Digital Environment*. The General comment outlined how "the rights of every child must be respected, protected and fulfilled in the digital environment,"¹³ including the right to non-discrimination. No child should face discrimination in the digital world because of where they live. Yet this is not the case in reality.

Some of the world's largest tech companies and digital platforms offer discriminatory services, providing children and young people under 18 with different products and conditions, and variable levels of protection, based on where they live in the world.

Some of this variation is driven by different legislation and regulatory frameworks. Companies can and must comply with regulations where a country puts regulations in place to make the digital environment better for children. But some of it is driven by choice; it is a company's choice about whether they roll out these protections demanded in one country to *all* children and young people. As this report documents, often they choose not to.

These choices create real-world inequalities and discrepancies for children and young people. On the same global platforms, some under 18 year-olds are afforded higher levels of safety and privacy, while others are not. We would argue that this is a form of corporate discrimination against children, and is a direct violation of their rights.

There are a number of ways young people's enjoyment of protection and privacy varies around the world on seemingly identical platforms. This report documents variations in policies and practices around three different online safety and privacy features:

1. Minimum ages of users
2. Provision of terms and conditions in accessible languages
3. Defaulting 17 year-old accounts to public or private accounts

It explores these variations on three platforms, WhatsApp, Instagram and TikTok.

It looks at 14 different countries from around the world to demonstrate the different experiences WhatsApp, TikTok and Instagram provide children and young people. This report is concerned with the way the same global platforms offer localized, partial protections to children and young people around the world.

¹³ UN Committee on the Rights of the Child 2020 UN Committee on the Rights of the Child 2020 General Comment on Children's Rights in relation to the Digital Environment <https://www.ohchr.org/EN/HRBodies/CRC/Pages/GCChildrensRightsRelationDigitalEnvironment.aspx>, section 4

Method

The research underpinning this report was conducted by a global coalition of children and young people's and digital rights organizations based in the countries of investigation, and central researchers located in London and Sydney.

- This research explored variations in terms and conditions by conducting desk research of differing policies by central researchers.
- To explore minimum age requirements, privacy policies and other terms and conditions were analyzed by central researchers.
- To explore availability of products in official languages, apps and websites were used both by central researchers and local research organizations. We explored if apps provided menus and support, as well as privacy policies, in official languages.
- To explore variations in default settings for 17 year-olds, local researchers established experimental accounts on Instagram and TikTok for 17 year-olds. For ethical reasons:
 - All of the experimental accounts made exclusively for this research were identified as such (e.g. the handles chosen were 'NGO Name Research' 'Jane Doe Fairplay' or a similar name that would not encourage interaction). One already existed as part of ongoing research.
 - No contact was made with other children nor adults on these accounts.
 - All accounts were deleted at the end of the experiment unless they were part of an ongoing investigation by the researchers.

Design discriminations facing young people

TikTok's geography-limited age-appropriate experiences

TikTok's Privacy Policies from around the world document some of the differences in global services it offers young people. These include variations in safety features, privacy features, and different minimum ages.

Young people aged 13–17 years based in the EEA / UK & Switzerland are offered extra protection when it comes to age-appropriate features. As TikTok's policy outlines:

"To provide users younger than 18 with an age-appropriate experience, certain features are not available."¹⁴

This 'age appropriate experience' does not appear anywhere else in the world. This speaks to a lack of clarity about the age-appropriateness of the product when it comes to safety and privacy. If some of TikTok's features are unsafe for young people, they should be universally unavailable to young people under 18.

WhatsApp's differential treatment of data

In July 2021, Data Privacy Brazil undertook a comparative analysis exploring differences in the Terms and Conditions offered to Brazilian, Indian and European users, including users under 18.¹⁵ They found that:

- *European children enjoyed stronger data protections against unnecessary data sharing.* The European policy provides for greater limitation on the possibility of data sharing between WhatsApp and Meta (formerly Facebook). This reflects fundamentally different levels of data integration that is legally allowed between WhatsApp and Facebook, stemming from European regulations. This means that European children enjoy more purpose limitation on WhatsApp (or restricted use of data) than Indian or Brazilian children.¹⁶ For example, the Brazilian and Indian policies allow data use for the personalization of services of the Facebook Group companies ("improve, correct and customize our Services and link them to the Products of the Facebook Companies that you can use"), while the European one retains to elements of functionality and improvement of the service, with no equivalent wording regarding the "products of Facebook companies."

