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18th October 2017

Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: legcon.sen@aph.gov.au

Dear Committee,

Thank you for the opportunity to make this submission and participate in this inquiry on the important issues raised in the terms of reference. Before turning to the specific topics outlined in the terms of reference, we felt it may be helpful to the Committee to first provide some background in to Facebook's approach to online safety.

At Facebook, we are working to build the social infrastructure that brings us closer together and builds a global community. Our CEO Mark Zuckerberg has identified safety as one of the core foundational pillars to our progress towards this goal. When outlining his vision for Facebook for the next ten years, he wrote:

> *"As we build a global community, this is a moment of truth. Our success isn't just based on whether we can capture videos and share them with friends. It's about whether we're building a community that helps keep us safe -- that prevents harm, helps during crises, and rebuilds afterwards.*
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> *....*
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> *To prevent harm, we can build social infrastructure to help our community identify problems before they happen. When someone is thinking of suicide or hurting themselves, we've built infrastructure to give their friends and community tools that could save their life. When a child goes missing, we've built infrastructure to show Amber Alerts -- and multiple children have been rescued without harm. And we've built infrastructure to work with public safety organizations around the world when we become aware of these issues. Going forward, there are even more cases where our community should be able to identify risks related to mental health, disease or crime.*
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> *....*
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> *The path forward is to recognize that a global community needs social infrastructure to keep us safe from threats around the world, and that our community is uniquely positioned to prevent disasters, help during crises, and rebuild afterwards. Keeping the global community safe is an important part of our mission -- and an important part of how we'll measure our progress going forward."*

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To work towards building safe communities, we have policies that prohibit harmful behaviour on our services, we invest in tools to ensure that people can manage their experience on Facebook safely, and we develop safety information and resources and partner with organisations around the world to promote these to students, parents, educators and other community groups.

Facebook policies

Our Community Standards outline what types of content can be shared on Facebook: https://www.facebook.com/communitystandards With respect to safety, there are several relevant provisions:

- *Fake accounts:* We do not allow accounts that display a name and behavior that do not represent the real world identity of the account-holder. In our experience, these "inauthentic" accounts are typically created to harass, bully or for other harmful purposes.
- *Direct threats:* We carefully review reports of threatening language to identify serious threats of harm to public and personal safety. We remove credible threats of physical harm to individuals.
- *Self-harm:* We don't allow the promotion of self-injury or suicide. We prohibit content that promotes or encourages suicide or any other type of self-injury, including self-mutilation and eating disorders. We don't consider body modification to be self-injury. We also remove any content that identifies victims or survivors of self-injury or suicide and targets them for attack, either seriously or humorously.
- *Bullying and harassment:* We don't tolerate bullying or harassment. We allow you to speak freely on matters and people of public interest, but remove content that appears to purposefully target private individuals with the intention of degrading or shaming them.

Our content policies have been developed with the goal of allowing people to expressly themselves freely whilst also ensuring that people feel safe and respected. We work hard to try to make sure our policies are easy to understand and are able to operationalised at scale. We also regularly engage with child safety experts, law enforcement, academics, community groups, human rights groups and many others to understand how our policies are operating in practice, and we update their implementation to ensure that our policies are continuing to achieve their objective.

For example, we heard feedback from female journalists that they were receiving large amounts of harassment by private messages and they wanted to share these messages publicly to be transparent and promote public debate about this. The sharing of private messages would typically violate our policies that protect privacy, however, in response to feedback that the sharing of these messages could help stop this type of harassment, we made an exception to allow the sharing of screenshots when done to bear witness to the harassment experienced (provided that it was done in a way that was not itself harassing). In addition, our harassment policies do not allow attacks on public figures on the basis of someone's status as a victim of sexual assault or exploitation. They also prohibit serious threats of harm or violence, including sexual violence.

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Facebook's safety tools

To help people manage their experience on our services and to help us enforce our policies, we invest in tools that promote online safety.

