

12 November 2021

SUBMISSION: CONSULTATION ON A DRAFT ONLINE SAFETY (BASIC ONLINE SAFETY EXPECTATIONS) DETERMINATION 2021

To Whom It May Concern,

I appreciate the opportunity to be able to make a submission on an exposure draft of the Online Safety (Basic Online Safety Expectations) Determination 2021 (hereafter referred to as the Expectations).

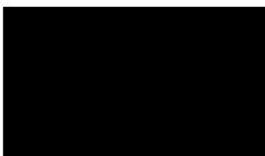
My submission is an endorsement of the joint submission made to this consultation by Global Partners Digital (GPD) and Digital Rights Watch (DRW)¹. I would like to express my agreement with the concerns outlined by GPD and DRW in their feedback on the draft Expectations, and with the recommendations they provide to mitigate attendant risks.

Broadly speaking, GPD and DRW raise concerns about the draft Expectations' potential to:

- Push service providers to use demonstrably inaccurate automated content moderation processes, which will likely intensify pre-existing algorithmic bias;
- Undermine the protective role of encrypted communication in online interactions for both individuals and groups/organisations due to a misunderstanding of the role of encryption in facilitating rather than inhibiting digital safety;
- Undermine the protective role of anonymity in online spaces, threatening individuals' right to privacy, freedom of expression and non-discrimination through dubiously effective verification protocols; and
- Remove abhorrent violent material online without a nuanced assessment of the purpose of its circulation (such as to document and raise awareness about hate crimes), and without fundamentally addressing underlying issues leading to such violence.

While it is important for service providers to take greater responsibility for the experiences of Australian end-users, the Expectations in their current form present greater opportunities for harm generation and exclusion than harm reduction. As noted by GPD and DRW, the Expectations also raise potential inconsistencies with Australia's international human rights obligations, such as with respect to freedom of expression and non-discrimination. The restrictive measures outlined in the current draft Expectations do not represent legitimate or proportionate limitations on the human rights of Australian end-users.

I strongly encourage the Department to draw on the recommendations made by GPD and DRW as a robust foundation for re-drafting the Online Safety (Basic Online Safety Expectations) Determination 2021.



¹ Global Partners Digital & Digital Rights Watch, Consultation on a draft Online Safety (Basic Online Safety Expectations) Determination 2021: Global Partners Digital & Digital Rights Watch – Joint Submission (November 2021), available at <https://digitalrightswatch.org.au/wp-content/uploads/2021/11/Global-Partners-Digital-Digital-Rights-Watch-Joint-Submission.pdf>