

Thank you for the opportunity to write this submission to the *Statutory Review of the Online Safety Act 2021*. I request this submission be published in full, even if you interpret this submission as comment.

**Crispin Rovere**

## **1 The eSafety Commissioner is Illegitimate**

*Remove a man's tongue and you're not proving him a liar. You merely announce to the world that you fear what he might say. - Tyrion Lannister, Game of Thrones*

The eSafety Commissioner (the Commissioner) occupies an unusual, and many feel unseemly, position in Australia's regulatory landscape.

While other regulators, such as the ACCC, serve to protect the Australian public against powerful corporate interests, the Commissioner, at least in practice, primarily protects the Australian Government and the media class against public scrutiny, and doing so in an unwilling public's name.

The Commissioner has no public support or legitimacy, save that imposed by an overbearing and overreaching political class.

The Commissioner suggests the opposite. On 5 June 2024 the current Commissioner, Ms Julie Ann Grant, claimed on the ABC 'that the average Australian would agree with the request to have the Church stabbing removed'.

This claim is baseless and provably false. Drawing your attention to the *Misinformation and Disinformation* Bill public consultation -, 2,418 submissions were received, on top of 20,000 comments. Reading through these, over 99% were firmly against that Bill, and on grounds highly relevant to this review. A summary of feedback produced by the Review (not by me) is included as Appendix A. The only submissions that provided unqualified support to that proposed Bill were: government agencies, entities that receive government funding, and entities that stood to benefit directly - community opinion remains universally against.

The Commissioner mistakes what Australians may choose not to see owing to personal taste or decorum, with what Australians believe an unelected public official should have the power to ban. Australians are able to make this distinction, the Commissioner apparently cannot.

Australian citizens are quite capable of deciding for themselves what they wish to access or share online. The only issue that should concern social media companies is ensuring that adult users have sufficient control to manage this effectively for themselves and their children. The 'average Australian' may want Government assistance in seeking to limit the material that their children are exposed to - gambling advertising, cyber-bullying, deepfakes and the like, however given the attention and resources directed toward an unrelated fight with X Corp, it is clear that the eSafety Commissioner is misaligned with the interests and priorities of the Australian people.

There is simply nobody who backs the powers of an eSafety Commissioner other than those employed by the Crown or has a personal axe to grind against social media outlets and their executives (such as the current Commissioner).

The Australian people neither needs nor wants an eSafety Commissioner. The ill-conceived and completely misused powers afforded the office provides little protection from real harms while drastically undermining the essential and inalienable rights of citizens.

#### eSafety Commissioner's Legal Case vs X Corp.

The Commissioner has ceased its legal action against X Corporation in the Australian Federal Court, citing the costs to the public.

Given that the funding outcome for the eSafety Commissioner in 2023-24 was \$52.7 million, and that additional funding specifically for legal fees has been apportioned in the 2024-25 Federal Budget, the Australian people are entitled to treat official claims about the importance of saving public money with great scepticism.

One may instead suppose the primary reason the Commissioner abandoned legal action in the Federal Court is that the Commissioner was losing badly, and because the judgement handed down would have been so damning that even legislative change to the *Online Safety Act 2021* would not have salvaged the situation.

The reason the Commissioner was losing was more than simply an error of process or novel interpretations of *the Act* by the Judge. Rather, the very idea of global takedown orders whereby an official in Australia forces a social media company to remove content from beyond our shores is a violation of the comity of nations and absurd on its face.

X Corp was entirely right to refuse, and it calls into question the Commissioner's underlying philosophy to ever make such a demand. An Australian Commissioner should be given no more credence in what is shown on a platform overseas than what we would give the Chinese Communist Party on what is available here in Australia.

With an intervention that directly undermines the independence of this review<sup>1</sup>, former ACCC Commissioner Allan Fels told the ABC in June:

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<sup>1</sup> Noting this Review is headed by a former member of the ACCC.