¹⁴ TikTok 2021 Privacy Policy EEA/CH/UK <https://www.tiktok.com/legal/privacy-policy-eea?lang=en>

¹⁵ Data Privacy Brazil Research Association 2021 available on request to contato@dataprivacybr.org

¹⁶ Michael Behr 'Facebook to access WhatsApp user data except in Europe' *Digit News* <https://www.digit.fyi/facebook-to-access-whatsapp-user-data-except-in-europe/>

- *European children enjoy more clarity about data deletion and what this means.* The European policy provides more clarity and commitment about data that is deleted. It explicitly states the backup for information security purposes and the period of 90 days. (Note that it takes up to 90 days from the beginning of the deletion process to delete your WhatsApp information). The European policy also provides greater detail on the information retained in case of account deletion, making it clear that deleting the mobile application is not deleting the WhatsApp account. Although all policies provide for a generic data storage period, the European one gives more details about it, especially regarding the deadlines for data deletion.

Instagram's privacy settings

In advance of the UK's *Age Appropriate Design Code* coming into force, Instagram announced a slew of changes for young people to offer a 'safer, more private experience.'

One of the changes they implemented was to default young people's accounts to the most private settings, so that when new young people join Instagram they are as private as they can be. Among other protections, this standard can prevent adult strangers from finding (and contacting) children and teens.

When they announced these changes, Instagram stated:

"Wherever we can, we want to stop young people from hearing from adults they don't know or don't want to hear from. We believe private accounts are the best way to prevent this from happening. So starting this week, everyone who is under 16 years old (or under 18 in certain countries) will be defaulted into a private account when they join Instagram."¹⁷

Instagram went on to outline how, among other things, this can prevent adult strangers from finding (and contacting) children and teens, and how 80% of young people want private defaults.

It is unclear why only 16 and 17 year-olds from certain countries are defaulted to private, while in other countries, kids of the same age are left vulnerable to strangers interacting with them. If privacy-by-default is both an important tool in preventing online grooming, and indeed what young people prefer, then 16 & 17 year-olds should be universally protected.

¹⁷ Meta 2021 'Giving young people a safer, more private experience on Instagram'
<https://about.fb.com/news/2021/07/instagram-safe-and-private-for-young-people/>

Minimum age requirements

Some platforms set different minimum age requirements in different countries. These variations are driven by different legal frameworks and obligations, but they can also be understood by unpacking the rationales driving these legislative frameworks. There are reasons why policymakers set minimum ages for data collection or digital consent; they are not arbitrary. Analyzing variations through this lens raises a profound question; how can very similar products be appropriate for a 13 year-old on one side of a border, but not on the other? There appears to be inconsistent consideration *from the platforms themselves* about the age-appropriateness of their products.

Regulations aside, there is a troubling lack of transparency about what the minimum ages of these platforms may be in a country. The lack of clarity passes the burden of responsibility from platforms on to individual young users and families to research minimum ages and comply.

All of the platforms investigated outlined a minimum age to use the product that was caveated by noting that certain countries may have higher legal minimum ages. There was little transparency from companies about which countries have higher minimum ages, and it was unclear how a young person is meant to find out their domestic age requirements.

WhatsApp:	Instagram:	TikTok:
<p>"If you live in a country in (Europe) you must be at least 16 years old (or such greater age required in your country) to register for and use WhatsApp.</p> <p>If you live in any other country except (Europe) you must be at least 13 years old (or such greater age required in your country) to register for and use WhatsApp"¹⁸</p>	<p>"You must be at least 13 years old or the minimum legal age in your country to use Instagram"¹⁹</p>	<p>"TikTok is not directed at children under the age of 13. In certain cases this age may be higher due to local regulatory requirements"²⁰</p> <p>TikTok's Privacy Policy Supplemental Terms section, at the very end of the policy, states additional age requirements for some countries.</p>

On TikTok in Indonesia, for example, the minimum age may be 13, 14 or 21 depending on the section or policy a young person reads:

- Section 10 of the Privacy Policy published in Indonesian states that the minimum age is 13 but *may* be higher if local regulations apply: "*TikTok tidak ditujukan untuk anak-anak berusia di bawah 13 tahun*"²¹ [TikTok is not intended for children under the age of 13]
- Details provided in the technical mechanisms around disputing underage accounts implies Indonesia may have a minimum age requirement of 14: "*If TikTok bans your account because we believe you are under 13, or 14 in South Korea and Indonesia, you may appeal.*"²²

¹⁸ WhatsApp ND About minimum age to use WhatsApp

<https://faq.whatsapp.com/general/security-and-privacy/minimum-age-to-use-whatsapp/?lang=en>

