



Family Zone

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Consultation on the Online Safety Bill

Family Zone is a Western Australian based, world-leader, in online safety technology. Founded five years ago, the company has grown swiftly, now supporting the safety needs of some 3,500 schools and nearly two million students across Australia, New Zealand and the US.

Our innovative technology is the only one in the world that provides the ability for schools and parents to share in the responsibility of keeping children safe. This provides us with a unique insight into the technical, social and behavioural matters at play in online safety.

We applaud the intent of the Proposed Online Safety Act to establish a holistic regulatory approach.

However, we wish to raise a legislative gap that should be addressed to give effect to the aims of the legislation and strengthen the online environment for children.

We submit that there are two **industry sectors** fundamental to online safety that are not addressed in the bill. These sectors are **device operating system service providers** and **parental control service providers**.

Excluding these groups is akin to excluding the owners of public pools and the builders of pool fences from pool safety measures.

We propose modest changes to the exposure draft which ensure all key sectors are reflected and no specific sector is over or unrealistically burdened.

We include within our submission a technical analysis of the proposed legislation drawing on our significant knowledge of the underlying technology and behavioural subject matters.



Submission on the proposed Online Safety Bill

The objective of the proposed Act is to establish a comprehensive, holistic, regulatory approach to online safety. We submit that two fundamental industry groups must be added.

Device Operating System Providers

Device operating systems control how applications run and interact on computing devices. Operating systems are the literal gatekeepers in online safety.

The support of operating systems is critical to:

- Enabling content filtering by schools, parents and by carriers and businesses.
- Enabling parents to implement parental control software to regulate their children's online activity, the content and apps they access.
- Enabling parents to regulate other risky activity such as young person's use of device cameras, in-app-purchases, location tracking services and so on.
- Effective implementation of safety-by-design principles in social media and gaming platforms (such as supporting age verification); and
- Enabling parents to implement consistent measures across all of the devices that their children use.

The key operating systems are provided by the **big-tech** companies Google (Android & Chromebook), Apple (iOS and macOS) and Microsoft (Windows).

These powerful companies currently have no obligation to support the above-mentioned ends.

In many ways these companies set the rules of the internet and do so for their advantage. They have the technical capability and market dominance to unilaterally:

1. decide the rules for the operation of apps and parental controls apps specifically.
2. blind almost all filtering & moderation measures; and
3. block / 'de-platform' or bias users to specific online services, forums or social platforms.

Big tech's commercial priorities are inherently tangential to the safety and other needs of the community. They want engagement and control whereas the community wants choice and moderation.

They wield their power in numerous ways to disable parents or App developers and advantage themselves. Examples include Apple's unilateral removal of parental control Apps from the App Store at the same time they launched ScreenTime and Google's clamp down on developer use of location services whilst protecting their ubiquitous use of location tracking.

Submission 1: *It is fundamentally important that operating system service providers are identified as a section of the online industry so as to allow the eSafety Commissioner to pursue codes and set standards.*

The community expects that the operating systems providers support online safety. Given their gatekeeper role, it is critical that they also support the efforts of all sections of the online industry with their respective efforts to ensure the safety of end users and restrict access to inappropriate materials.



Submission 2: *Basic online safety expectations should be set in the Act for operating system service providers. These expectations should require that they take reasonable steps to support the efforts of all sections of the online industry to ensure that these industries can support the safety of end users and can restrict access to inappropriate materials.*

Parental control service providers

There is a vast industry of parental control providers operating in support of Australian families. They include names like Family Zone, OurPact, NetNanny, McAfee, Norton and many hundreds more.

Australia is a world-leader in this sector, with our company and others, capturing significant market-share globally. Safety technology is an innovation pathway for Australia as well as an opportunity to ensure safe internet experiences for our community.

Parental control software offers features from basic internet filtering to monitoring, time management and wellbeing tools. Their role is to empower parents to ‘parent’ in the virtual world across all of the devices / operating systems that their children use.

Parental control software providers are independent of big-tech and thus occupy a key position in online safety, whereby they specifically serve the safety needs of the community.

Submission 3: *It is fundamentally important that parental control service providers are identified as a section of the online industry so as to allow the eSafety Commissioner to pursue codes and set standards.*

We note that most parental control providers are US based and have developed their solutions for that market. Most specifically we note that none of the overseas providers have signed-up to the eSafety Commissioner’s family friendly filter program.

The community expects these providers to take reasonable steps to implement measures consistent with Australian standards for internet safety and for such standards to be clearly set out as a basis for operating in Australia.

