

## New Model Law Aims to Protect Human Right to Privacy Against Rising Use of Facial Recognition Technology

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The [Centre for Digital Wellbeing](#) welcomes a [model law](#) released by the University of Technology Sydney to protect the privacy of citizens against unregulated use of Facial Recognition Technology (FRT).<sup>1</sup>

The model law takes a risk-based approach and emphasises human rights, including the right to privacy.

Currently in Australia, a lack in FRT regulation means citizens, and in particular children, are vulnerable to the misuse of their sensitive data. Further integration of the technology without any legal requirements can open the door to the feeling of constant surveillance which can have particularly damaging impact on children’s development and wellbeing, a view strongly supported by the Centre for Digital Wellbeing:

“Facial recognition technology, even when it used with the best intention, can significantly impact the wellbeing and development of our children. It holds the potential to create the feeling of constant surveillance which has been linked to issues with trust and autonomous decision making in children” said Ms Carla Wilshire OAM from the Centre for Digital Wellbeing.

“Legislation protecting sensitive data and information is important and incredibly pressing. However, we also need to think about how we teach our children to handle their data,” Ms Wilshire continued.

Legislation is helpful in preventing harm, but equally as important is teaching children to protect their sensitive data, like their biometric data. Facial recognition technologies used to speed up queues or to determine the attention levels in class does the opposite and creates the idea that it is okay to give this data away without much consideration to the potential impact.

“Our children’s data is particularly vulnerable. We need to think about how the collection of images of their faces and other information will impact them in the future and how we can protect them from harm,” Ms Wilshire added.

Generally, children are much less aware of their data rights and possible risks related to the collection of data, such as their images being shared for commercial purposes with third parties. As children’s brains are still developing, psychological harms from technology may have greater and more lasting effects.

“Without proper legislation in place, we have no control over what happens with the images collected which carries many risks, especially for our children,” Ms Wilshire continued.

The use of FRTs for surveillance already poses direct risks for young people in Australia. In 2019, the Victorian Government banned the use of FRT in public schools in response to a pilot program where 5 participating schools trialled FRT to mark student attendance in class.<sup>2</sup>

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<sup>1</sup> <https://www.uts.edu.au/sites/default/files/2022-09/Facial%20recognition%20model%20law%20report.pdf>

<sup>2</sup> <https://www.theage.com.au/national/victoria/tough-new-rules-for-big-brother-face-reading-technology-in-schools-20190205-p50vpx.html>

Schools often have limited capacity and resources to put in place the correct safeguards to protect the data collected and are therefore “easy targets” for cyber-attacks. In 2021, Australia’s was among the most-attacked countries in Asia, with the education sector being at particular risk.<sup>3</sup>

Research suggests that surveillance through FRT can work against children becoming autonomous and potentially impact their critical thinking skills, making them reliant on others to make decisions for them.<sup>4</sup> As children develop into adolescents, privacy, the right to develop their identity in spaces that are truly theirs without being watched, becomes vital to their growth and development.

“We often think that using facial recognition technology for surveillance purposes is something that wouldn’t happen in Australia. But the truth is that if we are not careful, we are at risk of unknowingly turning into a surveillance society,” Ms Wilshire concluded.

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### **About the Centre for Digital Wellbeing**

The Centre for Digital Wellbeing is a policy research centre focusing on social media’s impact on mental health and wellbeing, safety and social cohesion in the Australian community. The Centre for Digital Wellbeing brings together a network of health, mental health, digital technology, and policy experts to facilitate critical discussions on social media’s impact on mental health and social cohesion, formulate policy responses and develop resources that assist users to better engage in healthy digital practices.

The Centre for Digital Wellbeing facilitates research about the impact of social media, formulates policy solutions to ensure that the development and use of social media and other online platforms are human-centred, and develops tools to assist users to better engage in healthy digital practices. The Centre for Digital Wellbeing has a particular focus on youth.

### **Media Contact Details:**

Carla Wilshire: 0409 363 888

### **Centre for Digital Wellbeing**

Website: <https://digitalwellbeing.org.au>

Contact: [secretariat@digitalwellbeing.org.au](mailto:secretariat@digitalwellbeing.org.au)

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<sup>3</sup> <https://australiancybersecuritymagazine.com.au/education-sector-sees-29-increase-in-attacks-against-organisations-globally/>  
[https://www.business-standard.com/article/international/cyber-attacks-india-among-top-3-most-affected-nations-in-asia-in-2021-122022400945\\_1.html](https://www.business-standard.com/article/international/cyber-attacks-india-among-top-3-most-affected-nations-in-asia-in-2021-122022400945_1.html)

<sup>4</sup> <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1354&context=dltr>