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10 January 2022

Select Committee on Social Media and Online Safety
PO Box 6021
Parliament House
CANBERRA ACT 2600

Submission re:
Inquiry into Social Media and Online Safety

Thank you for the opportunity to make a submission to the Select Committee's Inquiry into Social Media and Online Safety.

I've been the Mayor of Bundaberg Regional Council since 2016 and was previously a member of the Queensland Parliament and Minister for Police.

My observation is that online hate speech has proliferated in recent years while the mechanisms to deal with it have barely kept pace. Trolls have become more sophisticated, in many cases employing fake profiles and enlisting others to "pile on", which creates a toxic atmosphere online and inhibits open discussion.

I note that Facebook has recently introduced the capability to limit comments on posts, which is a positive step, and I welcome the High Court's ruling in the Voller Case ([2021] HCA 27) that publishers are liable for defamatory comments made on their social pages.

I'm disappointed the Government has proposed a Social Media (Anti-Trolling) Bill, which seeks to absolve social media account owners and administrators from responsibility for defamation on their pages.

I ask the Government to please require social platforms to:

- 1) Transparently receive, process, and respond to complaints;
- 2) Take a zero-tolerance approach to hate speech from fake profiles and anonymous sites;
- 3) Enable complaints resolution without resorting to costly litigation.

Require social media platforms to transparently receive, process and respond to complaints:

When a defamatory or bullying comment is made on Facebook the current approach to deal with this from a victim's perspective is multi-faceted, not transparent, slow, confusing, and difficult to resolve. It creates a feeling of helplessness, which for vulnerable people could lead to despair and self-harm.

It generally involves trying to contact the account owner or manager to have a comment or post removed; also reporting the comment or post and the user to Facebook. There is generally no response from Facebook.



There should be a ticket-type system where complaints are acknowledged, the outcome is reported, and users can follow up if required. If Facebook fails to take action in response to a legitimate complaint, there should be an independent review mechanism with powers similar to an Ombudsman. The cost of providing this service should be borne by the social media platforms.

Take a zero-tolerance approach to hate speech from fake profiles and anonymous sites:

Social media platforms have improved communications and engagement; promoted open discussion and the free exchange of ideas; and made public discourse more accessible to more people.

Unfortunately, the platforms have been abused and manipulated in many cases.

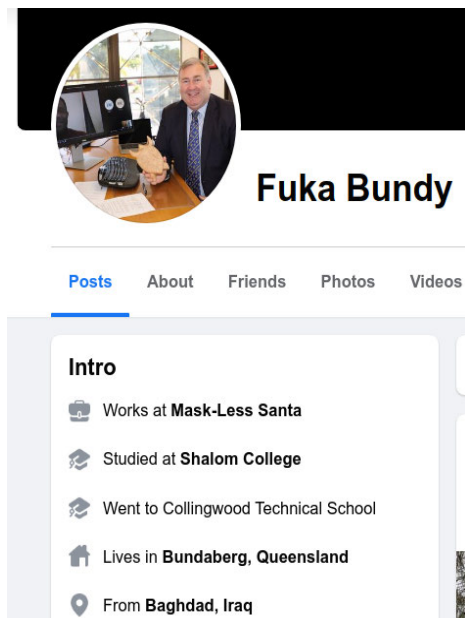
The Government's Online Safety Act and initiatives by the platforms themselves are positive developments but challenges remain to be addressed.

I'm concerned that fake profiles are easily created and deployed to attack individuals. Facebook currently enables users to report suspected fake profiles but does little in response.

The Government should require platforms to report on how fake profiles are detected and managed; and make it mandatory for platforms to remove fake profiles when they're engaged in hate speech.

I respect the right of people to use pseudonyms, operate anonymously to protect their identity and create parody accounts. The issue is that fake profiles should not be allowed to provide cover for misuse and vilification.

Example:



The Fuka Bundy Facebook account uses my image. When this was reported to Facebook they chose not to take any action. The fake account has been used to establish a private group named "Bundy and bogans exposed (actually uncensored)" which at the date of writing has 487 members. The group's cover image also uses my image with the Queensland Deputy Premier and the Member for Bundaberg. It's hard to see how this anonymous person's actions conform with any reasonable community standards.

However, in response to my complaint, Facebook wrote: “We’ve reviewed the profile and found that it isn’t pretending to be you and doesn’t go against our Community Standards.”

Enable complaints resolution without resorting to costly litigation:

Taking action against a publisher who allows defamatory comments on their site, or an individual who defames or harasses others online is slow, expensive, and largely ineffective.

The Online Safety Act provides an opportunity for such matters to be “nipped in the bud” by enabling abuse and bullying to be easily reported and quickly removed.

I encourage the Government to provide an easy-to-use guide which explains the process for how complaints should be made and how to escalate them. This should be communicated in plain language so children and young adults can also be made aware of their rights.

There should be an Ombudsman to deal with complaints against digital platforms, funded by the platforms themselves, and a minimal-cost small claims tribunal to rule on matters which can’t be otherwise resolved.

The Voller case and proposed anti-trolling legislation

On 8 September 2021, a majority of the High Court ruled that media companies are liable for the publication of allegedly defamatory comments posted by third-party Facebook users in response to their content.

This was a common-sense decision and it’s disappointing the Government is now intent on absolving media companies and other social media account owners from their responsibility as publishers.

I’ve had numerous defamatory comments made against me on social media. In my view, the commenter and the account owner/administrator are equally responsible and should be liable. With regards to Facebook, they should be liable if defamatory comments are made by a fake profile or in a group which they allow to continue after receiving complaints.

Example:

The Bundy Classifieds Facebook group has nearly 52,000 members. It provides a valuable free service for people to buy and sell goods and services. On 4 January 2022 a post was made that was critical of myself. It was reported to the administrators within an hour but continued to be shown to group members for another 17 hours.

The post attracted nearly 300 comments, many of which were insulting, abusive and defamatory.

In my view, the owners/administrators of all social media accounts should be responsible for troll posts and defamatory comments that appear on their sites. They should be required to remove offensive material within a reasonable timeframe or incur penalties.

In my experience, media companies frequently make social media posts which are designed to entice engagement and clicks through to their websites. They should be required to moderate comments and remove those that are defamatory within a reasonable timeframe. I’ve had examples where troll bait has been published on media Facebook pages in the evening and the account owners are slow to respond.

Media companies moderate comments on their websites and should do the same with their social media accounts. The Bundaberg NewsMail has 48 managers of its Facebook page, including three who are overseas. Between them they should be able to moderate comments on the Facebook page and respond promptly to complaints.

The argument by some media organisations that Facebook is the publisher and not them is like saying the printer of a newspaper is liable for defamation but not the editor.

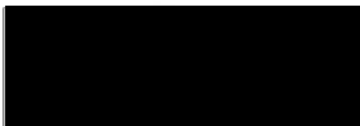
Conclusion

Thank you to the Australian Government for its promised commitment to improve online safety and I'm grateful for this opportunity to comment.

It's important the Government deals appropriately with online hate to protect young people and vulnerable members of the community; also to maintain a safe and healthy environment for discussion.

I wish the committee well with its deliberations.

Yours sincerely

A solid black rectangular box redacting the signature of Jack Dempsey.

Jack Dempsey
Mayor - Bundaberg Regional Council