Submission 4: *Basic online safety expectations should be set for parental control service providers requiring that they implement the measures to restrict access to class 1 and class 2 material.*

SUGGESTED CHANGES TO THE BILL

The following changes are suggested to reflect the above recommendations.

Ref	Clause	Explanation
s5	<p>Add the following definitions:</p> <p><i>operating system service</i> means the operating system software that runs on an end-user computing device.</p> <p><i>operating system service provider</i> means a person who provides an operating system service to end-users in Australia.</p>	<p>Operating System is the software that controls the apps and services that run on a computing device. The dominant platforms are from Google, Apple and Microsoft.</p> <p>Operating systems can support or undermine effort by the community</p>

	<p>parental control service means software which operates to provide parents with the ability to control end-user access to electronic services.</p> <p>parental control service provider means a person, not being an operating system service provider, who provides a parental control service to end-users in Australia.</p>	<p>to keep children safe. With this key role, we urge their inclusion as a sector in the Act.</p> <p>Parental Control software operates independently of the operating systems to amongst other things block harmful and direct children to age-appropriate internet services. Most providers are from the US and are not governed by any Australian standards. We urge their inclusion as a sector in the Act.</p>
s45	<p>Change number and title of existing s45 to:</p> <p>45A Basic online safety expectations for social media, relevant electronic services and designated internet services</p>	Document structure change only.
s45B	<p>Create new s45B</p> <p>45B Basic online safety expectations for ancillary providers</p> <p><i>Operating system service provider</i></p> <p>(1) The Minister may, by legislative instrument, determine that the basic online safety expectations for an operating system services provider are the expectations specified in the determination.</p> <p><i>Parental control service provider</i></p> <p>(2) The Minister may, by legislative instrument, determine that the basic online safety expectations for a parental control services provider are the expectations specified in the determination.</p>	Structural provision.
s46	<p>Change number and title of existing s46 to:</p> <p>46A Core expectations of social media, relevant electronic services and designated internet services</p> <p>(1) A determination under section 45A...</p>	Document structure change only.
s46B	<p>Create new s46B</p> <p>46B Core expectations of an operating system services provider</p> <p>(1) A determination under section 45B(1) must specify each of the following expectations:</p> <p>(a) the expectation that the operating system services provider take reasonable steps to support the efforts of all sections of the online industry to ensure the safety of end users and restrict access to inappropriate materials.</p> <p>(b) the expectation that, in determining what are such reasonable steps, the operating system services provider will consult the Commissioner;</p>	Operating system providers are the gatekeepers for online safety technology which is fundamental to the objectives of the online safety act. Without proper support from operating systems the efforts by all online safety sectors and specifically the efforts of social & gaming platforms and parental controls can be undermined.

	<p>(c) the expectation that, if the Commissioner, by written notice given to the operating system services provider, requests specified information relating to the measures taken by them with respect to Section 46B(1) (a), they will comply with the request within 30 days after the notice of request is given.</p>	<p>The community would expect these parties to operate within these very basic expectations</p>
s46C	<p>Create new s46C</p> <p>46C Core expectations of a parental controls service provider</p> <p>(1) A determination under section 45B(2) must specify each of the following expectations:</p> <p>(a) the expectation that the parental control service provider makes reasonable efforts to prevent access to class 1 or class 2 material;</p> <p>(b) the expectation that, in determining what are such reasonable steps, the public hotspot provider will consult the Commissioner;</p> <p>(c) the expectation that, if the Commissioner, by written notice given to the public hotspot provider, requests specified information relating to the measures taken by them with respect to Section 46C(1) (a), they will comply with the request within 30 days after the notice of request is given.</p>	<p>Parental control providers are mostly US based and we urge that they be brought into the proposed Act to meet Australian expectation.</p> <p>The community would expect these parties to operate within these very basic expectations</p>
s134	<p>Add new clauses i-j</p> <p>134 Online activity <i>For the purposes of this Division, an online activity is an activity 12 that consists of:</i> ... (i) providing an operating system service, so far as the service is provided to end-users in Australia (j) providing a parental control service, so far as the service is provided to end-users in Australia</p>	<p>The proposed Act should encourage codes and standards for these other groups which are fundamental to online safety:</p> <ol style="list-style-type: none"> 1. Operating systems providers 2. Parental control providers
s135	<p>Add new clauses i-j</p> <p>135 Sections of the online industry (2) <i>For the purposes of this Division, each of the following groups is a section of the online industry:</i> ... (i) the group consisting of providers of operating system services, so far as the service is provided to end-users in Australia (j) the group consisting of providers of parental control services, so far as the service is provided to end-users in Australia</p>	<p>The proposed Act should encourage codes and standards for these other groups which are fundamental to online safety:</p> <ol style="list-style-type: none"> 1. Operating systems providers 2. Parental control providers

We thank you for the opportunity to provide input into this important work.

