

Submission for Amendments to Proposed Online Safety Bill

Class 1 and 2 Content

The language used to distinguish between Class 1 and Class 2 content is purposefully vague and carries connotations of implying broad moralistic and censorious values.

Classifying Class 1 as proposed will consequentially involve making Abusive Content and Adult content indistinguishable from one another. Categorising Class 1 - or RC classified content will combine consensual sexual contact, such as, Kink and Fetish Pornography with nonconsensual and horrific sexual content such as Child Pornography.

Classifying content in this way, seriously threaten and erases consensual contexts of explorative sexual content and classes this as sensitive and offensive material. In 2017, the United States of America enacted a dangerous precedent to the Online Safety Bill - named SESTA/FOSTA. There are copious amounts of documented body counts from the violence and problematic occurrence that have arisen from this Bill being passed as it caused harm but not distinguishing between consensual and non-consensual sexual content.

There is an inherent issue with a Class 2 classification for all sexual content or even content relating to nudity and sex being classified as 18+. This Bill gives incentive to a multitude of platforms to remove all content that could be flagged to avoid a loss in profit and governmental fines. This essentially means that once the Bill is passed, companies will feel pressured and forced to remove and censor all sexual and nude content to avoid receiving a Class 2 classification.

This does not even begin to discuss the social and economic consequences. Many forms of photography, art and educational resources are now vulnerable to internet censorship. Sexual educators are erased and silenced, unable to share meaningful and important information that assists heavily in harm reduction - including discussion around sexuality and consent training. The erasure of these resources will also lead to an increase in Sexually Transmitted Infections, sexual violence and a decline in the liberation and progression of young people that generations before have worked to have in place. A generation of disempowered youth.

Restricted Access System

Appointing an Unelected Official as The E-Commissioner is extremely dangerous. The incredible amount of power and discretion this one person will have to decide what is 'offensive' is beyond detrimental. Due to the vague nature of the language and terms used in this Bill, the E-Commissioner will have an enormous amount of subjective interpretation of the guidelines. Reports to the E-Commissioner have the potential to be weaponised against women or small business by those wanting to harm them.

With the potential for sexually explicit material to be removed within 24 hours, once reported - Sex Workers will be impacted the most. Malicious Clients and 'Offended Strangers' are not a fallacy. This is very real and reporting the content of Sex Worker for nudity, could cost Sex Workers not only their income, but their security and safety, This inevitably leads to people in financially desperate situations being provided with less options to screen and advertise and consequentially accepting and providing services to those with dangerous predispositions. This Bill has the ability to directly push Sex Workers to the margins of society and cause the death of not one - but multiple vulnerable Sex Workers.

The options of Parental Control Systems have already been provided and caregivers and guardians have the ability to activate them on all devices that a child has access to. This Bill however, does not and cannot provide any new pathways for protection that do not

already exist. This Bill will cause harm and serious violence to minority communities, Sex Workers and women.

Importation of dated classification system

Class 1 and Class 2 definitions derive from The Commonwealth Classification Act 1995 and National Classification Code 2005. Due to the dated nature and use by old media of these classifications, they do not reflect the diversity of new digital media. The value judgements are extremely outdated and no longer reflected the progression of values that a majority of Australians embody.

With information from multiple Media and Communications professors and University Academics, I can assure that this Bill grossly misunderstand how the functions of the internet such as algorithms and platforms engage within new media. This creates countless unintended dangerous consequences and situation due to its use of outdated and misrepresentative language and frameworks.

Conflation of 18+ and Harmful Content

When looking at the definition of X18+, this is the only classification category to exclude violence. At present, a reason as to why this should be considered harmful online content hasn't been deduced at all. X18+ content, RC content and R18+ content are conflated with a lack of information about the extent of what makes the content harmful.

Offensiveness

The Online Safety Bill sets out criteria for instance in which the E-Commissioner should flag and consider material to be 'offensive'. The consideration includes standards of morality, decency and propriety accepted by the general reasonable adult and whether the content has literary, educational or artificial merit, legal or scientific character. When speaking on behalf of Offensiveness, we must realise that this is a subjective and overwhelmingly individual experience and a criteria for determining what is harmful online content is not reasonable by any means.

Abuse and Harassment

Due to the nature of Sex Work, Sex Workers and sexually explicit media are already prone to high levels of maliciousness. The Bill hold space negatively for Sex Workers, opening the opportunity for irksome, superficial and malicious complaints; The broad grounds on which a complaint can be made, allows a high accessibility rate for users to engage in malicious complaining. Any Class.2 content that is not subjected to a restricted access system can be complained about even when a lack of harm is evident within the content.