I'm sure if the law doesn't cover [the Wakeley footage] at the moment, the community would want a law that prohibits that sort of thing. Sometimes it's a good idea to test the limits of the law and that can trigger further action if that test fails.

With all due respect to Mr Fels, his claim that 'the community would want a law that prohibits that sort of thing' is absolute nonsense. Not even the victim himself wanted the footage removed from social media, and he signed an affidavit to that effect.

By this reasoning, Australians should not be able to access footage of the attacks on 9/11, or Russian atrocities at Bucha in Ukraine, or indeed any other matter of public interest that an unelected bureaucrat determines Australian adults have no right to see.

An order to remove truthful information and good faith opinions from social media does not benefit the general public - it merely makes things more convenient for governments and agencies who fear what the information might be used for. While the Government's fear that the Wakeley stabbing footage might, for instance, contribute to ethnic and social tension in the community is understandable, this is the Commissioner serving the Government's interests, not the Australian people's.

In short, the power being exercised by Government over social media, the modern day public square, is illegitimate. It seeks to infringe directly on the implied freedom of speech embedded in the Constitution. If the Government wishes to infringe upon that right and is so certain that the Australian public supports this, then let the Government put that to the test through a Referendum.

It's true that most Referendums in Australia fail. Therefore, the Government might put the question "Do you believe free speech should be enshrined as an inalienable individual right in the Constitution?" If the answer is "no" then the Government may take that as implied endorsement of its legislative restrictions and expansion of the Commissioner's powers. However unless the Government is willing to put this to the people, let's not pretend this naked power grab is being done in our name - it is not.

**Recommendation 1 - Repeal the Online Safety Act and abolish the Office of the eSafety Commissioner.**

**Recommendation 2 - Government to call a Referendum on embedding the right to free speech in the Australian Constitution**

## **2 The eSafety Commissioner Causes Harm**

I'm very ethical, except when it comes to you. - [Leslie Knope, Parks and Recreation](#)

On 14 June 2024 the Commissioner made the following concerning statement on the ABC:

We're developing primary prevention materials so that we can reach young men before they start getting caught in echo chambers, the manosphere, or, God forbid, becoming incels.

The term 'incel' has been purported to be a self-identifier of heterosexual men who are unable to find sexual partners who have adopted a misogynist ideology that is hateful and dehumanising towards women.

The problem is, 'incels' are almost a complete myth.

While a minute fraction of young males may exist who identify that way, if one does an advanced algorithmic search of the term 'incel' in how it is actually used, it is almost exclusively employed as an online slur by left-leaning activists against those who disagree with their personal views on social media.

The only criteria to be vulnerable to this slur is that the subject is male, regardless of their sexual status or even if married. The ratio online of people who are victims of an 'incel' slur to those using it as a self-identifier is at least 100,000 to 1.

An eSafety Commissioner who understands the internet and discharges their duties in a non-partisan manner to minimise harm would understand this fact. Instead, by raising this epithet as a boogeyman, the Commissioner gives continued licence to its use to bully others. In this way, the Commissioner is directly contributing to online sexist abuse, and no documentation is identifiable where the eSafety Commissioner even acknowledges the term 'incel' as a common online slur.

To be clear, the concept of an 'incel' as an ideology is so fringe that it is not unfair to describe it as a myth. Even those purporting to warn about incels have failed to identify even a single instance of incel violence ever having ever occurred in Australian history.<sup>2</sup>

The worst part is, there is a major problem for young men and society more generally with regard to online dating and relationships that a competent statutory body might help to address.

It is the case, for example, that the proportion of young men who have not had sex in the past year has increased from around 10% in 2008 to 28% just ten years later in 2018.<sup>3</sup> Online dating apps are the cause of this, and it is crippling both sexes.

If we scan Tinder data, for example, we find that the top 10% of male profiles received almost 60% of all matches. The bottom 50% of males receive just 4% between them.<sup>4</sup> A large majority of men are therefore unable to find partners online, while those who do are spoiled for choice and disincentivised to settle into long-term partnerships. This in turn hurts

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<sup>2</sup> This fact was begrudgingly acknowledged by Jasmine Latimore and John Coyne in their Australian Strategic Policy Institute publication titled "Incels in Australia: The ideology, the threat and the way forward".

