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Ms Jane Hearn
Inquiry Secretary
Joint Committee on Cyber-Safety
R1-109
Parliament House
PO Box 6021
CANBERRA ACT 2600

Dear Ms Hearn

The Victorian Office of the Child Safety Commissioner (OCSC) welcomes the opportunity to respond to the Joint Select Committee on Cyber Safety's request for a submission on the topics the Committee has identified as its initial focus.

In general terms, the OCSC has a fairly wide legislative mandate to focus on the safety and wellbeing of all children in Victoria but also a particular focus on the very vulnerable children known to child protection and those who live in out-of-home care. The out-of-home care sector in Victoria comprises children who live in statutory kinship care, foster care or residential care. Approximately 8,000 children in Victoria experienced out-of-home care in 2008-09.¹

For the reasons noted in greater detail below, we would encourage you to:

- Adopt as your guiding principle the best interests of the child;
- Take this opportunity to explore and make recommendations about the cyber safety needs of those children whose life experience, disability, or illness increases their vulnerability in the 'cyber world' just as it does in the 'real world';
- Ensure children and young people are engaged in both defining the risks arising from the use of information and communication technologies (ICT) and the possible solutions to them; and
- Maximise the opportunities provided by this inquiry to enhance collaboration across all of the sectors which seek to support children and their families and carers.

Consistent with legislation in Victoria, throughout this submission we have used the word 'child' to refer to people under the age of 18 years.

The online environment in which Australian children currently engage

Research undertaken by the Australian Communications and Media Authority demonstrates that the vast majority of homes in Australia have access to the internet.² For most children ICT plays an important role in their education, social connection and recreation. What is less clear is:

- how should we define and measure effective access?
- how can we best support those children who do not have effective access?

Effective access should include more than simply physical access to a computer or the internet. It must encompass children being supported to use the technology in ways

¹ Ombudsman Victoria (May 2010) *Own Motion Investigation into Child Protection- out of home care*, available at www.ombudsman.vic.gov.au.

² *Communications Report 2008—09*, available at <http://www.acma.gov.au>.

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which are meaningful to them and which enable them to develop the skills to be responsible and resilient users of the technology.

The issue of effective access is particularly important for those children who are most vulnerable in our community. From the visits undertaken by the OCSC to children in the out-of-home care sector, and our consultations with carers and professionals, it appears to us that the level and type of access these children have to ICT is very varied. The *As I See It*³ project undertaken by the OCSC highlighted the importance of access to ICT for children who participated in that project. In the text accompanying some of the photos taken for this project, children noted:

- *"Sometimes I like to take the chance to get away from reality and go into the gaming universe. This gives me the chance to become someone else and control everything that I can't do in the real world."*
- *"The good things about care are that we have a Wii, Xbox, computer and DS. Those things are really fun to play with. The bad thing is that we don't see mum every day and we never see dad."*
- *"The third photo I have taken is my laptop which I have gotten since I have been in care. This laptop has helped to do most of my school work which helped me to complete year 10 in 2008 and will hopefully help me to complete my VCE this year and next year."*

We have also met and heard from other children who have no access to computers in their homes, or whose access is severely restricted. Lack of effective access to ICT makes it more difficult for children to participate in the activities and social networks that are important to children today and undermines their ability to develop the skills they will require when they leave care. Effective access to ICT is required if children are to develop into responsible, safe and resilient users of technology.

In the *National Framework for Protecting Australia's Children 2009–2020* the State and Commonwealth Governments committed to working together to better meet the needs of those children in the community who are most vulnerable. This inquiry provides an opportunity to develop recommendations that can lead to the development of shared learning and resources to enhance safe and effective access to ICT for these children. We note that in the United Kingdom the Home Access program and other initiatives have sought to ensure that 'Looked After Children' are provided with access to computers and the internet⁴. This inquiry provides an opportunity to consider how the Australian Government could support a similar investment for children who experience out-of-home care.

Abuse of children online, particularly cyber-bullying

Effectively addressing issues such as cyber bullying and other forms of abuse of children on-line will require strategies that go beyond those that focus solely on technology or legislation. In developing responses to the abuse of children on-line, it is important that care is taken to:

- Develop approaches which distinguish between the actions of children and those of adults; and
- Acknowledge and respond to the broader social context in which our children live. For example, problems such as 'sexting' need to be examined and addressed along with broader approaches to the inappropriate sexualisation of children in a range of media.

Appropriate responses to children as victims and as offenders

³ *As I See It* is a black and white photographic exhibition by young people living in out-of-home care, delivered through a partnership between the OCSC and ten nongovernmental organisations and the Department of Human Services. More information about this project is available from the OCSC.

