



Commissioner for Children and Young People
Western Australia

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Director – Strategy and Research
Online Safety, Media and Platforms Division
Department of Infrastructure, Transport, Regional Development, Communications and
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Dear Director – Strategy and Research,

Submission on the review of the *Online Safety Act 2021*.

As Commissioner for Children and Young People, I welcome the opportunity to provide this submission to the review of the *Online Safety Act 2021*.

The Commissioner is established by the Western Australian Parliament in the *Commissioner for Children and Young People Act 2006 (WA)*. The Commissioner undertakes projects, commissions research, publishes reports, and hosts events to highlight specific aspects of children and young people's wellbeing. Using research and the other evidence available, the Commissioner seeks to positively influence legislation, policy, services and attitudes.

Under the *Commissioner for Children and Young People Act 2006 (WA)*, the Commissioner is required to have special regard to the interests and needs of Aboriginal children and young people and Torres Strait Islander children and young people, and children and young people who are vulnerable and disadvantaged for any reason.

In undertaking these responsibilities, I must also have regard for the *United Nations Convention on the Rights of the Child* (the UNCRC) which upholds the right of all children and young people to be protected from harm, to be safe, feel safe and be respected wherever they are, and to participate in decision making that affects them.

This submission discusses the five key topics from the *Issues Paper* and their corresponding sections in the Act, specifically focusing on children and young people.

The five key topics from the *Issues Paper* are:

1. Australia's regulatory approach to online services, systems and processes.
2. Protecting those who have experienced or encountered online harms.
3. Penalties, and investigation and information gathering powers.
4. International approaches to address online harms.

5. Regulating the online environment, technology and environmental changes.

Sections of the *Act* addressed in this submission are:

1. Part 3—Complaints, objections, and investigations.
2. Division 1—Introduction,
3. Division 2—Complaints about cyber-bullying material targeted at an Australian child,
4. Division 3—Complaints about, and objections to, intimate images.
5. Part 5—Cyber-bullying material targeted at an Australian child.

The *Act* provides significant authority to the eSafety Commissioner to advance online safety such as, the establishment and oversight of cyber-abuse complaint scheme, aimed at addressing instances of online abuse and combating child cyberbullying and image-based abuse hence safeguarding vulnerable children and young people. Research has demonstrated excessive use of social media and digital technologies can exacerbate anxiety and depression, leading to cyberbullying, distorted body image and exposure to harmful content. This calls for vigilance and proactive measures to mitigate the adverse effects of digital technologies.

Prioritising child protection within the *Act* is crucial to demonstrate commitment to safeguarding children from online harms. This prioritisation underscores the importance of ensuring a safe digital environment for our youngest users. For instance, according to the *7th National Survey of Australian Secondary Students and Sexual Health 2021*, a concerning 85.8% of young people aged 14-18 in WA reported engaging in sexting, explicit text messages, nude images, and pornography. These statistics highlight the urgent need for proactive measures to protect children from the negative impacts of online activities, and for the *Act* to prioritise their safety and well-being.¹

Online safety especially for our children is a global concern, other jurisdictions have implemented or in the process to implement resourceful measures we could consider. Singapore, for example, enforces regulations to block access to age-inappropriate content, while Germany mandates age verification systems for age-restricted content like pornography. In line is the proposed *Online Harms Act* in Canada and the *Online Safety Act 2023* in the UK. Research underscores the detrimental effects of pornography consumption on adolescents and young adults, including attitudes supportive of sexual violence and risk factors contributing to male aggression². This is further corroborated by recent Australian studies demonstrating high rates of sexual violence among children and young people³. Therefore, enhancing child protection measures within the *Online Safety Act* is crucial to address these concerning trends and ensure the safety and well-being of young users in the digital landscape.

A comprehensive definition of 'harmful content' is essential. This should include material posing risks to children's physical and mental well-being, encompassing issues such as cyberbullying, grooming for exploitation, and inappropriate exposure.

My office conducts regular survey's since its initiation in 2007. In our *Speaking Out Survey 2021* almost half (46%) of female students in Years 7 to 9 and 61 per cent of students in Years 10 to 12 had been sent unwanted sexual content, like pornographic pictures, videos or words. For the girls who received this type of content it had been sent through social media much less by text message or email.

Sexual assault and nudes - that kind of a thing is a HUGE issue for my age group... I've received many nude requests before. Most people I know send nudes and receive TONS too. So yeah, drugs and sexual stuff...and drinking. They're huge issues and most people get away with it. (15-year-old⁴)

Implementing age-appropriate design requirements for online platforms catering to children would ensure that content and features are suitable for their age groups. This could be supported by the implementation of age verification and content filtering mechanisms. As this 15-year-old suggested...

...punish those who forward on nudes without consent and those who show you nudes even if you told them repeatedly you don't want to see and this could be solved by banning VPN and Snapchat and other social media platforms. (15-year-old⁴)

Online service providers should be obligated to uphold a duty of care towards children, requiring them to implement measures like content moderation and parental controls to prevent harm.

Establishing a child-centric reporting process aligned to the National Principle 6 – Complaints systems are child focused. It is essential to ensure that children have a simple and efficient means to report any concerns or issues encountered online. Adequate resourcing of the office of the eSafety Commissioner is pivotal in safeguarding children's online experiences amidst the rising challenges of online child sexual exploitation. As the digital landscape constantly evolves, it is imperative that the Commissioner possesses the necessary powers and resources to enforce robust child protection measures. This includes the capacity to collaborate effectively with diverse stakeholders such as educators, parents, and technology companies to foster a safer online environment. These measures not only protect children from immediate and long-term harms but also serve to educate them and their guardians on navigating the online world safely and responsibly.

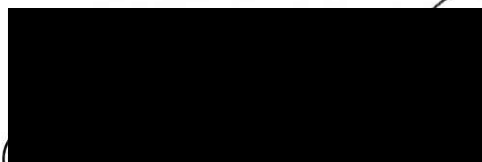
Additionally, enhancing international cooperation and information sharing initiatives would empower Australia to effectively combat global online harms against children and advocate for unified standards on child online safety. By collaborating with other

countries, Australia can leverage collective expertise and resources to address the complex challenges posed by online exploitation.

Thank you for the opportunity to provide this submission. This proactive approach of reviewing and updating of the *Online Safety Act Online Safety Act* demonstrates a strong commitment in maintaining a robust framework for protecting children in the digital age.

I look forward to further consultations and implementations of the recommendations to enhance child online safety in Australia's *Online Safety Act*.

Yours sincerely,



Jacqueline McGowan-Jones

Commissioner

29 May 2024

References

- ¹ Power, J., Kauer, S., Fisher, C., Bellamy, R. and Bourne, A., 2022. The 7th National Survey of Australian Secondary Students and Sexual Health 2021.
- ² Quadara, A., El-Murr, A. and Latham, J., 2017. The effects of pornography on children and young people: An evidence scan. Australian Institute of Family Studies.
- ³ Mathews, B., Pacella, R., Scott, J.G., Finkelhor, D., Meinck, F., Higgins, D.J., Erskine, H.E., Thomas, H.J., Lawrence, D.M., Haslam, D.M. and Malacova, E., 2023. The prevalence of child maltreatment in Australia: findings from a national survey. *Medical journal of Australia*, 218, pp.S13-S18.
- ⁴ *Girls Wellbeing 2022* - Pg.35. <https://www.ccyp.wa.gov.au/our-work/speaking-out-survey/>