¹⁹ Instagram 2022 Terms of Use <https://help.instagram.com/581066165581870>

²⁰ TikTok 2022 Privacy Policy Rest of World <https://www.tiktok.com/legal/privacy-policy-row?lang=en>

²¹ TikTok 2022 Privacy Policy Indonesian <https://www.tiktok.com/legal/privacy-policy-row?lang=id-ID>

²² TikTok ND Underage appeals on TikTok

- Details in the section 14 (Supplemental Terms– Jurisdiction Specific) of the Privacy Policy documents that the age is in fact 21: *“By accessing and/or using this Platform, you represent that you are at least 21 years of age or married or not under guardianship. If you are below 21 years old and you are not married, or under guardianship... you must obtain approval from your parent(s) or legal guardian(s)...”*²³

It is potentially confusing for Indonesian young people be told that they can use the platform at age 13 in section 10 of their privacy policy, but that they are not allowed to open an account until they are 21 years-old in section 14, or alternatively to be told their account will be banned if they are discovered to be under 14 years-old in a different policy.

The lack of clarity was common across platforms, with young people from different countries affected differently. In the table below, we outline the disparities we are aware of, but more may exist.

More transparency could assist young people. Google as a comparison, provides a simple overview of minimum age requirements for its users²⁴ (See figure 1).

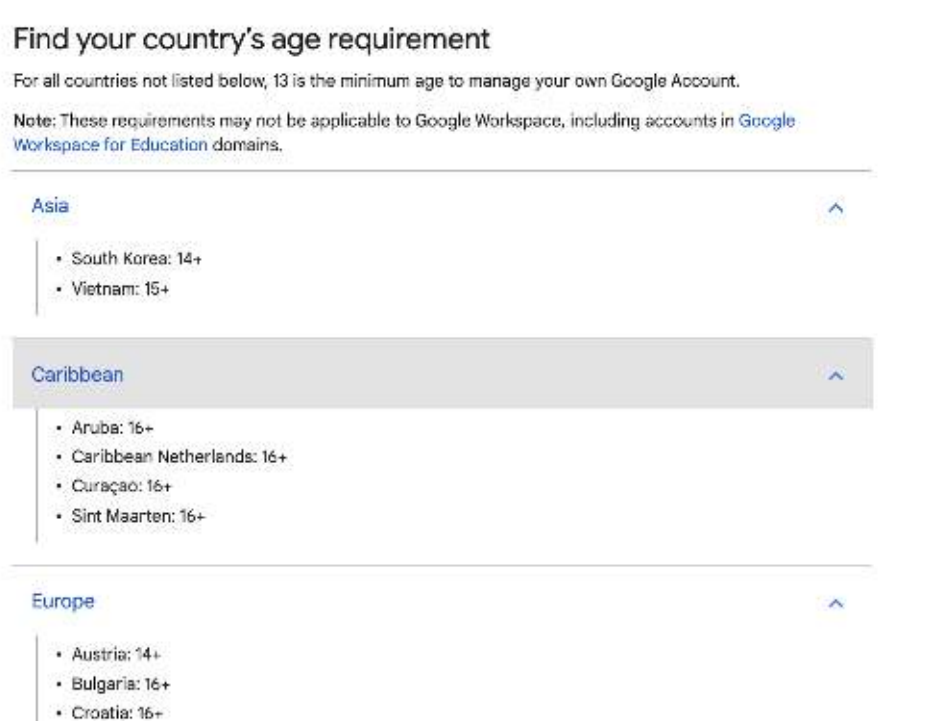


Figure 1: A screenshot of Google's minimum age requirement website, providing transparency and clarity to young users and parents

<https://support.tiktok.com/en/safety-hc/account-and-user-safety/underage-appeals-on-tiktok>

²³ TikTok 2022 Privacy Policy <https://www.tiktok.com/legal/privacy-policy-row?lang=en>

²⁴ Google 2022 Age requirements on Google accounts <https://support.google.com/accounts/answer/1350409?hl=en>

Stated age requirements in policies	WhatsApp	Instagram	TikTok
Brazil	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)	18, or 13–15 with parental consent or 16–17 with parental assistance
Colombia	Local requirements are 18 or younger with parental consent, but WhatsApp does not outline this	Local requirements are 18 or younger with parental consent, but Instagram does not outline this	Local requirements are 18 or younger with parental consent, but TikTok does not outline this
Argentina	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)
Ghana	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)
Ethiopia	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)
South Africa	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)	18, or 13–17 with parental consent
Indonesia ²⁵	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)	21, or under 21 if married, not under guardianship, or with parental consent
Australia	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)
USA	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)	No minimum age. Children under 13 are provided a data-minimizing experience
Canada	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)
UK	16	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)
Slovenia	16	Local requirements are 16, but Instagram does not outline this	Local requirements are 16, ²⁶ but TikTok does not outline this
Germany	16	Local requirements are 16, but Instagram does not outline this	Local requirements are 16, but TikTok does not outline this
Finland	16	13 (Assumed, not otherwise stated)	13 (Assumed, not otherwise stated)

