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connect better

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Enhancing Online Safety for Children
Public consultation on key election commitments

iiNet is Australia's second largest DSL Internet Service Provider and the leading challenger in the telecommunications market. iiNet employs more than 2,000 staff across three countries and supports over 1.7 million broadband, telephone, and Internet Protocol TV services. Our vision is to lead the market with products that harness the potential of the Internet and then differentiate with award-winning customer service. iiNet is passionate about the transformative benefits of the Internet and committed to helping Australians 'connect better'.

We welcome the opportunity to respond to the Department of Communications' "Enhancing Online Safety for Children" (the Discussion Paper.) iiNet has provided a response to those issues set out in the Discussion Paper that are of particular relevance to our business.

The key ideas in iiNet's submission are:

1. Cyber-bullying is a shared problem that requires a shared solution involving government, industry, law enforcement, educators, and the broader community;
2. The ubiquitous nature of the internet makes the implementation of any kind of legal framework both difficult and expensive;
3. The establishment of a Children's e-Safety Commissioner is an unnecessary duplication of responsibilities already assigned to the ACMA or handled through existing complaints processes of social networking sites;
4. Any proposed regime should not inadvertently capture ISPs;
5. Adding a mid-range cyber-bullying offence to the existing provisions of the Criminal Code may place unnecessary burden on ISPs, law enforcement, and the legal system.

Cyber-bullying is a shared problem that requires a shared solution involving government, industry, law enforcement, educators, and the broader community.

iiNet is passionate about the Internet as an educational and social development tool, but we are also very aware of the pitfalls for children. As part of our long-standing Online Safety program, iiNet provides interested community members the opportunity to host their own Online Safety seminar by offering free access to information, handouts, and a guest speaker.

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While these seminars have been most popular in secondary schools, demand has also risen for training at Parents and Community Committee (P&C) meetings, teacher training, and senior citizen groups.

The Discussion Paper cites ACMA's findings that only a 'fraction' of the 53% of teens exposed to cyber-bullying, chose to tell a parent about the incident. This statistic is at odds with recent ACMA research that 78% of young people were most likely to turn to their parents for information relating to online safety issues. The recent ACMA initiative "Chatterbox" further underscores the need for parents to be educated about online safety, so that they feel confident and competent when discussing issues with their children. iiNet's experience presenting at P&C meetings, is that the former culture of 'technophobe' parents citing the generational gap as their excuse for not being involved in the virtual world of their teenagers has shifted.

Feedback from teachers we work with is that booking ACMA Outreach presentations involves lengthy waitlists, often at a time when a school is in crisis mode around a significant issue, such as sexting. We've noticed that existing online resources focus on increasingly obsolete social networks with no practical information around new social platforms that often fall under the radar of parents and teachers. Savvy teenagers find workarounds for school censorship attempts, and crave real life case studies alongside practical advice for settings on their specific devices.

iiNet believes that education is critical in the area of cyber-safety. The proposed establishment of a research fund to mitigate children's online risk, should be coupled with an increased focus in the National Curriculum around the responsible use of ICT, and additional support for teachers and parents in this area. From our experiences as outlined above, there's still much to be done to improve the education around cyber-safety, before moving down a path of further regulation and enforcement.

The ubiquitous nature of the internet makes the implementation of any kind of legal framework both difficult and expensive.

iiNet has concerns that the transnational nature of the Internet will make enforcement of the proposed regulation near impossible, given the challenges in regulating companies based outside Australia. Issuing a "formal warning" as a penalty for non-compliance will do little to deter those social media sites that deliberately lack a complaint process to begin with.

From our experience assisting law enforcement agencies under the provisions of the Telecommunications Act, we have found that by the time an incident reaches the point of police investigation, Internet records are often no longer available. Additionally, issues such as cyber-bullying often take place from within school networks or via public Wi-Fi, making the question of proving who created the offending content very challenging to determine.

The establishment of a Children's e-Safety Commissioner is an unnecessary duplication of responsibilities already assigned to the ACMA or handled through existing complaints processes of social networking sites.

While iiNet is not convinced of the need for an e-Safety Commissioner, our preference is Option 3; the designation of a Member (or Associate Member) of the ACMA as the Commissioner. The creation of an entirely new role seems at odds with the government's red tape review and deregulation agenda. In this context, using the well-established processes within the ACMA (in reference to take down notices), appears the most efficient option. While we recognise the Online Content Scheme does not address material hosted abroad, the existing administrative support process could be duplicated for the e-Commissioner, resulting in significant time and cost savings for the scheme.

Any proposed regime should not inadvertently capture ISPs.

iiNet agrees with the concerns highlighted by Communications Alliance in its submission about the potential of the proposed scheme to inadvertently capture intermediaries like ISPs and CSPs who provide the underlying network on which social media sites are accessed. iiNet similarly strongly opposes any regime that would impose further obligations on ISPs and CSPs.

Adding a mid-range cyber-bullying offence to the existing provisions of the Criminal Code may place unnecessary burden on ISPs, law enforcement, and the legal system.

When considering the proposal to create a new, simplified cyber-bullying offence, the following questions occur to us -

- Will the creation of a mid-range infringement/offence promote frivolous complaints to our already stretched law enforcement agencies?
- Will the law result in minors being charged with criminal offences?
- Will multiple offences create confusion around situations in which to apply each penalty?

In iiNet's view, one practical option is for online offences to be dealt with in similar fashion to other anti-social activity such as hooning, graffiti, and public transport fare evasion. Civil penalties could include an infringement notice and fine, or non-financial remedies such as community service, or compulsory attendance at anti-bullying counseling sessions. Involving school principals in the complaints process may also positively influence the creation and/or development of internal school bullying policies and remedial behavior programs.

iiNet appreciates the opportunity to provide feedback on the Discussion Paper and would be happy to provide any further information relating to our submission. We would also appreciate being kept informed of any developments resulting from this proposal.

Yours sincerely,

Steve Dalby

Chief Regulatory Officer

iiNet Ltd