<sup>3</sup>

<https://www.sciencealert.com/the-percentage-of-americans-not-having-sex-has-reached-a-record-high>

<sup>4</sup> <https://qz.com/1051462/these-statistics-show-why-its-so-hard-to-be-an-average-man-on-dating-apps>

women, who find males they meet online to be serial daters and unreliable and unfaithful partners.

Online dating was supposed to make things more efficient. Rather than waste time getting to know those who were ultimately incompatible, people could filter pairings to those who shared interests, values and attraction. This has completely backfired owing to the realities of our evolved methods of mate selection, and it has ruined marriage, child-rearing and long-term partnership at the societal level. It has significantly contributed to falling birthrates, delayed pregnancies, and failed marriages and families.

I labour this point in this submission because it's self-evident from the Commissioner's quote that she apprehends none of this. Certainly none of this is referenced anywhere in any eSafety Commissioner publication material. The Commissioner is a net-negative for society while not even approaching the real issues.

Instead, actual harms caused by technology-driven societal change are sidelined by the Commissioner, in favour of tired and factually illiterate tropes about the so-called 'Manosphere'. For the Commissioner, the problem is men, and them being exposed to influences that promote self-improvement and traditional masculinity. In this way the Office of eSafety Commissioner isn't about helping young men but instead operates as an ideological weapon furthering male denigration, thus directly contributing to the disaffection the Commissioner pretends to be addressing.

**Recommendation 3: Narrow the definition of 'harm' when it comes to online safety. Non-violent opinions and ideologies must be out-of-scope for public officials.**

**Recommendation 4: Public officials should be unbiased analysts of the internet, not ideological warriors. Higher standards are needing to be set for these officials to understand the serious problems associated with technology.**

### 3 Online Safety Bill 2021 is Abusive

*There's a reason you separate the military and the police. One fights the enemies of the state, the other serves and protects the people. When the military becomes both, then the enemies of the state tend to become the people. - William Adama, Battlestar Galactica*

The *Online Safety Act* is not about community safety. It is about power.

The Commissioner's fight with Elon Musk is a perfect example. It is not about community protection, but about control, and specifically the Government's desire to be the sole gatekeepers of information accessible by Australian citizens, supported by classic media.

In short, it is a failed attempt to roll back the democratisation of ideas that the internet age has enabled.

Prior to the internet, almost all authority on information in Australia was derived from our national parliament, filtered through the lens and bias of massively powerful media institutions. Traditional papers and television stations held a monopoly on advertising revenue, ensuring major broadsheets were the sole arbiters of what people in Australia could see and hear.

The internet broke that model completely. Now citizen-journalists can broadcast information that governments and traditional media institutions alike would rather suppress. Social media platforms such as X have become a genuine marketplace of ideas where individuals not only consume but broadcast. Every person has a camera in their pocket of near-cinema quality, able to be streamed to the world in real-time. Information has become democratised, and the power of the political-media class to gatekeep the national conversation has massively diminished.

This has allowed the voiceless in our community to finally get their fair say. Consequently, populist outsiders are able to break political consensus with insurgent campaigns, sharing a message themselves and through their supporters, drawing attention to matters of public importance and discontent that major political parties happily ignore.

The response from elites has been hysterical. These leaders, who have failed in countless areas of public administration, denounce social media 'as a threat to democracy' when it is exactly the opposite.

It is in this manner that the Office of eSafety Commissioner has behaved and should be viewed. For example:

On 5 June 2024, the Commissioner claimed that Elon Musk had, quote:

He dog whistled to 181 million users around the globe, which resulted in death threats directed at me, which resulted in doxxing of my family members, including my three children.

I think with great power comes great responsibility, and exercising that restraint in terms of targeting a regulator who is here to protect the citizens of Australia is really beyond the pale.

