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Director, Online Safety Reform and Research Section
Department of Infrastructure, Transport, Regional Development and
Communications

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Emailed to: OnlineSafety@infrastructure.gov.au

Draft Basic Online Safety Expectations Determination 2021

The Association of Heads of Independent Schools of Australia (AHISA) appreciates the opportunity to comment on the draft Basic Online Safety Expectations (BOSE) Determination.

In September 2021, AHISA made submissions to two consultations conducted by the Office of the eSafety Commissioner: on age verification and access to online pornography; and on a Restricted Access System to limit the exposure of children and young people to age-inappropriate online material. (These submissions may be viewed on [AHISA's website](#).) AHISA views the BOSE Determination as a further regulatory opportunity for the Australian Government to defend and protect the wellbeing of individual Australians and the social fabric of our nation more broadly.

AHISA agrees with the key principle described in the BOSE Determination discussion paper as informing the *Online Safety Act*, namely, that 'the rules and protections we enjoy offline should also apply online'. We also welcome the Government's intent to 'hold industry to greater account for the safety of their users'.

While the draft Determination reflects and aligns with the *Online Safety Act 2021*, AHISA has some concerns about the power of the Determination to give adequate support to the Act and to other Government initiatives such as eSafety's Safety by Design approach and anticipated regulatory measures, including the proposed Restricted Access Scheme.

Division 2.6(2) of the draft Determination requires a provider of a service to 'take reasonable steps to proactively minimise the extent to which material or activity on the service is or may be unlawful or harmful'. AHISA recognises the difficulty of strictly defining what is harmful to young people given the rapid evolution of the cyberworld; we are concerned, however, that the lists of materials in Divisions 3 and 4 may not be adequate to bridge that difficulty and could leave children and young people at risk of harm through exposure to online content that refers to, provides information on and even encourages self-harm and suicide, for example.

A report on research conducted for the 5Rights Foundation in the United Kingdom and published earlier this year, [Pathways: How digital design puts children at risk](#), notes that risk of harm to

young people online may be via advertising content delivered to service users. While use of the terms 'material' or 'activity' in the draft Determination might be interpreted to be inclusive of advertising material and its presentation to users, AHISA asks that consideration be given to making a specific reference to advertising material. For example, the term 'material' could be expanded to read 'material, including third-party advertising material', at relevant points such as in Division 2, at 6(2) and 6(3)(a).

AHISA commends the commitment of the Australian Government to the use of its regulatory powers to protect children and young people from online harms.

Yours faithfully,

(Ms) Beth Blackwood

AHISA Chief Executive Officer

ABOUT AHISA

AHISA Ltd is a professional association for Heads of independent schools.

The primary object of AHISA is to optimise the opportunity for the education and welfare of Australia's young people through the maintenance of collegiality and high standards of professional practice and conduct amongst its members.

AHISA's 440 members lead schools that collectively account for over 450,000 students, representing over 70 per cent of total independent sector enrolments and 11.4 per cent of total Australian school enrolments. AHISA members' schools also educate a significant proportion of senior secondary students: 20 per cent of Australia's Year 12 students attend AHISA members' schools.