

Submission to the Australian Government Department of Communications:

Enhancing Online Safety for Children

Introduction:

Time and resources do not allow me to do full justice to this submission. However I welcome the opportunity to be part of the debate.

The issue of cyber bullying and discussions canvassing an appropriate response by the Australian Government are welcome. Not only welcome, but timely given the growing number of cases in this county where cyber bullying has led to extreme consequences for the victims including suicide.

In light of the wider discussion on whether offences should fall under civil or criminal law, this submission considers the proposed responses within the context of both the bully and the victim being children.

As stated in the discussion paper the policy sets out a commitment to:

- > establish a **Children's e-Safety Commissioner** to take the lead across government in implementing policies to improve the safety of children online;
- > develop an effective **complaints system**, backed by legislation, to get harmful material down fast from large social media sites; and
- > examine **existing Commonwealth legislation** to determine whether to create a new, simplified cyber-bullying offence.

Children's e-Safety Commissioner

On 10th February this year the Australian National Children's Commissioner Megan Mitchell shared the following on Facebook:

New research shows parents most concerned about their child's access to inappropriate material (70%), contact from strangers (69%), protecting personal information (64%) and bullying (63%). Almost half parents interviewed supervised the online activities of younger children. <http://www.smh.com.au/digital-life/digital-life-news/parents-not-as-uncool-online-as-previously-thought-20140211-32e47.html>

Clearly, here is a commissioner who is in touch with the issues of cyber bullying and is using social media to express those concerns.

My recommendation would be to position the responsibility of cyber bullying with Megan Mitchell rather than create a new Children's new e-Safety

Commissioner. This would result in considerable savings enabling investment into complimentary initiatives.

Complaints system

A complaints system will of course need to be backed by legislation as stated, however given the history of legislative reform let alone the establishment of new laws in this country, those adversely affected by bullying might have some time to wait to have their concerns tested in court.

Perhaps consideration could be given to a voluntary code of conduct by on line service providers which will inform the scope and substance of draft legislation. Evidence in the discussion paper suggests that worthwhile discussions are happening between stakeholders and need to continue.

Existing Commonwealth legislation

The ability to introduce timely legislation and to bring about the reform of laws which keep pace with technological advances is, and will continue to be a vexed issue. In this instance, there is a degree of urgency to curtail unwanted and unnecessary outcomes. As mentioned, legislative reform needs to be informed by measured consultation but will be influenced by public opinion.

As I mentioned in my introduction, the scope of this discussion and the intentions of its proponents need to be framed within a context of the rights of the child and the behaviour of children. Legislative reforms therefore need to occupy that space which considers the efficacy of crime prevention approach over an actuarial approach which simply leads to risk assessment and a response after the event.

Conclusion

All children have a right not to be bullied, whether the bullying occurs in the playground or via social media. Children who are bullies need to know how their behaviour affects their victims and victims need to know there is a process of justice which can restore their relationships to one of mutual respect.

Ultimately, if cyber bullying by children is deemed to be a crime, then the appropriate safeguards need to be established to punish the perpetrators and protect the victims and the vulnerable. In light of the current discussion, I feel more emphasis needs to be placed on measures to support the children so that punitive measures are only employed as a last resort.

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