This is false, and in my opinion, defamatory. For her part, the Commissioner could not substantiate the claim that Elon Musk had 'dog-whistled' or 'targeted' her in any way. Indeed X Corp has objectively speaking done more to combat doxxing and risks to minors than probably any other major platform.

Elon Musk made public reference to the eSafety Commissioner on exactly four occasions, each to argue X Corp's perspective. The most substantive remark, dated 23 April 2024, is as follows:

Our concern is that if ANY country is allowed to censor content for ALL countries, which is what the Australian "eSafety Commissar" is demanding, then what is to stop any country from controlling the entire Internet?

We have already censored the content in question for Australia, pending legal appeal, and it is stored only on servers in the USA.

I challenge any reader to explain how this, or one of Musk's lesser references, in any way substantiates the Commissioner's allegation. Rather, Musk is simply stating his position on behalf of his company, while the Commissioner publicly engages in the very demagoguery, misinformation and character assassination she purports to combat through her role.

The reason the Commissioner is being supported by Government despite these countless missteps, I suggest, is two-fold.

First, is a narrow and foolhardy political calculus that the Australian people will back their Government over that of a 'narcissistic billionaire' as the Prime Minister puts it. This foolish presumption is based on the experience of Clive Palmer, which at least one government member referenced directly.

However the Australian people rightly apprehend that Elon Musk has achieved great things - in space exploration, electric vehicles, neural augmentation and artificial intelligence - areas that leave Anthony Albanese a minnow by comparison. Moreover, in this instance Musk is standing up for the rights of Australian citizens to express themselves, and even the attack victim fighting to be heard.

The second reason, as referenced previously, is that the Commissioner is an ideological weapon that leans heavily one side in contested positions by asking social media companies to limit the spread of legitimate discourse. For example, the Commissioner's recent take down notice of a X post by Australian activist, Celine Baumgarten, about a specific program being run at an Australian primary school. As this matter is now under appeal before the courts I won't recount the surrounding issues here, however questions about whether any such notices exist on the opposite side of that issue divide.

#### **4 Platforms as Publishers**

The whole philosophy of getting social media companies to remove what users post is the exact opposite of what should be legislated. Rather, social media companies should have almost no role in curating material produced and shared by users, save an extremely limited range such as child abuse.

The fact is the Government, through the Online Safety Act, is trying to have its cake and eat it too. Social media companies are platforms, not publishers. For example, the Government does not issue take down orders to Telstra if someone says something mean on a phone call, or even if a user plots a crime. There is sober recognition that telecommunications companies are platforms to facilitate communication, and are not liable for what others do or communicate. Pphone company does not monitor and censor users, and as social media companies are now the public square, it is inappropriate for the government to try.

## **RECOMMENDATIONS**

**Recommendation 1 - Repeal the Online Safety Act and abolish the Office of the eSafety Commissioner.**

**Recommendation 2 - Government to call a Referendum on embedding the right to free speech in the Australian Constitution**

**Recommendation 3: Narrow the definition of 'harm' when it comes to online safety. Non-violent opinions and ideologies must be out-of-scope for public officials.**

**Recommendation 4: Public officials should be unbiased analysts of the internet, not ideological warriors. Higher ethical standards are needed for public office holders to understand the serious problems associated with technology.**

**Recommendation 5: Introduce new legislation that demands social media companies act as genuine platforms, protecting users from shadow bans, sharing restrictions or other forms of controlling user broadcasts.**