The Bill permits the E-Commissioner to create Restricted Access Systems. The E-Commissioner has the power to create a particular access-control system that must be used as a 'Restricted Access System'. This means that, for example, the E-Commissioner may determine that all Class-2 material ought to be subject to an age-verification system. Both the Australian and United Kingdom governments have considered age-verification processes to limit minors' access to adult material. The UK Government dismissed this due to major issues relating to privacy and practicality. This Bill continues to give the E-Commissioner an unreasonably amount of power without the accountability for their decisions. This is unsafe and extremely harmful.

The E-Commissioner has been given an extremely wide amount of discretion to make decisions about all sexual content. The E-Commissioner has enormous power under this Bill to make decisions about what content Australian residents can access. The E-Commissioner has the power to make a decision of whether or not to initiate an investigation and issue notices of removal as per their discretion. The E-Commissioner is

not elected, rather appointed and can delegate authority to other Bureaucrats has there is no obligation to be accountable for the decisions that are being made.

The lack of transparency and accountability is directly so due to the Bill. There is no obligation to take responsibility and publish enforcement and compliance patterns which should be publicly-available data. The results in the Public without knowledge on how many complaints have been made again Sex Workers, how frequently Sex Worker content has been subject to removal, why some content was subject to removal notices while other were not.

Due to the lack of criteria for what content is harmful and warrants removal, Users will be unable to edit their content accordingly in order to comply with the framework. The Bill has the potential to erase Sex Workers' businesses while undermining their right to choose how and where they work.

During the onset of COVID-19, the increase of Online Sex Workers allowed many to survive the Pandemic that shut down in-person Sex Work in Australia effectively and immediately. While many of the platforms Sex Work use to engage in their work - Cam Work, Sell Content and other forms of digital Sex Worker - do have paywalls or other methods of restricting user access, there are no clear guidelines for what the system of restricted access created by the E-Commissioner will be. Without this Bill being made in consultation with affected communities, this provision will most definitely cause undue damage to Sex Worker livelihoods. Under this Bill, advertising content is at risk of removal with the least amount of notice, if any at all, resulting in a disastrous impact on income of Sex Workers. Advertising restrictions for services and/or mode of work are a form of criminalisation of sex work. There is a necessity for Sex workers to advertise their services online without restrictions or vulnerability to malicious complaints. When Sex Workers lose access to advertising and revenue streams, their safety and autonomy is immediately at threat

Sharing of non-consensual images

Sex workers need equitable access to non-biased reviews.

This provision of the Bill could open better access to redress if a client stealthily takes images or video during a Booking, Introduction or other interaction and posts it online. There is a significance for us to advocate for equitable access to reporting for Sex Workers. Due to the E-Commissioner holding power over investigation and notice issuing, Sex Workers are demanding oversight and accountability in order to ensure all complaints are handled equitably regardless of the E-Commissioners personal and moral beliefs, values and inevitably, stigmas.

Existing section does not recognise withdrawal of consent or limits on consent

Images where the person depicted did not consent to the posting of the image are defined as non-consensual intimate images. In some scenarios, Sex Workers will have consented to the posting images for certain purposes - e.g. advertising on a particular escorting website - but not consented to the posting images for other purposes or on other platforms - e.g. continued use of image after leaving agency, or pirating and distribution of the image across other platforms. Amendments are needed within the Bill to recognise that a person should be able to withdraw consent to the posting of intimate images and place limits on their consent by specifying how, where, and for how long the image can be posted.

The Bill gives incentives for platforms to remove all sexual content

The Basic Online Safety Expectations mean that services and providers will have to take active steps to ensure that minors cannot access Class 2 content. Due to these Expectations, platforms, hosts, providers and services are incentivised to instigate age verification mechanisms, which have a wide range of privacy and feasibility issues, and imply to create policies that remove sexual content altogether, resulting in the

sanitisation of online space and a mass de-platforming of Sex Workers.

The effects of the US FOSTA/SESTA legislation is an example of this and virtually all Sex Workers who use the internet for work in Australia have been deeply impacted by this legislation.

There is an opportunity to discuss the damage of this type of legislation within businesses and communities. Sex Workers are heavily reliant on online platforms to advertise, screen clients, blacklist and notify other Sex Workers of dangerous clients, employ safety measures and peer connection and community.

Other businesses - small or mass corporations - have the ability to use social media and online platforms to advertise and become accessible to others. Sexual material should not be an exception and treated disproportionately to other kinds of media. Sex work is a largely lawful industry and should not be subject to discriminatory regulations.

Consensual sexually explicit material should not be considered equivalent to violent, harmful or abhorrent content.