When people create an account on Facebook, people are able to choose the audience for each post they make on the site. We have also developed the "View As" tool so that people can check what their account looks like to other people. And the Activity Log tool allows people to easily see and manage everything that they have done on Facebook — from comments, to posts to Likes and Reactions, and delete any that they wish to remove.

We offer tools to help people manage their experience on Facebook. For example, anyone can delete a message they receive or a comment that someone else makes on their account. You can also control whether someone posts on your account and delete any posts that you wish, if you enable this feature. Another tool — the block tool allows you to stop another Facebook user from contacting you.

To help us enforce our content policies, we have also built reporting tools that allow anyone to report content to us that they see that they believe violates those policies. We have worked with experts in emotional intelligence and listened to feedback from the community to help us improve these reporting tools and try to make sure that they are useful and responsive to the issues and concerns that people have. Through the "Support Inbox" feature, people can track where their reports.

We receive millions of reports each week and have a community operations team working 24/7 to review and action reports as quickly as possible. We triage reports to ensure that we are actioning those that relate to harm and harassment faster. We aim to respond to all reports within 24 hours.

To assist us in escalating reports concerning young people, we have established relationships with several educational departments and other child safety organisations by which they can quickly let us know of any harmful content so that we can promptly review and action. We also work with the eSafety Commissioner to respond promptly to any questions or complaints that they receive from young Australians and their families.

All reports are reviewed and actioned by real people, who undergo extensive training when they join, and who are regularly trained and tested beyond this initial training, with specific examples, on how to uphold the Community Standards and take the correct action on a report.

Given the increasing volume of content being shared (and consequently also reported) on our services, we do use automation to assist our community operations team in implementing our policies and in some limited cases to prevent the resharing of non-violating content.

For example, we use automation to recognize duplicate reports, so that if 1000 people report a piece of content, we don't have 1000 people reviewing the same piece of content. We also

use automation to make sure we quickly get reports to reviewers who have the right subject matter expertise.

We also use automated systems to identify nude and pornographic videos that have previously been removed for violating our Community Standards. After someone reviews and removes a video for nudity or pornography, this system may remove the same video if it surfaces in other places.

Similarly, earlier this year, together with the eSafety Commissioner, we announced the use of image-matching technology to prevent the resharing of non-consensual intimate images that have previously been removed by our community operations team.[1] To promote awareness of this tool, with a view to empowering people to report this type of content to us, our CEO Mark Zuckerberg posted about it on his account[2] and we promoted it on the Facebook Australia Page.[3]

Working to prevent self harm & suicide

Under our Community Standards, we don't allow the promotion of self-injury or suicide. Our policies prohibit content that promotes or encourages suicide or any other type of self-injury, including self-mutilation and eating disorders. We don't consider body modification to be self-injury. We also remove any content that identifies victims or survivors of self-injury or suicide and targets them for attack, either seriously or humorously. People can, however, share information about self-injury and suicide that does not promote these things.

To help us help people in need, we have also developed partnerships with suicide prevention organisations around the world and provide this contact information in our Help Center and a link to it whenever anyone searches for suicide on our platform: https://www.facebook.com/help/resources/63617265

We have also developed tools to offer support to someone if their friends let us know that they are worried about them. Through this support tool, we send a message to the person concerned letting them know that a friend is worried about them and offering them an easy way to reach out to a friend or reach out to local support service. For Australian users, we provide details for Kids Helpline, Beyond Blue and headspace. We recently enhanced the support tool to include tips for things that someone in distress can do immediately to improve their state of mind.[4] We developed these tips in collaboration with mental health organizations and with input from people who have personal experience with self-injury and suicide, these tools first launched in the US with the help of Forefront, Lifeline, and

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[1] *Please see:* https://newsroom.fb.com/news/2017/04/using-technology-to-protect-intimate-images-and-help-build-a-safe-community/
[2] *Please see:* https://www.facebook.com/zuck/posts/10103620534277081?pnref=story
[3] *Please see:*
https://www.facebook.com/FacebookAU/photos/a.10150193191842415.313439.363337977414/10154796773187415/?type=3&theater
[4] *Please see:*
https://www.facebook.com/fbsafety/photos/a.197686146935898.42079.125459124158601/1041262189244952/?type=3&theater