**Appendix A - Misinformation and Disinformation *Have Your Say* Feedback Summary**

**Appendix B - Response to Online Safety Act Review Questions**



## APPENDIX A - Misinformation and Disinformation *Have Your Say* Feedback Summary

Key themes	Extract of comments on the Draft Bill
Freedom of expression	<ul style="list-style-type: none"> <li>● Free speech is a fundamental and non negotiable human right! This proposed bill will remove free speech which also happens to be the foundation of any free society.</li> <li>● Freedom of speech is a fundamental right of every Australian. This proposed “misinformation” law is an attack on our basic human rights by a government that is supposed to uphold those rights, not stifle them.</li> <li>● Freedom of speech and freedom of press is one of the most important factors for a healthy, evolving humanity. Without the ability to question authority, we will find ourselves in a dictatorship, not a democracy.</li> <li>● I am completely against the introduction of any restrictions on free speech. Free speech is an inalienable right given to everyone. What is there to fear from everyone exercising this right? The truth on every issue will always prevail no matter what is done to silence it.</li> <li>● The bill aims to suppress free speech in the media and social media. Free speech is the basis of any democracy and such legislation spells its death.</li> <li>● My view is that the Australians right of free speech is hugely important. Yes, there are false and misleading information out, however...this is no reason to interfere with our freedoms of independent thought-provoking speech!</li> <li>● As an Australian citizen, I do not agree or consent to Government censorship of our freedom of speech. This is undemocratic and unconstitutional. We all, as Australian citizens, have the right to have our voices and opinions heard and expressed.</li> <li>● I do not agree with this proposed Bill. We need to always maintain freedom of speech, it is the basis of a democratic society.</li> <li>● I do not approve of this bill – all people in Australia should be able to have their opinions heard and stated across all mediums of communication. Free speech has been our inherent right, just as we are custodians of these lands.</li> <li>● Freedom of speech is an absolute must for democracy. Everyone has the right to have an opinion. You might not agree with what they say but that’s OK. Civilised debates regardless of the subject matter is healthy.</li> </ul>

## Censorship

- I do not support the proposed censorship of online digital freedom of speech which is being disguised as a way to control misinformation and disinformation.
- No to censorship. My voice and my opinion is everything to me. No government should get to decide what is misinformation and what is not.
- It is not appropriate for the government to impose duties of censorship on third parties. If these is to be a standard for truth, it should be applied to all, including big media and government.
- I am writing to inform you that I strongly oppose the proposed laws compelling online service providers to censor online speech that it would consider harmful. I therefore disagree with the Bill.
- The proposed 'Misinformation Bill' appears to be censorship in the extreme. Sorting fact from fiction is not always easy. What someone thinks is true might be what someone else thinks is false. We need debate and the free flow of information to consider ideas.
- I say NO NO NO NO NO!!! While is true that as long as humans exist, that misinformation will exist on all levels, on all platforms, CENSORSHIP IS NOT THE ANSWER!!! The government is not and should not be in control of defining what is the truth!
- I am writing to oppose the new bill stopping people to having an opinion on information passed on through social media. Censorship is destructive to how people are informed about issues and information.
- No censorship please, this leads us down a VERY dark place. When censored, hate groups and similar go underground, where they aren't so easy to find. When they speak in public, we can all realise how silly they really are. Censorship has NO place in a free society.
- I oppose any form of censorship in Australia so I don't support this legislation.
- I am seriously concerned that providing the ACMA with new powers to combat online misinformation and disinformation could lead in time to excessive censorship and serve the purposes of a selected group with specific targets and aims.

## Definitions

- I think the definitions of misinformation and disinformation need further consideration. The fact sheet states that misinformation "...is shared or created without an intent to deceive..." Yet the definition for disinformation is misinformation that "...is intentionally disseminated with the intent to deceive..." How can this be? These definitions are logically inconsistent as we have just seen that misinformation is shared or created without an intent to deceive. Once there is an intent to deceive it is not misinformation.
- After reviewing the Bill's amendments, I believe a number of issues are very worrying, but the main concerns are:
  - Misinformation and disinformation has a very vague definition and would appear to be subject to ACMA's opinion/whim rather than fact.
  - The definition of a threat to safety or harm is also not explained.
  - The definition of a threat to wellbeing is non-existent.
- The bill's definitions of "misinformation" and "disinformation" are open to interpretation and abuse by those in power. There are already instances where official fact checkers have gotten it wrong. The definition of harm in this proposed bill is also highly subjective. It could include anything deemed hateful or harmful to various aspects of society, democracy, environment and economy. These terms are also open to interpretation and cannot be considered facts.