⁴ More information about this program is available at www.homeaccess.org.uk.

We support strong and effective sanctions against adults who produce and distribute child pornography or otherwise use technology to groom or abuse children. The more challenging issue for legislative and policy reform is how to respond to children who engage in such behaviours. For example, a particular concern is the need for a more considered approach to issues like 'sexting' when they involve a child taking sexually explicit or nude photos of him/herself and sending them to another child. What is the best way to address such behaviour? Is the child who takes such a photo a victim? An offender? Or both? What are the most effective means to protect children from the harmful consequences of such actions? We note that this was an issue raised in the debates surrounding the *Crimes Legislation (Sexual Offences Against Children) Bill 2010* which was amended to include a provision that the approval of the Attorney-General is required before a prosecution for an offence under this section can be commenced against a child. This inquiry provides an opportunity to consider whether criminal sanctions are the most appropriate response to such conduct, if so under what circumstances they should be used, and what other options might be more effective.

Broader social context

We believe the answers to these questions require solutions that go beyond those available through the criminal justice system and need to include education and support directed to children. The answers should also include consideration of actions which can be taken to address the inappropriate media sexualisation of children. If children are bombarded with sexualised imagery of children and high profile members of the community and the advertising industry appear to promote and condone these behaviours, is it any wonder that children also engage in them? We note the Senate Inquiry on *Sexualisation of children in the contemporary media* noted that:

"The committee considers that the inappropriate sexualisation of children in Australia is of increasing concern. While noting the complexity of defining clear boundaries around this issue, the committee believes that preventing the premature sexualisation of children is a significant cultural challenge. This is a community responsibility which demands action by society. In particular, the onus is on broadcasters, publishers, advertisers, retailers and manufacturers to take account of these community concerns."⁵

This inquiry provides an opportunity to build on the recommendations of the previous inquiry and advocate for stringent responses to the inappropriate media sexualisation of children.

Most vulnerable children

For the reasons noted above, any educational strategies designed to protect children from abuse online and those designed to deter children from engaging in abusive behaviour need to include strategies designed explicitly to meet those most vulnerable to being either the victim of the abuse or the perpetrator. Research has shown that:

"With all three types of threats (sexual solicitation, online harassment, and problematic content), some youth are more likely to be at risk than others. Generally speaking, the characteristics of youth who report online victimization are similar to those of youth reporting offline victimization and those who are vulnerable in one online context are often vulnerable in multiple contexts (Finkelhor 2008). In the same way, those identified as "high risk" (i.e., experienced sexual abuse, physical abuse or parental conflict) were twice as likely to receive online solicitations (Mitchell et al. 2008) and a variety of psychosocial factors (such as substance use, sexual aggression, and poor bonds with caregivers) were correlated with online victimization (Ybarra et al. 2007, 2007b)."⁶

⁵ Standing Committee on Environment, Communications and the Arts (June 2008) *Sexualisation of children in the contemporary media*, (p. v.).

⁶ Schrock, Andrew and danah boyd (2008) *Online Threats to Youth: Solicitation, Harassment, and Problematic Content Literature Review Prepared for the Internet Safety Technical Task Force* (p.39), available at <http://cyber.law.harvard.edu/research/isttf>.

Many of the children who experience out-of-home care have been removed from their parents because of abuse or neglect. The OCSC has produced a number of resources⁷ which describe the impact of such trauma on children and strategies to effectively respond to it. These children carry the impacts of these experiences into their schooling, social and home lives and they carry the impact of these experiences into cyber worlds.

The types of factors which make children who experience out-of-home care more vulnerable to abuse in the 'real world' also make them more vulnerable in the 'digital world'. Unfortunately current cyber safety strategies have not yet addressed the question of how to keep these very vulnerable children safe on-line. The OCSC has supported the BeNetWise project which is being undertaken by Berry Street (a nongovernment organisation which provides a range of services to vulnerable children) and which has been funded by the Telstra Foundation to develop resources and strategies targeted to this group of children. However this is just a first step. More needs to be done to effectively meet the needs of these children and this inquiry provides a great opportunity to examine what strategies should be developed and to make recommendations about resources being provided to put them into action.

