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12 February 2020

To whom it may concern,

RE: Online Safety Bill 2020

I am writing today as both a citizen of Australia and a small business owner to express my concern for the proposed Online Safety Bill as it currently stands. My concerns center around the lack of transparency and the immense power it bestows onto the E-Safety Commissioner, and that the bill is too vague to offer appropriate protection to those who it seeks to protect, whilst putting legal workers in the sex and related industries, as well as all adults, at risk of persecution by the lack of clarity.

I am concerned that utilising what is arguably an outdated and ineffective classification system to apply to all communications on the Internet does not adequately protect people from harm, but shifts an existing problematic classification and regulation system to a new platform where it does not, and can not, adequately provide for the way consenting parties communicate with one another.

The narrow classification system has been shown to unfairly target and penalise minority groups, such as the LGBTQ+ community, by applying a narrow and outdated standard of decency and interfering with the ways in which people express their sexuality and share their sex-related works. Using this framework for the entirety of the Internet is not going to protect people from cyberbullying, abuse or image-based crimes, but it will inevitably create further barriers to sex-related work and put already marginalised people at risk of further marginalisation.

Further, I fear that the bill, as it currently stands, will lead to inevitable prejudice and bias against those whose legal work in sex and intimacy goods and services (including, but not limited to, sex workers, sexuality educators, sexual health promotions and adult retailers), and that there is limited recourse for these workers to avoid the business disruptions and legal issues that may result from said bias.

With the E-Safety Commissioner bestowed with such powers, it would seem logical to ensure that there are the appropriate checks and balances in place to reduce the risk of prejudice and bias, which would include a greater degree of transparency regarding their investigations and the application of penalties. Data needs to be published and decisions need to be scrutinised by more than a single entity. Without this, it would be impossible to locate instances of preferential, prejudicial or persecutory patterns against specific groups of people.

There is already a great deal of stigma associated with the provision of sexual goods and services, despite the legality that exists in all jurisdictions to offer, to varying degrees, these goods and services. There are also already substantial barriers to accessing equitable advertising, financing and other business services, and the Internet is an important site for the promotion of goods and services. Additionally, there are malicious individuals who have moral objections to the goods and services provided by those whose work is in relation to sex and intimacy, and the bill, as it currently stands, would allow for those individuals to unfairly target and harass workers by exploiting the weaknesses in this proposed law.

I am supportive of the need for greater protections for all people, and especially young and vulnerable people, to have their right to privacy protected and their right to recourse for malicious activities perpetrated against them with respect to image-based online abuse and other consent violations, but this bill does not allow for the inherent complexity of the matter nor provide the necessary transparency to ensure that such a law would not be subject to misuse or abuse.

There is no mechanism for addressing bias from the Commissioner with regards to prioritising the complaints of specific groups or individuals, or dismissing complaints from specific groups or individuals, nor is there any mechanism to ensure that there is fair and equitable treatment of those who have malicious complaints issued against them. There needs to be accountability and transparency, and the considerable potential of the Online Safety Bill to in fact perpetuate stigma and bias needs to be considered with utmost importance and urgency, and appropriate measures must be taken to ensure equity and non-prejudicial application of this new legislation.

Kindest Regards,

Lauren Clair