We again take this opportunity to recognise the efforts of the Office of the e-Safety Commissioner. We look forward to continued work with the Government and the Commissioner.



Yours sincerely



COMMENTS ON EXPOSURE DRAFT

Section	Reference	Comment
s5 "provider"	Definitions > "provider"	We note no inclusion of that it doesn't include <i>carriage service providers</i> notwithstanding s95(1)'s reference to "the commissioner may give the <i>provider</i> a written request".
s13 (4) & (5)	Social Media Services > Exceptions	These clauses define the ability for a Social Media Service to be exempted. In doing so, the service defaults back to being a Designated Internet Service meaning all requirements under the Act appear to be unaffected. We're not sure of the purpose of this construction.
s 32 (3) (b) and (c)	Complaints > "parent of guardian"	These clauses refer to "parent or guardian" whereas the act only defines "parent" in s5.
s 33 (3) (f) and (g)	Complaints > "parent of guardian"	These clauses refer to "parent or guardian" whereas the act only defines "parent" in s5.
Div 2	Basic online safety expectations > who is not covered	There is no reference to these providers in the BOSEs: <ul style="list-style-type: none"> 1. Operating system providers 2. Parental control providers 3. Internet carriage service providers 4. Public Hotspot providers 5. App distribution service providers We suggest consideration of whether all of these sectors should be referenced, however maybe they can be handled in the industry codes & standards.
s 67 s 69 s 91 s 111 s 115	Removal notice to hosting service provider	In many instances hosting service providers will be unable to remove a specific internet resource. They may only be able to take down the entire service which may have broad commercial impacts. Accordingly, it is suggested some effort to clarify what "to the extent that the person is capable" means.
s 73(2)(b) s 85(2)(c) s 93 (2)(c)	Service provider notification > "terms of use"	Commissioner can only issue a notification if (inter alia) the provision of the material contravenes the service's terms of use. We don't think the service provider's terms are relevant in these instances.
s 95(1) s 99(1)	Blocking requests / notices > to the "provider"	This section deals with blocking requests & notices to ISPs. The second paragraph refers to "the commissioner may give the <i>provider</i> a written request". Use of the term provider appears wrong as this term relates to electronic not carriage services.
s 95(2) s 99(2) s 103	Blocking requests / notices > blocking URLs or IPs.	Given the structure of the internet and in particular the ubiquitous use of CDNs the blocking of a URL or IP could have massive commercial implications. In an extreme an example blocking google.com would take down the internet. There appears to be no ability for the carriage service provider to work with the

		commissioner to calibrate the actions to be taken in the particular circumstance. Under clause 103 failure to comply with a notice (even if it may be misguided) makes the provider liable for penalty.
s 128(1)	App removal notice	This section deals with requests to remove Apps from app stores which may facilitate class 1 material. Practically all apps could find class 1 material being uploaded / shared and this is frequently the case. We don't know how this section can function in practice.
s 134	Industry codes & standards > what is online activity	Online activity doesn't capture these areas: <ol style="list-style-type: none"> 1. WiFi Hotspot providers 2. Operating systems providers 3. Parental control providers
s 135	Industry codes & standards > sections of the online industry	Sections of the online industry doesn't mention these areas: <ol style="list-style-type: none"> 1. WiFi Hotspot providers 2. Operating systems providers 3. Parental control providers
s 138	Industry codes & standards > examples of what may be dealt with in industry codes & standards	Clauses h and r, s, t talk to providing information to parents on how to supervise and filter etc. This is good if such tools function properly which currently they don't for reasons of structural failings in the industry.
s 151(1) s 152(1)	Service provider determinations > other providers	Possibly these clauses can be expanded to cover: <ol style="list-style-type: none"> 1. WiFi Hotspot providers 2. Operating systems providers 3. Parental control providers
Division 9	Federal court orders	Possibly these clauses can be expanded to permit the Federal Court to order providers to cease providing: <ol style="list-style-type: none"> 1. WiFi Hotspots 2. Operating systems 3. Parental controls