



3 July 2024

Director – Strategy and Research  
Online Safety, Media and Platforms Division  
Department of Infrastructure, Transport, Regional Development, Communications and the Arts  
GPO Box 594  
Canberra ACT 2601

**By email:** [OSARReview@COMMUNICATIONS.gov.au](mailto:OSARReview@COMMUNICATIONS.gov.au)

Dear Director,

### **Statutory Review of the Online Safety Act 2021**

Thank you for the opportunity to make a submission on the operation and effectiveness of the *Online Safety Act 2021*. Per correspondence between the AFL and the *OSA Review Secretariat*, we are most grateful for the lodgement extension date to 5 July 2024.

As online usage has increased, so too have the rates of online abuse. In our game of Australian Rules Football, we have sadly seen online abuse, often gender or race specific, directed at many of our players, officials, and administrators, from elite to pathways programs and community competitions.

The Peek Rule (Rule 35) in the AFL Rules declares that no person subject to the rules and regulations shall act towards or speak to any other person in a manner, or engage in any other conduct which threatens, disparages, vilifies or insults another person on any basis, including but not limited to, a person's race, religion, colour, descent or national or ethnic origin, disability, sexual orientation, gender identity. This applies across the AFL, AFLW as well as vilification using social media. An equivalent rule exists for Community Football competitions.

The AFL is seriously committed to addressing discrimination and vilification in our game, including online. Chad Wingard stated in the Social Media and Online Safety House of Representatives Select Committee, 'A lot of people say that that [abuse] comes with being an AFL player. But being bullied or discriminated against is not in the job description'. This is a position the AFL holds to be true – everyone involved in our game, whether on the field or online, has the right to be safe from abuse.

Below we have addressed several consultation questions at a high-level that relate directly to our experience, or which we have a specific focus on supporting. We welcome further consultation with this review, should you wish to engage further please contact Tanya Hosch via [REDACTED]. Additionally, if the Review is incorporating in-person reflections and insights, we would be available for further conversations, if that would be of use to the process.

Sincerely,

[REDACTED]

**Tanya Hosch**  
Executive General Manager – Inclusion and Social Policy

**Australian Football League**

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**Question 1: Are the current objects of the Act to improve and promote online safety for Australians sufficient or should they be expanded?**

- The online abuse experienced across all levels of society appears, in many cases to be increasing. The current objects of the Act should be strengthened to comprehensively address this.
- Not only are we seeing excessive abuse, often of a racist, sexist, or homophobic nature, targeted at the elite level of our game, online abuse is also being directed at people across all levels and age groups of our game.
- It is acknowledged that the clear set of expectations for online service providers, makes them increasingly accountable for the safety of people using their services. Despite this, online abuse continues to occur. While there will never be a legislative solution that addresses all varieties of online abuse, what is of particular concern is the racist, sexist, and homophobic abuse that occurs, particularly when it is directed anonymously.
  1. An example of where the Act currently falls short, is where online abuse is directed at an individual, but uses collective group language. This is not currently covered under the Act.
- While there appears to be increasing awareness of online safety, potential scams, and safe behaviour, the impetus of promoting online safety and raising awareness cannot be understated. The AFL is supportive of this object of the Act and is willing to continue to work with the eSafety Commissioner to raise awareness, provide education where appropriate, and broadly support the work.

**Question 4: Should the Act have strengthened and enforceable Basic Online Safety Expectations?**

- Given the prevalence of abuse, the AFL believes that the Basic Online Safety Expectations have been a positive inclusion in the Act.
- The AFL agrees that service providers should take reasonable steps to proactively minimise material that is unlawful or harmful, and ensuring that people can use a service safely.
  2. These enforceable Expectations should be continued to be promoted and followed with all online service providers.
- The current expectations, however are not enough to eradicate online abuse. The introduction of enforceable sanctions through the act should be considered.
- Along with ongoing engagement and education through government, schools, sporting clubs, corporate and non-government organisations, enforceable sanctions will support the shift from minimisation to eradication.

**Question 14: Should the Act empower ‘bystanders’, or members of the general public who may not be directly affected by illegal or seriously harmful material, to report this material to the Commissioner?**

- Our game has great reach and a community of passionate people. We believe that anyone who witnesses online content that breaches the standards set by the Act, should have an avenue to report this material to the Commissioner.
- The AFL has established a reporting system, the AFL Integrity Portal, that captures and allow avenues for anyone to report on an incident regardless of whether they are the victim or a bystander.
- There will be many other examples of systems that encourage bystander action and reporting, but our experience suggests that having such a system provides another way in which harmful behaviour can be captured, addressed, and ultimately stopped.

