

Committee Inquiries Question on Notice

Joint Select Committee on Social Media and Australian Society

Social Media and Australian Society

IQ24-000052

Division/Agency: DIV - Online Safety Media and Platforms

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Topic: First discussion of Phase 2 codes

Andrew Wallace asked:

Mr WALLACE: Right. We'll come back to the phase 2 codes in a moment, because the phase 2 codes were initially announced by the minister back in August last year, weren't they?

Ms Gannon: They're a statutory requirement under part 9 of the Online Safety Act. The eSafety Commissioner was required to establish codes, and started with what we call the phase 1 codes that cover child sexual exploitation material and terrorist and violent extremism content. Those codes and standards are now in place. Now the commissioner has moved to the second phase of the codes that would cover all other content regulated under part 9 of the Online Safety Act.

Mr WALLACE: That's not phase 1?

Ms Gannon: That's right. Those phase 2 codes will cover content that, if it was classified, would be refused classification other than that worst-of-the-worst content—TVEC and CSEM content—as well as class 2 content, which really is largely pornography. Those phase 2 codes will be very focused on pornography.

Mr Irwin: To add to that, the commissioner announced the commencement of the phase 2 codes process overnight, including releasing a position paper, so it's started today effectively.

Mr WALLACE: But the concept of the phase 2 was first discussed by the minister back in August 2023. Can you confirm that?

Ms Gannon: I'd have to check that.

Answer:

The *Online Safety Act 2021* (Online Safety Act) commenced on 23 January 2022. The eSafety Commissioner is implementing the Act, including requirements under the Online Content Scheme (Part 9), which provides that 8 key sections of the online industry should develop industry codes.

In September 2021, the eSafety Commissioner issued a position paper proposing the codes be approached in 2 phases. Since then, industry has been working cooperatively with the eSafety Commissioner to develop these codes in a 2-phased approach:

- Phase 1 focused on the most seriously harmful online content, including Class 1A (child sexual exploitation material, pro-terror material and extreme crime and

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violence material) and Class 1B (crime and violence material and drug-related material).

- Phase 2 is focusing on Class 1C material (including material depicting specific fetish practices) and Class 2 material (material that would be classified R18+/X18+, including pornography and other high impact material).

The statutory requirement to develop codes has been a longstanding feature of the Act first announced in December 2019. Since then, these have been publicly discussed by both the Hon Michelle Rowland MP, Minister for Communications and the Hon Paul Fletcher MP, former Minister for Communications.