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Save.org. You can explore the tips
here: https://www.facebook.com/help/resources/63617265 In Australia, we launched these
tools together with Beyond Blue[5] and headspace.[6]

We have also adapted the self-harm support tools as new product features have become
popular, such as Facebook Live. We have integrated the support tool into Facebook Live so
that people watching a live video have the option to reach out to the person directly and to
report the video to us. We provide resources to the person reporting the live video to assist
them in helping their friend. In addition, the person sharing a live video will see a set of
resources on their screen. They can choose to reach out to a friend, contact a help line or see
tips. In emergency situations, we will work with law enforcement when we believe that there
is a genuine risk of physical harm or direct threats to public safety.

In Australia, we partnered with headspace to promote support messages to young people
living in towns or regions that have recently experienced suicide[7] and we also recently jointed
with Lifeline to promote a video on Facebook that reminds people about how they can
support friends and loved ones struggling with life's challenges or living with a mental illness
to mark World Mental Health Day.[8]

AMBER Alerts

The Facebook AMBER Alert tool to help communities come together in the event that a
child goes missing to try to find them and return them to their family. If law enforcement
choose to activate the tool, a dedicated News Feed story will appear on Facebook to people
who are in the search area. The alert will include important details about the child such as a
photo, description, location of the abduction, and any other available information that can
be provided to the public to aid in the search. People are also able share the alert with
friends to further spread the word and help galvanize the community.

In June 2016, we partnered with the Australian Federal Police, the Queensland Police, the
New South Wales Police, the Victorian Police, the South Australian Police, the Tasmanian
Police, the West Australian Police and the Northern Territory Police to launch AMBER
Alerts in Australia.[9] Since launching the tool, alerts have been issued on three occasions.

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[5] *Please see:*
https://www.facebook.com/FacebookAU/photos/a.10150193191842415.313439.363337977414/10153579632122415/?type=3&theater
[6] *Please see:*
https://www.facebook.com/FacebookAU/photos/a.10150193191842415.313439.363337977414/10153579611647415/?type=3&theater
[7] *Please see:* https://www.echo.net.au/2016/12/headspace-target-youth-suicide-north-coast/
[8] *Please see:* https://www.facebook.com/FacebookAU/?business_id=10152668608528885
[9] *Please see:*
https://www.facebook.com/FacebookAU/posts/10155017781807415?business_id=101526686085288885

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Education & outreach

To promote awareness of our policies and tools, and also provide tips and strategies for having a safe online experience, we have developed a large number of resources and we partner with local organisations to help promote awareness of this information.

Globally, we have developed the Safety Center that contains information about our policies, tools and resources as well as safety, privacy and security tips: https://www.facebook.com/safety. We have also developed the Parents Portal: https://www.facebook.com/safety/parents that provides information tailored for parents about Facebook, as well as parenting tips and recommendations for expert advice.

To address the specific issue of bullying, we partnered with the Yale Center for Emotional Intelligence to develop the Bullying Prevention Hub: https://www.facebook.com/safety/bullying The Bullying Prevention Hub is a resource for teens, parents and educators seeking support and help for issues related to bullying and other conflicts. It offers step-by-step plans, including guidance on how to start some important conversations for people being bullied, parents who have had a child being bullied or accused of bullying, and educators who have had students involved with bullying.

To promote awareness of these resources in Australia, we have shared short safety educational videos on the Facebook Australia Page, such as this one about our Community Standards: https://www.facebook.com/FacebookAU/videos/10154333597637415/ or this one about whether to accept a friend request or not: https://www.facebook.com/FacebookAU/videos/10154360098442415/ Our promotional videos have been seen over half a million times by Australians.

To help young Australians with some questions and tips about what to think about before the post content about themselves or their friends, and how to develop with issues and challenges that they may experience online, we partnered with PROJECT ROCKIT in June 2015 to launch the Think Before You Share Guide together with the then Parliamentary Secretary Assisting the Minister for Communications Paul Fletcher at a local school. We have distributed copies of the Guide to thousands of students around the country.