- While I appreciate the need to address the rampant spread of false information, I fear that the current bill grants the ACMA extensive powers that lack clear definitions and guidelines.
- The definition of “misinformation” and “disinformation” is very vague, and open to very subjective interpretation.

Authorised  
Government content

- The exclusion of government-authorized content from this censorship regime is hypocritical and inconsistent. It establishes an asymmetry, resulting in one rule for the government and another for the Australian people in terms of what they can say.
- The bill excludes government-authorized content from this censorship regime. This is hypocritical at least and at worst one rule for government and another for Australian citizens!
- Allowing those in the seat of government to dictate by so called State Authorised Media is an abomination and serves only those currently seated to choose by influence the next and up and coming by controlling the narrative.
- The bill is hypocritical in that it exempts government-authorized content from the censorship process to be required of digital service providers. Governments of all stripes have a long history of misinformation, obfuscation and even prevarication on critical issues. This double standard permits the government of the day to distribute ideological views without guaranteeing those of a different opinion the right of expression or reply.
- One very concerning aspect of the bill is that content authorized by the government would be exempt. It is incredible that a government would be willing to make a law and exempt itself from that law. The bill proposes one rule for the government and a different rule for everyone else.

Arbiter of truth

- The government is not the arbiter of truth. You are here to serve the people. You do not get to determine what information is right or wrong.
- I write to strongly oppose this act being passed into legislation. I strongly oppose any authority or government body determining what is truth which will ultimately become their version of the truth.
- I am extremely disturbed about the government’s proposed ‘Misinformation Bill.’ Although I know the internet can be used to promote all kinds of information, some of which is untrue. However, the solution is not to make the government the arbiter of truth and to censor those it disagrees with. The solution is open and honest debate.
- I hugely submit that the proposed Bill raises huge concerns for Australia as a democracy and I raise two that are foundational. To allow a single body to define truth and then to punish the publication of information that doesn’t conform is autocratic and oppressive.
- I’m writing to express my severe concern over a panel who will decide what is and what is not the truth on social media platforms. Government should not have the right to tell people what is the truth and what is not the truth as we all have our own minds and opinions and can think for ourself.

- Content exclusions
- ACMA's restrictions on misinformation and disinformation will exclude "professional news content". I find that these exclusions are not merely utterly hypocritical, but a licence for the promotion of "woke" and other "politically correct" viewpoints without any opportunity for critical evaluation. The major news networks have an extremely poor track record when it comes to unbiased, even-handed and factual reporting of such viewpoints.
  - Many mainstream media streams such as professional news including electoral content have been misleading or false but the standards would not apply to them. If this amendment is for the everyday user on a social media platform it should also apply to them. This rings alarm bells to me.
  - ACMA's restrictions on mis and dis information would exclude "professional news content" or "content produced by or for an accredited education provider." This sounds a lot like what we know to be the state of play in countries run by totalitarian dictatorships.
  - The EXCLUSION of comedy/entertainment, professional news platforms from obeying the codes set by ACMA is an act of discrimination against other social media platforms.
  - The proposed bill is highly hypocritical in that professional news outlets are exempt. The public will eventually become highly sceptical that these entities are not giving factual information but have become purveyors of whatever propaganda the government is wanting to promote.
- Enforcement and penalties
- Any penalties outlined in the bill should be proportional and fair, taking into account the severity of the offense committed. Disproportionate penalties can have a chilling effect on freedom of expression and hinder open dialogue.
  - My very real concern is the significant penalties associated with this legislation potentially places substantial power in the hands of Government officials.
  - The severity of the penalties for failing to comply with the misinformation codes and standards and for failing to provide evidence requested by ACMA is excessive. The threat of severe penalties for spreading misinformation or disinformation could create a chilling effect on individuals and media organisations, discouraging them from engaging in legitimate debates and discussions due to fear of prosecution.
  - The concern is that this bill may become a tool to suppress & manipulate the population into one way of thinking through excessive penalties.
- Supportive of action
- While the Australian government's efforts to combat online misinformation and disinformation are commendable, it is essential to approach the proposed legislation with caution.
  - I commend the wish of the Government in its desire to protect the population for "disinformation and misinformation", but legislation should never be used in such a way as to restrict freedom of speech.
  - It is quite clear that the AU government needs to do something in relation to what content is allowed to be shared in the public domain on the internet, via social media platforms, as currently anyone can post just about anything – anonymously.

