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Submission to the Environment and Communications Legislation Committee addressing the Enhancing Online Safety for Children Bill

Introduction

This submission is made on behalf of NetSafe, New Zealand. NetSafe is an independent non-profit organisation providing cyber safety education and support to all New Zealanders.

NetSafe directly supports New Zealand consumers, families, schools and businesses as they navigate through a range of online 'digital challenges' to reduce their exposure to risk or to minimise harm when things do go wrong. A significant proportion of the 8000 requests for support NetSafe received in 2014 were complaints relating to aggressive, threatening and bullying online behaviours. In addition, NetSafe actively advocates on behalf of all New Zealanders' safety and security needs to see that these are reflected in their government's legislative and policy programmes.

NetSafe has closely followed and supported the Australian government's work to develop the Bill since it commenced in 2013. This is motivated by the valued trans-Tasman relationships NetSafe has developed with many organisations working on children's e-Safety issues and the Ao Māori concept of 'ako', meaning to both to teach and to learn. NetSafe believes that international collaboration is essential to tackle e-Safety issues. It also recognises that the Australian public and stakeholders are best placed to ensure that the Bill best meets the e-Safety needs of its children. It is on this basis that NetSafe makes this contribution to the consultation process.

NetSafe looks forward to any opportunity to continue to actively support the Bill's development and subsequent enactment.

Martin Cocker
Executive Director
NetSafe, New Zealand

About this submission

This submission addresses the Enhancing Online Safety for Children Bill 2014 (the Bill). It provides a high level response to issues and ideas identified in the Bill's explanatory memorandum.

NetSafe notes that the Bill directly addresses issues raised in its submission¹ to the Australian Department of Communication's public consultation in March 2014. For example, the Bill proposes that the Children's e-Safety Commissioner's office is situated within the Australian Communications and Media Authority². This should enable the Commissioner's work to build on existing cybersafety education expertise and capability.

The Bill as a package of measures

NetSafe strongly believes that the overall effectiveness of the Bill depends on its implementation as a package of measures and the interdependencies that this implies. This will require balancing the Bill's protective (e.g. take down and end-user notice processes) and promotional (e.g. education initiatives, multi-sector stakeholder relationships) provisions. For example, the Commissioner's leadership, advocacy and coordination roles provide a critical counterweight to its administrative functions.

The Commissioner as an enabler

Digital challenges facing young people, such as cyberbullying, are a shared problem that parents, caregivers, schools, government, industry and other stakeholders have an interest in solving. Each has a role to play in guiding children's learning about how they can safely and responsibly participate online. NetSafe believes that the Bill provides the basis for the Commissioner to take a lead role in developing a shared approach to strengthening Australia's overall e-Safety education programme and cyberbullying response. The challenge will be to implement the Bill in a way that carries such diverse stakeholders along with it.

A cyberbullying incident may not involve the simple 'perpetrator-target' relationship inferred from the Bill's end-user notice provisions³. Generally, there are close links between online and offline bullying behaviours, for example:-

- 45% of youth who had been the target of online harassment knew the harasser in person before the incident and 25% reported an aggressive offline contact by the harasser⁴.

¹ http://www.communications.gov.au/_data/assets/pdf_file/0015/220218/NetSafe.pdf

² Explanatory memorandum, Children's e-Safety Commissioner, pages 2-3

³ *ibid.*, End-user notices, page 4

⁴ Examining characteristics and associated distress related to Internet harassment: Findings from the Second Youth Internet Safety Survey. Ybarra, M. L., Mitchell, K. J., Wolak, J., and Finkelhor, D. (2006)

- Those who are bullied offline are 15 times more likely to experience online bullying⁵
- Youth who are online victims may be online perpetrators as well⁶.

Generally schools, parents and police take the lead role in resolving bullying incidents. They are best placed to understand the community context, relationships and the role of digital technology. Broadly, the Commissioner's role is designed to support them when cyberbullying is involved⁷. The complaints system to remove harmful content or block users is only one, albeit important, part of the overall bullying prevention and response solution. It is the Commissioner's other functions⁸ that highlight its potential role as an 'enabler' of the individuals and organisations work to support children involved in instances of cyberbullying.

Emphasising relationships over enforcement

The explanatory memorandum notes several issues related to social media and other online service providers. These include:-

- Their failure "to adequately address all cases of harmful online behaviour targeted at children"⁹; and
- The "potential difficulty in enforcing compliance with the legislative arrangements against large social media services which do not have an Australian presence"¹⁰

NetSafe's agrees that it is important to hold providers to account for their trust and safety policies and services. In NetSafe's experience this can be largely achieved by developing working relationships with providers that are based on mutual trust and understanding. Generally, providers beyond Australia's jurisdiction are respectful of its rule of law and will respond to the authority of the e-Safety Commissioner, even though they are not compelled to do so. This persuasive power should enable the Commissioner's role to transcend jurisdictional issues without over reliance on administrative functions such as the two-tier system. NetSafe believes this highlights the importance of developing the e-Safety Commissioner's mediation and facilitation role when working with service providers.

⁵ Comparing children's online opportunities and risks across Europe: Cross-national comparisons for EU Kids Online. Hasebrink, U., Livingstone, S., & Haddon, L. (2008)

⁶ Psychosocial risk factors associated with cyberbullying among adolescents: A population-based study. Sourander, A. et al (2010)

⁷ By addressing issues raised in the policy problem discussion in the Explanatory memorandum, pages 14-21

⁸ *ibid.*, Children's e-Safety Commissioner, page 3

⁹ *ibid.*, Appendix D, page 38

¹⁰ *ibid.*, Regulation Impact Statement, section 8.1, page 27