²⁵ The Government of Indonesia’s draft *Personal Data Bill (RUU Perlindungan Data Pribadi)* will set a minimum age of 17. See VOI 2020 *The Government wants a minimum limit of social media users to be 17 years old*

<http://voi.id/en/technology/20274/the-government-wants-a-minimum-limit-of-social-media-users-to-be17>

²⁶ Likely to be reduced to 15 for Instagram and TikTok when ZVOP-2 is introduced. See Jadek & Pensa 2022 *Slovenia one step closer to new data protection act*

<https://www.lexology.com/library/detail.aspx?g=a3406dc8-6ad4-4d5f-b727-6a84253938a5>

Considerations around minimum age requirements

This report explores specified minimum age *requirements*. Inadequate age estimation and age verification processes often mean that children below these ages are using these platforms, and much research suggests that children below minimum age requirements frequently use these platforms.²⁷

Further, from a policy perspective, raising minimum age requirements is not a silver bullet for the realization of children's rights in the digital world. Young people have the right to access services and information, and social media platforms can be a source of connectivity, fun and leisure for young people. But these services need to be designed and delivered in ways that respect and advance young people's rights. This report highlights the problem of a lack of transparency for young users about local requirements.

²⁷ See for example, Thorn 2021 *Responding to Online Threats*
https://info.thorn.org/hubfs/Research/Responding%20to%20Online%20Threats_2021-Full-Report.pdf

Languages that policies, guidelines and support are available in

Young people from countries that speak globally popular languages enjoy terms and conditions (like privacy policies, community guidelines etc.) and help desk and support features in the official language of their country. These documents and services are critical to children's ability to consent to the data practices of a platform and to be able to use it safely and effectively, including the ability to turn on additional privacy or safety features.

Some platforms offer a service to young people but do not offer support, menus nor privacy policies in their official languages. This produces an unequal experience for young people. We found significant variability in the availability of privacy policies for children and young people in various official languages that our researchers could locate.

Privacy policy languages	WhatsApp ²⁸	Instagram ²⁹	TikTok ³⁰
Brazil: Português	Yes	Yes	Yes
Colombia: Español	Yes	Yes	Yes
Argentina: Español	Yes	Yes	Yes
Ghana : English	Yes	Yes	Yes
Ethiopia: Amharic	No ³¹	Yes	No
South Africa: English	Yes	Yes	Yes
South Africa: Afrikaans	No (although it offers an Afrikaans menu)	Yes	No
South Africa: Xhosa	No	No	No
South Africa: Zulu	No	No	No
South Africa: Southern Sotho	No	No	No
South Africa: Venda	No	No	No
South Africa: Tswana	No	No	No
South Africa: Northern Sotho	No	No	No
South Africa: Tsonga	No	No	No
South Africa: Swati	No	No	No

²⁸ WhatsApp 2022 Privacy Policy <https://www.whatsapp.com/legal/privacy-policy-eea/?lang=en> (and other languages)

²⁹ Instagram 2022 Data Policy https://help.instagram.com/519522125107875/?maybe_redirect_pol=0

³⁰ TikTok 2021 Privacy Policy <https://www.tiktok.com/legal/privacy-policy-row?lang=en>

³¹ It is worth noting that Whatsapp may not be as widely used In Ethiopia, where Telegram is popular. However, Telegram also fails to offer its terms and conditions in Amharic

South Africa: Ndebele	No	No	No
Indonesia: Bahasa Indonesia	Yes	Yes	Yes
Australia: English	Yes	Yes	Yes
USA: English	Yes	Yes	Yes
Canada: English	Yes	Yes	Yes
Canada: Français	Yes	Yes	Yes
UK: English	Yes	Yes	Yes
Slovenia: Slovenščina	No (although it offers a Slovenian menu)	Yes	No
Germany: Deutsch	Yes	Yes	Yes
Finland: Suomi	No (although it offers a Finnish menu)	Yes	Yes
Finland: Svenska	No (although it offers a Swedish menu)	Yes	Yes

Considerations around languages that policies, guidelines & support are available in

Even where policies are available in a child's first language, this does not mean young people can necessarily understand them. Policies are notoriously long, and written in legalese that most adults do not even attempt to understand. They are also presented in inaccessible formats, so many young people with different communication needs are unable to access them.