## APPENDIX B - Response to Online Safety Act Review Questions

### Part 2 – Australia’s regulatory approach to online services, systems and processes

1. Are the current objects of the Act to improve and promote online safety for Australians sufficient or should they be expanded? **The Act should be repealed.**
2. Does the Act capture and define the right sections of the online industry? **Not in how it is administered by the Commissioner. Platforms are not publishers.**
3. Does the Act regulate things (such as tools or services) that do not need to be regulated, or fail to regulate things that should be regulated? **Yes it absolutely regulates things that do not need to be regulated, which is why the Act should be repealed.**
4. Should the Act have strengthened and enforceable Basic Online Safety Expectations? **No. The harm and risk is caused by the Act and those operating under it.**
5. Should the Act provide greater flexibility around industry codes, including who can draft codes and the harms that can be addressed? How can the codes drafting process be improved? **No. As per the submission the definition of harms needs to be narrowed, not expanded.**
6. To what extent should online safety be managed through a service providers’ terms of use? **Almost entirely, and largely free from Government control. However certain protections (such as privacy, freedom of expression etc.) may be required for users, especially when dealing with social media platforms that constitute the modern day public square.**
7. Should regulatory obligations depend on a service providers’ risk or reach? **If a platform is of its nature and size the level of being a public square (X, Facebook etc) then freedom of speech protections need to be strengthened.**

### Part 3 – Protecting those who have experienced or encountered online harms

8. Are the thresholds that are set for each complaints scheme appropriate? **They are far too low.**
9. Are the complaints schemes accessible, easy to understand and effective for complainants? **They are too accessible and overly encompassing.**
10. Does more need to be done to make sure vulnerable Australians at the highest risk of abuse have access to corrective action through the Act? **Vulnerable Australians need to be properly defined here. Vulnerable should mean digitally illiterate (not be based on some person’s immutable characteristic). This definition would also, by this definition, include many officials.**

11. Does the Commissioner have the right powers to address access to violent pornography? **This shouldn't be the Commissioner's job. If the pornography is of its nature illegal then that is a matter for the Federal Police. If it is not illegal, then the Commissioner should not be involved with it – either way, the Commissioner's role may be safely abolished.**
12. What role should the Act play in helping to restrict children's access to age inappropriate content (including through the application of age assurance)? **Companies should be obliged to take reasonable steps, and parents should be empowered to control what children access. However any mechanism that would require adults to provide personal identification to prove they are not children is gross overreach and absolutely unacceptable.**
13. Does the Commissioner have sufficient powers to address social media posts that boast about crimes or is something more needed? **The Act is ill-conceived as a redress and should be repealed. If social media posts boast about crimes and that speech is not unlawful, then it should be allowed. If it is unlawful, then the Police can handle it.**
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? **No. It's hard to think of a more terrible idea.**
15. Does the Commissioner have sufficient powers to address harmful material that depicts abhorrent violent conduct? Other than blocking access, what measures could eSafety take to reduce access to this material? **The subjective nature of what constitutes 'harmful material' and 'abhorrent violent conduct' is why the Commissioner lacks any legitimacy. The Act must be repealed.**
16. What more could be done to promote the safety of Australians online, including through research, educational resources and awareness raising? **Once the \$60M+ is saved by repealing the Act and abolishing the Office of the Commissioner, much more could be done to improve safety where it is most effective. This would include: building positive and constructive relationships with the tech sector; strengthening personal rights and protections online – particularly from government; commissioning real research on dealing with the social and demographic impact of technology (as opposed to what is currently funded); policing resources for scams and child abuse material.**