We have also developed the *Help A Friend In Need* Guide, together with the Young and Well Centre and headspace. The *Help A Friend In Need* Guide provides tips for what to look out for in your friends' social media posts that may give an indication that they are depressed or may need some support, and it offers practical advice on how to help get them support. We have promoted this resource to thousands of students around the country after it's initial launch locally and then again, when we announced the enhanced suicide prevention tools with Beyond Blue and headspace.[10]

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[10] *See for example* this post developed in collaboration with Beyond Blue designed for older people: https://www.facebook.com/FacebookAU/photos/a.10150193191842415.313439.363337977414/10153579632122415/?type=3&theater and this post developed in collaboration with headspace directed at young

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As part of our education and outreach, we also host workshops and participate in conferences to engage directly with relevant community groups about the latest safety tools and tips, and to understand the issues that they are experiencing and respond to any questions.

For example, in February this year we hosted an online safety working with Women in Media at our Sydney office. Women in Media to provide advice to women journalists about how to stay safe online and also how to report content to Facebook that violates our policies. Together we released the *Women In Media: Facebook Safety Guide*.

Also in February, to mark Safer Internet Day, we hosted 52 female students in our Melbourne office, as part of the #girltakeover — together with PROJECT ROCKIT, Plan International Australia and the eSafety Commissioner to discuss 'instant content' and co-create safety messages by young people for young people when using deletable media,[11] which we then promoted online and were seen close to 350,000 times. The messages developed by the students for their fellow students were:

- We are more than just our posts - be your own person. https://www.facebook.com/FacebookAU/posts/10154741574132415?business_id=10152668608528885
- If there's drama online or if you have doubts - trust your gut. https://www.facebook.com/FacebookAU/photos/a.10150193191842415.313439.363337977414/10154741579602415/?type=3&theater
- When you're online, remember two wrongs don't make a right; let's stop hating on each other. https://www.facebook.com/FacebookAU/photos/a.10150193191842415.313439.363337977414/10154745227052415/?type=3&theater
- You can look out for your mates without being their parents. https://www.facebook.com/FacebookAU/photos/a.10150193191842415.313439.363337977414/10154750243037415/?type=3&theater
- Be yourself. Good friends will get you, so you will know who your friends are. https://www.facebook.com/FacebookAU/photos/a.10150193191842415.313439.363337977414/10154753788257415/?type=3&theater
- I am in charge of MY reputation. Delete unnecessary pictures and remember you can say no before sharing someone else's stuff. https://www.facebook.com/FacebookAU/photos/a.10150193191842415.313439.363337977414/10154756514307415/?type=3&theater
- Dear Parents, If you don't like what I do online, let's talk before you get angry and pass judgment. https://www.facebook.com/FacebookAU/posts/10154762289147415?business_id=10152668608528885

people: https://www.facebook.com/FacebookAU/photos/a.10150193191842415.313439.363337977414/10153579611647415/?type=3&theater
[11] *Please see:* https://www.facebook.com/FacebookAU/posts/10154646916712415; *see also:* http://www.huffingtonpost.com.au/2017/03/16/in-the-age-of-instant-content-young-girls-want-positive-message_a_21898645/

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On February 24, 2017, we hosted a Global Safety Network Summit in Washington DC. Over 100 online safety experts from 19 countries and 80 safety organizations participated, including several from Australia. The summit included day-long series of conversations around child online safety and well-being and we had a number of panel discussions featuring various online safety experts from around the world covering topics such as "Building Online Well-being and Resilience," "The Parent-Child Online Relationship," and "Developing Online Critical Thinking Skills."

And in Australia, in 2017 we have presented about online safety at the Bullying & CyberSafety in Education conference to over 100 educators and school counsellors, participated in the Association of Independent Schools of NSW 'Business of Social Media in Schools' conference with over hundred school principles and other educators from independent schools, presented to law enforcement officers at the International Women & Law Enforcement conference, and undertaken safety training workshops in Carnarvon and Geraldton in West Australia.

