

## Submission on Draft Online Safety (Basic Online Safety Expectations) Determination 2021

It is unacceptable that the enabling legislation has been passed with inappropriate haste and has failed to incorporate the feedback of marginalised stakeholders who engaged in this process with the expectation that their input would be respected and valued.

As a consequence of that unseemly haste the resulting law, and this determination, is vague, too broad in its scope, and highly likely to be prone to error and abuse.

In its present state the determination creates a system of censorship and suppression of dissent that will drive already marginalised communities further from the mainstream with the excuse that already powerful people should feel safer. In fact this determination will be used to silence the critics of those in positions of power. There is even a likelihood that this system will cause new harm to already marginalised groups of people by privileging the feelings of certain groups over the actual safety of others.

The following are required to modify the determination so that further harm will not be caused:

1. The term 'safe' - which has not been adequately defined or specified - be replaced with language that makes it clear that harm reduction is the goal.
2. The specific harms to be reduced are individually defined and enumerated in the determination.
3. The Commissioner does not accept sole discretionary power but delegates the consultation under Section 7 to an advisory body comprised of a diverse membership across all strata of Australian society to guide providers on what the community considers reasonable.
4. The Commissioner makes public, in writing, any advice given to a single provider so that all providers may benefit from consistency in the Commissioner's advice on a specific area of concern.
5. The scope of the determination must be limited to social media services and there must be substantial evidence of concrete harm resulting from the use of the services.
6. Specific services are enumerated in the determination to provide clarity for providers and end-users of what will be made 'safe'.
7. The definition of child used in the determination should include greater nuance and provide a distinction between different levels of childhood development.
8. The clause 'or being used by' should be removed from s 6(3)(b) of the determination.
9. The creation of a parallel "children's Internet" service should not be required for a provider to comply with the determination.
10. Sections 8,9, and 12 should be completely removed from the determination.
11. Clause (h) of section 11 of the determination should also be removed