

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts Committee**  
**Inquiries Question on Notice**  
**Parliamentary Joint Committee on Law Enforcement**  
**Inquiry into law enforcement capabilities in relation to child exploitation**

**IQ22-000142**

**Division/Agency: Office of the eSafety Commissioner**  
**Hansard Reference: Spoken, Page No. 17-18 (15 November 2022)**  
**Topic: eSafety - Notices that were issued to those entities**

eSafety would like to provide an update on the QoN below, provided on 2 December 2022, in relation to BOSE notices. The BOSE summary Report is now live on and available in the eSafety's website [here](#).

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**Senator Shoebridge asked:**

Senator SHOEBRIDGE: Mr Dagg, I have no issue at all with you raising concerns with the likes of Apple, Meta, Microsoft, Snap and Omegle. You're pushing against an open door there. Well done; that's good. But for the life of me I can't work out why you didn't include Amazon's Twitch. Is it simply you're waiting for the complaints to come in before you take proactive action?

Mr Dagg: No, these were prioritised on the basis of our assessment of our data in part against those statutory criteria. And it's worth saying too, Senator, that this was just the first wave of BOSE notices too. There are subsequent waves coming, and we'll be instituting periodic reporting notices in due course.

Senator SHOEBRIDGE: Can you provide to the committee on notice the actual notices that were issued to those entities?

Mr Dagg: I'll need to take that on notice and it give consideration. If we can provide that we certainly will.

Senator SHOEBRIDGE: I'm assuming they're of a fairly standard type. You've worked out what the questions are; you've worked out what the issues are. There's a degree of similarity between what you're asking Apple, Meta, Microsoft, Snap and Omegle.

Mr Dagg: There may be some information in those notices that we'll need to consider in relation to confidentiality.

**Answer:**

As the Committee knows, eSafety is in the middle of a critical consultative process involving all seven companies in the initial BOSE phase. This process involves a number of sensitivities, and we would ask that the Committee consider accepting a response to this Question on Notice once it is finalised.

eSafety notes that Schedule B to each notice sets out the specific question set asked of each provider, along with a template for responses. eSafety has concerns that any disclosure of the Schedule B materials could prejudice or become a catalyst for future legal proceedings.

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While there are no legal proceedings currently on foot, there is a risk of judicial review proceedings (for example, if a provider considers it has not been afforded procedural fairness regarding the decision to give the notice or publish a summary of response) or proceedings to prevent publication of the summaries if a provider wishes to challenge the use of our powers to disclose information contained in the summaries.

Finally, eSafety has concerns that the Schedule B materials, if published, could provide operational intelligence to offenders that would aid the circumvention or abuse of safety technologies. We would ask that, when the response to this Question on Notice is provided by eSafety to the Committee, the information not be published.

We hope to be able to provide a response to the Committee by the end of 2022.