



Specific comments on the Committee's Terms of Reference and additional resources

DIGI notes that the primary focus of this inquiry is on the Commonwealth Criminal Code and state and territory criminal laws to address cyberbullying. However, legal and criminal frameworks are only one part of the solution when it comes to reducing the instances of cyberbullying and its negative impacts on victims, families and communities. With respect to safe and responsible online behaviour, particularly in relation to young people, industry, government and the community should be focused on education and prevention rather than criminal punishments.

We make the following comments in response to the Terms of Reference:

- 1. the broadcasting of assaults and other crimes via social media platforms;**
 - We would caution against any kind of regulation of the live streaming of user posted content given the sometimes invaluable evidence they provide during court hearings and proceedings.
- 2. the application of section 474.17 of the Commonwealth Criminal Code 'Using a carriage service to menace, harass or cause offence', and the adequacy of the penalty, particularly where the victim of cyberbullying has self-harmed or taken their own life;**
 - While law enforcement is best placed to comment on the effectiveness of the Criminal Code, through DIGI's membership of the eSafety Office's Online Safety Consultative Working Group and engagement with our community partners, we know there is a varying degree of awareness among law enforcement around the availability and suitability of the Criminal Code as a legal recourse for cyberbullying victims. For this reason, we are strongly supportive of the recently signed MoU between the Alannah and Madeline Foundation and the Australian Federal Police, which has the potential to address this knowledge gap.

3. the adequacy of the policies, procedures and practices of social media platforms in preventing and addressing cyberbullying;

- We have outlined in our submission to the Committee our investment in preventing and addressing cyberbullying. In our experience, online safety is best achieved when government, industry and the community work together. Given the strong commitment of industry to promote the safety of people when they use our services, we believe that no changes to existing criminal law is required. If anything, we would encourage the Committee to consider carve outs from liability for responsible intermediaries.

4. other measures used to combat cyberbullying predominantly between school children and young people

- DIGI believes that ongoing awareness-raising and education around existing methods of objectionable content removal are critical components in dealing with cyberbullying. DIGI already shares links to member safety resources on our website, and we would be happy to explore further opportunities to raise awareness around the tools available on member platforms with the Committee.

Resources highlighting the concern with criminalising cyberbullying

- [Combating Cyberbullying: Emphasizing Education over Criminalization](#) by Jessica Meredith
- Huffington Post [article](#) by Deborah Temkin
- [Amicus brief](#) in the US Marquan W.Mackey-Meggs case which sets out some reasons why criminalising cyber-bullying is harmful and provides alternative solutions.