Submission

to

Enhancing Online Safety for Children inquiry.

Department of Communications

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Contact:
Barbara Biggins OAM
Hon CEO

The Australian Council on Children and the Media (ACCM) is pleased to be able to make this submission on the proposed establishment of an E-Safety Commissioner.

We are a unique national community organisation whose members share a strong commitment to the promotion of the healthy development of Australian children, and whose particular interest and expertise is in the role that media experiences play in that development. ACCM is recognised as the peak body for children's rights to live in a media environment that supports their healthy development, expands their horizons and provides them with pleasure. ACCM is structured as a not for profit company limited by guarantee with a national Board representative of major child focussed organisations in Australia.

> **ACCM sees the establishment of the E-Safety Commissioner as an opportunity to make some great leaps forward in media regulation for the protection of children's interests.**
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> **In our submission we would like to develop four main points:**
> **(1) the importance of using an evidence base;**
> **(2) the significance of content;**
> **(3) the desirability of linking the Commissioner's work to human rights, and in particular the rights of the child; and**
> **(4) the need to support parents and carers in regulating their children's online activities on all media, including online media.**

Reliance on evidence

One very positive development that could come from the establishment of the E-Safety Commissioner is that this office can be squarely briefed to act based on the best research evidence on what has the potential to be harmful or injurious to children.

Other regulatory systems, such as the *National Classification Code* and the *Children's Television Standards*, do little more than pay lip-service to the idea that content can influence children's well-being and development. There is scope for far greater attention to the evidence on matters such as:

- the influence of violent content on children's thoughts, attitudes and behaviour;
- the inability of young children properly to process advertising messages;
- the role of food advertising in contributing to childhood obesity;
- the influence of objectification and sexualisation on children's, especially girls', well-being; and
- the growing problem of over-use of screen-based media (including 'problematic internet use' and the use of wireless devices as 'electronic babysitters') and the impact this has on children's physical, cognitive, social and emotional development.

ACCM further submits that the research evidence should not only be mentioned in the Commissioner's charter, but be built in to all aspects of the Commissioner's functions. The maintenance of an up-to-date database or register of the research should be mandated, as should periodic review of all guidelines and practices, based on developments in the research.

The research to be included should be from all relevant fields, including psychology, education, paediatrics, child health nursing public health and media studies. Staff collecting

and applying the research should be trained in evaluating its cogency, including based on the methods used to gather the information.

If, as we submit, the Commissioner is granted strong take-down powers, clear and systemic reliance on research would also be necessary to justify these, and to make them more palatable from the perspective of freedom of expression.

Content matters

Sonia Livingstone in a 2011 paper[1] provided a useful matrix of the matters where children's engagement in online activities can raise concerns:

	Content Receiving (typically) mass-produced content	Contact Participating, not necessarily willingly, in a (typically) adult-initiated activity	Conduct Perpetrator or victim in a peer-to-peer exchange
Aggressive	Violent / gory content	Harassment, stalking	Bullying, hostile peer activity
Sexual	Pornographic content	'Grooming', sexual abuse or exploitation	Sexual harassment
Values	Racist/ hateful content	Ideological persuasion	Negative user-generated content
Commercial	Embedded marketing	Personal data abuse	Gambling, copyright infringement

We submit that this provides a good starting point for conceptualising the issues, though we might also have added 'health and safety' as an extra row, and sexually objectifying content, premature sexualisation of children, pro-anorexia content and sexting at different places in the table. In any case, Livingstone's list of content-based concerns for children's well-being and healthy development as internet users overlaps significantly with the one we provided in the previous section.

We urge the Committee not to lose sight of the matters in the 'Content' column in favour of other serious issues that appear in the 'Contact' and 'Conduct' columns, such as cyberbullying and the grooming of children online by paedophiles. While the consequences of these activities can be devastating for a relatively small number of children and young people, the subtle influences of **simple content consumption** on a vast number of children and young people have the potential to shape the lives and attitudes of a whole generation. ACCM submits that these influences, because of their subtlety and widespread nature, call out for society-level intervention at least as strongly as the other problems mentioned.

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[1] Sonia Livingstone, 'Positioning Children's Interests within Debates over Internet Governance' in Cecilia von Feilitzen et al (eds), *New Questions, New Insights, New Approaches: Contributions to the Research Forum at the World Summit on Media for Children and Youth 2010* (Nordicom, 2011).

