



6 October 2021

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



**Submission re:**

**Draft Online Safety (Basic Online Safety Expectations) Determination 2021**

Thank you for the opportunity to make a submission on the Draft Online Safety (Basic Online Safety Expectations) Determination 2021.

I welcome the passing of the Online Safety Act 2021, noting the core Basic Online Safety Expectations are fixed and can't be amended in the determination but the Department is seeking feedback on:

- A set of additional expectations for social media services, relevant electronic services, and designated internet services
- Reasonable steps that could be taken to meet certain expectations.

My remarks are focused on Section 46 (1) as it relates to cyber-bullying material targeted at (i) an Australian child; and (ii) cyber-abuse material targeted at an Australian adult.

I've been the Mayor of Bundaberg Regional Council since 2016 and was previously a member of the Queensland Parliament and Minister for Police.

My observation is that online hate speech has proliferated in recent years while the mechanisms to deal with it have barely kept pace. Trolls have become more sophisticated in many cases, employing fake profiles and enlisting others to "pile on", which creates a toxic atmosphere online and inhibits open discussion.

I note that Facebook has recently introduced the capability to limit comments on posts, which is a positive step, and I welcome the High Court's ruling that publishers are liable for defamatory comments made on their social pages.

I ask the Department to please ensure that social platforms ensure compliance with the Act as follows:

- 1) Require social platforms to transparently receive, process and respond to complaints.
- 2) Take a zero-tolerance approach to hate speech from fake profiles and anonymous sites.
- 3) Where possible, integrate with state and territory laws (e.g. defamation, harassment) to provide complaints resolution without resorting to costly litigation.



**Require social media platforms to transparently receive, process and respond to complaints:**

When a defamatory or bullying comment is made on Facebook, the current approach to respond is multi-faceted, not transparent, slow, confusing, and difficult to resolve.

For instance, it generally involves trying to contact the site administrator to have a comment or post removed; also reporting the comment or post and the user to Facebook. There is generally no response provided by Facebook.

There should be a ticket-type system where complaints are acknowledged, the outcome is reported, and users can follow up if required.

Platforms should be able to manage this process largely using artificial intelligence, but there needs to be capacity to escalate to a human.

In local communities there are often private groups which have thousands of members, effectively operating as public forums. In Bundaberg, one of these groups with 9300 members advises: "This group has been created for the free exchange of ideas without admin interference."

The Department and Facebook should ensure a mechanism to report and review groups which not only condone but encourage hate speech.

**Take a zero-tolerance approach to hate speech from fake profiles and anonymous sites:**

Social media platforms have improved communications and engagement; promoted open discussion and the free exchange of ideas; and made public discourse more accessible to more people.

Unfortunately, the platforms have been abused and manipulated in many cases.

The Online Safety Act and initiatives by the platforms themselves are positive developments but challenges remain to be addressed.

I'm concerned that fake profiles are easily created and deployed to attack individuals.

The determination should require platforms to monitor this; report on how the practice is detected and managed; and make it easy to report suspected fake profiles where they engage in hate speech.

I respect the right of people to use pseudonyms, operate anonymously to protect their identity and create parody accounts. The issue is that fake profiles should not be allowed to provide cover for vilification.

**Where possible, ensure integration with state and territory laws (e.g. defamation, harassment) to provide complaints resolution without resorting to costly litigation:**

Taking action against an individual who defames or harasses others online is slow, expensive, and largely ineffective.

The Online Safety Act provides an opportunity for such matters to be "nipped in the bud" by enabling abuse and bullying to be easily reported and quickly removed.

I encourage the Department to provide an easy-to-use guide which explains the process for how complaints should be made and how to escalate them. This should be communicated in plain language so children and young adults can also be made aware of their rights.

With regard to integrating with state and territory legislation, when it comes to Queensland local government councillors, I'm concerned there's a disconnect between what the Australian Government is doing to improve online safety and what state agencies are implementing.

For instance, the Office of the Independent Assessor (OIA) has informed me it's potentially inappropriate conduct for a councillor to manage their own Facebook page according to their own rules.

The OIA has also inferred it's a breach of the Human Rights Act for a councillor to remove disruptive comments because it impedes an individual's right to free speech, which I disagree with given that individuals have numerous avenues to express their views.

I've been advised by the Online Hate Prevention Institute: "In our view there is no requirement in Australia that prevents a public official or government organisation from banning or blocking disruptive individuals from their social media accounts. Further we believe such action is necessary as without it, trolls and troublemakers disrupt the workings of government and the ability of other members of the community to engage with elected officials. The process of warning an individual prior to blocking / banning them and maintaining a list of accounts that have been warned, would be an unreasonable imposition on public officials."

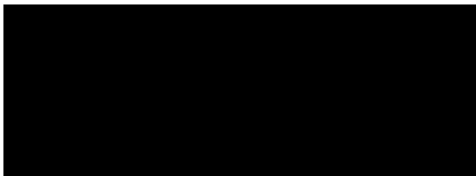
I mention this to illustrate that State and Territory Governments, government agencies, organisations and businesses may adopt policies and procedures which conflict with the intent of the Online Safety Act.

I ask the Department to please consider in its determination a role for the eSafety Commissioner to rule on such policies and procedures which may be detrimental to online safety.

Thank you to the Australian Government for its initiative to improve online safety and I'm grateful for this opportunity to comment.

I'd like to acknowledge the Online Hate Prevention Institute for its guidance and leadership in tackling the legal and policy issues.

Yours sincerely



Jack Dempsey  
**Mayor - Bundaberg Regional Council**