#### Part 4 – Penalties, and investigation and information gathering powers

17. Does the Act need stronger investigation, information gathering and enforcement powers? **No, the Act needs to be repealed.**
18. Are Australia's penalties adequate and if not, what forms should they take? **Crimes should be investigated and punished. Things that are not crimes should be left alone.**

19. What more could be done to enforce action against service providers who do not comply, especially those based overseas? **The Commissioner does not seem to know what 'based overseas' actually means. As per the submission, it has been the refusal of service providers to comply that has saved Australians from the tyrannical overreach of the eSafety Commissioner, not the other way around.**
20. Should the Commissioner have powers to impose sanctions such as business disruption sanctions? **No. The Office of the eSafety Commissioner should be abolished.**

#### Part 5 – International approaches to address online harms

21. Should the Act incorporate any of the international approaches identified above? If so, what should this look like? **Only those that aim to protect people from transnational crimes such as trafficking.**
22. Should Australia place additional statutory duties on online services to make online services safer and minimise online harms? **Yes, to protect free speech, prevent shadowbanning and eliminate child abuse. Nothing else.**
23. Is the current level of transparency around decision-making by industry and the Commissioner appropriate? If not, what improvements are needed? **Thankfully the Commissioner is completely transparent, which is why we can say with such high confidence that it is harmful to Australians and should be abolished.**
24. Should there be a mechanism in place to provide researchers and eSafety with access to data? Are there other things they should be allowed access to? **All Australians should have access to appropriate data. However private industry data, IP and commercial-in-confidence information is not appropriate except as part of criminal investigation.**
25. To what extent do industry's current dispute resolution processes support Australians to have a safe online experience? Is an alternative dispute resolution mechanism such as an Ombuds scheme required? If so, how should the roles of the Ombuds and Commissioner interact? **It is possible to improve the dialogue and relationships between Australian representatives and the tech sector generally. The mechanism for that is unclear, but definitely not an adversarial Commissioner.**
26. Are additional safeguards needed to ensure the Act upholds fundamental human rights and supporting principles? **Yes. There needs to be much stronger fundamental protections for free speech, access to social media platforming in the public square, and free expression of ideas and media.**

#### Part 6 – Regulating the online environment, technology and environmental changes

27. Should the Commissioner have powers to act against content targeting groups as well as individuals? What type of content would be regulated and how would this interact with the adult cyber-abuse and cyberbullying schemes? **No, the Commissioner's role should be abolished. Unlawful material should be dealt with by law enforcement.**
28. What considerations are important in balancing innovation, privacy, security, and safety? **There is definitely scope to consider safety when it comes to new innovation, especially in fields such as AI, however it's clear at this point the Act is not the appropriate mechanism. This question could use its own enquiry.**
29. Should the Act address risks raised by specific technologies or remain technology neutral? How would the introduction of a statutory duty of care or Safety by Design obligations change your response? **The Act should be repealed as it generates more harm than it reduces. However legislation generally should encourage providers to empower users with digital tools to maximally control their own experience and ensure those tools are as easy to use and accessible as possible.**
30. To what extent is the Act achieving its object of improving and promoting online safety for Australians? **It is awakening Australian citizens to the dangers of the Australian Government having such power over the internet.**
31. What features of the Act are working well, or should be expanded? **The part that requires this review to take place works well, enabling ordinary people to express their desire to see this Act repealed.**
32. Does Australia have the appropriate governance structures in place to administer Australia's online safety laws? **No. It is clear basic competencies are lacking.**
33. Should Australia consider introducing a cost recovery mechanism on online service providers for regulating online safety functions? If so, what could this look like? **No. Taxpayers would prefer a cost recovery model to be imposed on the Government to compensate for all the money wasted administering this Act to date.**