This is particularly the case considering the novel ways that have been devised for capturing children's attention online. For example the advent of 'advergaming' (a form of 'embedded marketing') would not have been possible without the internet, and it is a classic example of blurring the line between advertising and entertainment. Such blurring was considered inappropriate even for adults, in the Commercial Radio Inquiry of 2000 (the 'cash for comment' affair); ACCM submits that applied to children it is downright pernicious and it needs to be addressed.

A rights paradigm

The establishment of the E-Safety Commissioner also provides the opportunity for a paradigm shift from the existing moralistic basis for media regulation towards a system based on **the rights of the child** as enshrined in the *UN Convention on the Rights of the Child* (*UNCROC*). Under this concept the emphasis is always strongly on what is 'harmful or injurious' to children and young people (see *UNCROC*, art 17), rather than what might be considered 'offensive' or even 'inappropriate'. These are widely seen as moralistic concepts that have a questionable role in government regulation in a mature, pluralistic democracy where human rights are respected.

The children's rights paradigm, by contrast, implies reliance on clear evidence as to the influence of certain material on children's development. It also facilitates the fashioning of a role for the Commissioner that has at its core a balancing of the human right of freedom of expression and the right of children and young people to protection. Indeed, under *UNCROC*, children themselves have rights to freedom of expression and of access to information (art 13).

There is another sense in which e-safety cuts across human rights, namely the capacity of online content to spread intolerant and prejudiced attitudes among children and young people (as reflected in the table above).

For these reasons, ACCM submits that the E-Safety Commissioner should be located within the Australian Human Rights Commission, and should work closely with the other Commissioners, especially the Children's Commissioner, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Sex Discrimination Commissioner and the Race Discrimination Commissioner.

It is implicit in this submission that ACCM would not be in favour of locating the E-Safety Commissioner within the Australian Communications and Media Authority (ACMA), which might otherwise have appeared to be the obvious place for it.

The ACMA's work has always been dominated by a balancing of corporate and public interests. In this context the main question has generally been how to encourage corporations to comply with guidelines while maintaining their viability for their main purpose, which is to maximise the return to their shareholders. Freedom of expression has been a consideration, naturally, but this takes on a different flavour and significance when the 'speaker' is a corporation.

Considering the strong presence of individual 'speakers' in the online world (including as content developers), ACCM believes that the question of freedom of expression will, or

should, be more important for the E-Safety Commissioner than it has traditionally been for the ACMA. This is certainly the case if the E-Safety Commissioner's work is to be widely accepted throughout the community, as we hope that it will be. We believe that the best way to achieve this is to locate the Commissioner outside of existing media regulation, and in a place where the balancing of rights is clearly foregrounded.

A further consideration in favour of this submission is the desirability of a conciliatory and educative approach to matters of internet regulation. The internet is notoriously difficult - some would say impossible - to regulate, but this is not a reason for society, through the government, not to make clear statements about what is acceptable, what is not, and why. In our submission, the traditions of the AHRC in using informal methods such as mediation could be very valuable in this regard.

Role in supporting parents

ACCM submits that the E-Safety Commissioner should have a role in, among other things, disseminating information to support parents and carers in establishing the best online environment for children and young people. This might extend to recommending or blacklisting certain sites but also to strong health promotion campaigns about the importance of boundaries and good parenting in relation to online media. One particular message that we would hope the Commissioner would propagate is that **even if children appear to have a remarkable facility with the technology, the parent is still best placed to assess the content**; and parents and carers have a responsibility to familiarise themselves sufficiently with the technology to be able to make those judgments.

We further support the policy recommendation that the Commissioner should have a role in providing information and training to assist parents and carers in fulfilling that responsibility. In addition, ACCM strongly supports the recommendation at Coalition Policy 4b (*The establishment of an advice platform with guidelines for parents about the appropriateness of individual media items for children)*:

> A key responsibility of the Children's e Safety Commissioner will be to provide additional advice to parents about the appropriateness of television programmes, films, computer games and websites, including social media websites, across a range of categories.

As some children are in greater need than others, due to socio-economic or other disadvantage, the support given to parents needs to include a range of strategies to suit the needs of all types of parents including those who do not have the same capacities as others.

Because children (especially younger children) still spend a considerable amount of time watching television programmes and DVDs; and because the same content is often available on all three platforms, it would be greatly helpful to parents and carers for all the information and advice to be in one place.

ACCM believes that if all these messages are coming from the same agency that has powers to order take-down etc, it will be taken very seriously. It will also be helpful for the messages to come from an agency whose very name conveys what is at stake, namely the safety of children and young people.

We thank the Committee once again for the opportunity to make this submission. In the interests of saving them time we have kept the submission brief, but we should be delighted to expand on any of the points above in an oral submission if it would be helpful to the Committee.