Specific comments

With respect to the specific issues raised in the terms of reference, we note that the primary focus of this inquiry is on the Commonwealth Criminal Code and State and Territory criminal laws to address cyberbullying.

We would encourage the Committee to consider the suitability of criminal laws to tackle cyberbullying as a last resort only. With respect to safe and responsible online behaviour, particularly in relation to young people, industry, government and the community should be focused on prevention and resolutions that are less than criminal punishments. Criminal sanctions should, based on our experience and the feedback from the child safety experts that we work with, only be used when all other solutions have proven to be to unsuccessful.

To respond to each of the elements in the terms of reference in detail, we would make the following comments:

- ***the broadcasting of assaults and other crimes via social media platforms***

The vast majority of people are using Facebook Live (Live) to come together and share experiences in the moment with their friends and family, or with the fans of their page. For example, Nick Xenophon recently went Live for an Ugg Boot protest with Aussie Ugg boot maker Eddie Oygur and a flock of sheep at Deckers in Goleta, California: https://www.facebook.com/Sen.Nick.Xenophon/videos/1924984881051714/ Our Community Standards apply to Facebook Live, just as they do to any other piece of content. For any Lives that are shared that violate our Community Standards, we want to interrupt these streams as quickly as possible when they're reported to us.

Live can be a powerful tool in a crisis — to document events or ask for help. One of the most sensitive situations on Live involves people sharing violent or graphic images of events taking place in the real world. In those situations, context and degree are everything. In many instances, when people share this type of content, they are condemning it or raising

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awareness about issues of public concern. For example, if a person witnessed an assault, and used Facebook Live to raise awareness or find the assailant, we would allow it. We may place a warning screen in front of the content (which prevents auto play of videos) or limit the visibility to those 18 and older.

We encourage anyone who believes a Live broadcast violates our Community Standards to report the content while they are watching; they don't have to wait until the live broadcast is over. We are growing the team that processes these reports to continue to improve the speed of our response.

The content we prohibit on Live, and the actions we take, include the following:

- We remove any Live content that celebrates or glorifies violence.
- We prohibit the use of Live to facilitate criminal activity that causes physical harm to people or animals.
- We notify law enforcement if we receive a report of a Live broadcast that requires an immediate response, including any situations where we believe that there is a genuine risk of physical harm or direct threats to public safety.
- We remove broadcasts of graphic violence that are shared for sadistic pleasure.

We recognise that there are unique challenges when it comes to content and safety for live video. It's a serious responsibility, and we work hard to strike the right balance between enabling expression while providing a safe and respectful experience.

Given the complexity and nuances of how Live is used, we believe that it may be too difficult to fashion a criminal law that permits positive uses of Live and only criminalises inappropriate uses of Live. Platforms such as ours are already committed to working with law enforcement in relation to these types of issues. We encourage the Committee to consider whether existing criminal laws are already suitable to address this type of behavior and provide sufficient flexibility for the many contextual circumstances that surround the use of Live.

- **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**

We defer to law enforcement on the suitability of this provision for their prosecutions, but we would note that we would encourage the Committee to also consider additional measures that focus on the education of law enforcement about the availability of the offense and the importance of treating online harassment as a serious offense.

- **the adequacy of the policies, procedures and practices of social media platforms in preventing and addressing cyberbullying**

We have outlined above our investment in preventing and addressing cyberbullying. In our experience, online safety is best achieved when government, industry and the community

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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 are required. If anything, we would encourage the Committee to consider carve outs from liability for responsible intermediaries.

- ***other measures used to combat cyberbullying predominantly between school children and young people***

We believe that ongoing education and outreach are essential to continue to promote a positive and safe experience by young people online. We have outlined many of the initiatives that we have undertaken and resources that we have developed above and encourage the Committee to join us as we continue the collaboration between government, industry and the community to combat cyberbullying.

Please let us know if you have any questions.

Kind regards,

Mia Garlick   Antigone Davis
Director of Policy, Australia & New Zealand   Director, Global Safety