3. Additionally, it may sometimes be difficult for a direct victim, or target of abuse, to provide a comprehensive report, for several reasons, which could include an unwillingness to engage in the content again, poor mental health impacts, or not wanting to give 'airtime' to the abuse or limited ability to articulate, verbally or in writing the impact of the abuse.
- However, if there are other witnesses to the abuse, and they have an avenue to report this behaviour, that reduces the burden on the intended target.
    4. They may also be incidences where the victim (as an example, a child or young person) does not have access to safely report the abuse themselves. In this case, having an avenue for a bystander to report harmful material would be essential.
  - As an example, this provides a way for others who witness behaviour, but may not be directly impacted by it, to be active bystanders.
  - As an example of this, see the example provided by Tayla Harris at the Social Media and Online Safety House of Representatives Select Committee (available in the Committee's report from March 2022).
    - *Ms Harris is a prominent sportswoman for the Australian Football League Women's (AFLW). Ms Harris has been subject to online abuse following the publication of a photo of her playing football in 2019, which she dubbed 'kicking-photogate'.*
    - *The photo depicted Ms Harris performing a follow-through of a kick, in a classic AFL pose. Ms Harris stated that, following the publication of the picture, she received sexualised and disturbing comments, tags and direct messages from largely anonymous accounts. She received insults based on her personal character, which she found distressing. Ms Harris also stated that this abuse was what she described as 'a pile-on', otherwise known as a volumetric attack.*
  - 5. *Ms Harris' story went 'viral' around the world, and she continued to make comments in the public sphere about the nature of the abuse she was receiving, which further increased the attacks on her. Ms Harris expressed the view that some comments were aimed at silencing her. In regard to having the harmful material taken down, Ms Harris stated that she attempted to report the content to the platforms but found the process very difficult. She also expressed that she had hoped that live sports broadcasters or the AFLW would be able to moderate content and report abuse as it arose but recognised that it would require a nonstop effort to do so*
- While the burden of reporting this content fell disproportionately on Tayla, if there was an appropriate avenue for bystanders to report content, they may have lessened the load.
  - Similarly, AFL player Chad Wingard has described that every individual's capacity for dealing with, and reporting, online harm may be different, and may even vary on different days. As reported in Social Media and Online Safety House of Representatives Select Committee report, Chad states:
    - *If you're an Indigenous person or a person of colour or it's your sexuality or whatever it is you're being bullied about—I can only speak for being an Aboriginal person and a person of colour. However, my experience so far is that it takes a toll. It's draining and you think you'll let it slide or it's not the one that you think you need to call out. For me calling it out recently is because it affected me but not enough for me to give that person the limelight. It came to a point where I said, 'No, this is not on. I'm going to call out every single thing that happens now.' This is purely because I might be strong enough and have enough support around me to get through this, but I don't want 19-year-old kids coming from all over Australia who aren't capable and should not have to deal with this to even give these guys a chance.*

- If there more more avenues for reporting online harm, and more people that can report online abuse as a bystander, it is likely to improve the experience of individuals who are being targeted by online abuse.

**Question 16: What more could be done to promote the safety of Australians online, including through research, educational resources and awareness raising?**

- There are many organisations, particularly those in the sporting sphere, that often have strong social influence and a large reach across society. The eSafety Commissioner would benefit from strong partnerships with key organisations, such as the AFL, to build on and strengthen the education, awareness, and impact of online abuse.
- The AFL deals with vilification through Rule 35 (the Peek Rule) in that no person subject to the rules and regulations shall act towards or speak to any other person in a manner, or engage in any other conduct which threatens, disparages, vilifies or insults another person on any basis, including but not limited to, a person's race, religion, colour, descent or national or ethnic origin, disability, sexual orientation, gender identity. Promoting and building awareness of the Peek Rule and other vilification rules across other sporting codes, could expand the reach of the eSafety Commissioner.
- Ensuring that eSafety Commissioner content continues to be appropriate and applicable for a diverse range of people, including people of different ages, ethnicities, and education, will be crucial to ensuring that online harm and abuse is reduced.
- We know that some social groups, including Aboriginal and Torres Strait Islander people, people from LGBTQI+ communities, people with particular religious beliefs, and older Australians, may be at higher risk of online harm. Because of the wide cross-section of Australians who love and play our code, ensuring that everyone can be safe online is a high priority.
- The AFL is committed to continuing to work with the eSafety Commissioner, our clubs, and across our sphere of influence, to continue to protect those in our industry from online harm.

**Question 27: Should the Commissioner have powers to act against content targeting groups as well as individuals?**

- We come from a team environment, and we know that often online abuse is targeted towards a group of people, such as Aboriginal and Torres Strait Islander people, women, LGBTQIA+ people, Culturally and Linguistically Diverse people and people with disabilities, as opposed to just a single person. These groups have also been identified as being most at risk online, and so continuing to protect their safety is of paramount importance.
- As such, we believe that the eSafety Commissioners' powers to respond to online abuse targeted only to individuals is too limiting and does not reflect much of abuse that we see online.
- It is our belief that abuse should not fall under different protections solely because it is targeted towards a group of people.