Default privacy settings for 17 year-olds

Accounts on many social media platforms can be set as either ‘public accounts’ (available for all to see) or ‘private accounts’ (with limited visibility). This creates a binary choice for social media companies when a young person first creates an account, they can default the account to private or public. This choice embodies a direct conflict between children’s best interests, which are better served with private accounts that maximize safety and privacy; and commercial interests, which are better served with public accounts that maximize engagement. In some countries, platforms choose children’s best interests, while in other countries the same platforms prioritize their commercial interests.

Defaulting to private appears to be driven by UK and emerging EU regulations that demand this. Platforms appear not to be doing this where regulations are lacking: companies are choosing not to roll out privacy and protection measures to young people where they are not legally obliged to.

	WhatsApp	Instagram, app	TikTok
Brazil	N/A	Prompts user to choose ‘public’ or ‘private’	Defaults to public
Colombia	N/A	Prompts user to choose ‘public’ or ‘private’	Defaults to public
Argentina	N/A	Prompts user to choose ‘public’ or ‘private’	Defaults to public
Ghana	N/A	Prompts user to choose ‘public’ or ‘private’	Defaults to public
Ethiopia	N/A	Prompts user to choose ‘public’ or ‘private’	Defaults to public
South Africa	N/A	Prompts user to choose ‘public’ or ‘private’	Defaults to public
Indonesia	N/A	Prompts user to choose ‘public’ or ‘private’	Defaults to public
Australia	N/A	Prompts user to choose ‘public’ or ‘private’	Defaults to public
USA	N/A	Prompts user to choose ‘public’ or ‘private’	Defaults to public
Canada	N/A	Prompts user to choose ‘public’ or ‘private’	Defaults to public
UK	N/A	Defaults to private	Prompts users to choose ‘private’ or ‘skip’ ³²
Slovenia	N/A	Defaults to private	Prompts users to choose ‘private’ or ‘skip’
Germany	N/A	Defaults to private	Prompts users to choose ‘private’ or ‘skip’
Finland	N/A	Prompts user to choose ‘public’ or ‘private’	Prompts users to choose ‘private’ or ‘skip’

We also created a number of 17 year-old accounts on Instagram on their website, rather than the app, that *defaulted to public settings*; in the USA, Colombia and Finland. The lack of protections for accounts

³² Skipping this prompt defaults users to public

created on their website is a flaw that was brought to Instagram’s attention for at least eight months, but has not been remedied.³³

³³ See Tech Transparency Project 2021 *Instagram offers drug pipeline to kids*
<https://www.techtransparencyproject.org/articles/xanax-ecstasy-and-opioids-instagram-offers-drug-pipeline-kids>

Recommendations

Children and young people should not experience different levels of protection based entirely on where in the world they come from, this is a form of discrimination embodied in the design choices made by platforms. This is a global problem, and many actors can have a role to play:

- **For platforms:** Platforms themselves can choose to adopt a ‘Child Rights by Design’ and ‘Safety By Design’ approach across their global service. Part of this approach should include undertaking a risk assessment of platform design, where the risk each function, feature or element poses to young users is reviewed and then mitigated. Where a domestic policy or practice is found to maximize safety and privacy, this must be rolled out globally.
- **For civil society:** Civil society can play a leading role in ensuring that social media platforms are held to account for any discriminations and harms their platforms cause. Each civil society organization has a role to play in this, from working with and alongside social media platforms, to actively campaigning against platform practices, to advocating for regulatory changes from policymakers. Inaction around design discriminations could be an active line of inquiry. This is worthy of consideration as you prepare your shadow reports for the UN Committee on the Rights of Child, given that General Comment 25 is clear about non-discrimination.
- **For policymakers:** Ultimately it should not be up to individual companies to decide what levels of safety and privacy children are afforded, nor civil society actors to police their practices. Regulations need to be implemented that demand the highest levels of safety and privacy for young users. The UK’s *Age Appropriate Design Code* presents a model for the sorts of regulation that could be adopted domestically to demand children’s best interests are realized in platform design.

Regulations that require the prioritization of children’s best interests are essential in ensuring children and young people’s digital worlds are as safe, private and rights-advancing as possible. These sorts of regulations, often called age-appropriate design codes, are in place in the UK, Ireland, the Netherlands, France and Sweden, and proposals are in consideration in California, Australia and the EU. Policymakers and civil society actors from around the world should give these serious considerations, and platforms should act in compliance with these globally, not just in countries where they have legal obligations.

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