Inappropriate social and health behaviours in an online environment

ICT provides children with access to an enormous range of information, some of which is inaccurate or dangerous. Access to such information can amplify a range of risks children confront. For example, sites that promote or encourage racism, hate crimes or suicide are contrary to the best interests of children. For younger children, supervised computer access and filtering technology can reduce these risks. As children become more tech savvy, such blocking and monitoring strategies become less effective. For older children, other strategies need to be employed including ensuring children are given the opportunity to develop critical digital literacy skills to assist them in evaluating the reliability of information, locating trustworthy and helpful information and sources of support, and possessing the technical skills to block and avoid disturbing material. Supported access to technology is an essential element of developing such skills.

Access to ICT also enables children to participate in the positive health and wellbeing resources available online. Supporting the development of and access to sites such as the Victorian Government's youth central website www.youthcentral.vic.gov.au and the Inspire Foundation's website www.reachout.com can assist in providing young people with accurate and reliable information about issues that are relevant to them. It is important that organisations which provide access to ICT for older children (for example schools and libraries) are assisted to strike the right balance between blocking and filtering harmful information (particularly for younger children) while still enabling older children to access information about issues relevant to them. In striking this balance it is important to take into account the needs of those children who have no access to ICT at home.

We note that the issue of high levels of sexualised imagery and violence in computer and online games is being examined following the release by the Minister for Home Affairs, the Hon Brendan O'Connor MP of the discussion paper *Should the Australian National Classification Scheme include an R 18+ classification category for computer games?*. The OCSC, in conjunction with other children's commissioners provided a submission to this review and notes our continued concerns about the impact on children of such games.⁸

Breaches of privacy

Children may be both victims of breaches of privacy as well as offenders in terms of breaching the privacy of others, and children may engage in behaviour which is contrary to their own privacy interests (either inadvertently or deliberately). The recent report by the Berkman

⁷ See for example, *From isolation to connection: a guide to understanding and working with traumatised children and young people* and other publications available at www.ocsc.vic.gov.au.

⁸ A copy of the submission is available at <http://www.ag.gov.au/gamesclassification>.

Centre⁹ in the US highlights how children's understanding of privacy can differ from those of adults. In particular children can see some online interactions as private, similar to a conversation between friends, and are concerned about issues such as parents breaching their privacy. It would be useful to understand how Australian children view privacy, learn more about their concerns and work with them to develop effective strategies. In this context, consideration should also be given to how organisations who work with children can best protect the privacy of children as organisations increasingly use ICT to capture, record and share information about children.

Australian and international responses to these cyber-safety threats

As noted above, our primary concerns in relation to current responses are:

- The lack of strategies designed to meet the needs of children who are particularly vulnerable; and
- The need for a more considered approach to the use of criminal sanctions against children who engage in inappropriate behaviours online particularly as research suggests that "A relatively high proportion of online sexual offenders are juveniles and this proportion appears to be increasing."¹⁰

Ways to support schools reduce the incidence and harmful effects of cyber-bullying

The OCSC believes schools can and should play an important role in creating cultures that foster respectful relationships and empower children to act responsibly online as well as off line. Given the significant overlap between face to face and online bullying, the most effective strategies will be those which focus on underlying behaviours rather than simply technology. In addition, consideration should be given to developing strategies and resources which respond to the needs of children who experience out-of-home care as many of these children experience disruptions to their education.

The role of parents, families, carers and the community

For most children, the most effective strategy to enable them to become responsible, resilient and safe users of technology will be the active participation and support of their parents or carers. Many current strategies recognise this and have developed information guides for parents. However many of these resources require a high degree of literacy skills and an understanding of English. This inquiry provides an opportunity to explore which parents and carers are not able to use these resources and to make recommendations about how to more effectively empower such parents and carers to support their children.

Research indicates that many children will not tell their parents when they encounter a problem online. This inquiry provides an opportunity to examine this issue in more detail to better understand how parents and carers can become, and be seen by their children to be, effective and trusted sources of support for their children when problems arise 'online' and to identify other ways in which children can have access to responsible adults who can provide them with assistance. For those vulnerable children who do not have a consistent parent or carer with whom they have a trusting and supportive relationship, particular strategies need to be developed. Such strategies should build on what we already know about trauma and abuse and combine this learning with what we know more generally about cyber safety. This inquiry should consider how to best support those with ICT expertise and those with expertise in caring for vulnerable children to learn from one another to develop strategies specifically targeted to meeting the needs of these children.

⁹ Marwick, Alice E., Murgia-Diaz, Diego and Palfrey, John G. (March 29, 2010) *Youth, Privacy and Reputation (Literature Review Berkman Center)*, available at SSRN: <http://ssrn.com/abstract=1588163>.

¹⁰ Australian Institute of Criminology (2009) *Online child grooming: a literature review on the misuse of social networking sites for grooming children for sexual offences* (p. xiii).

In conclusion

As noted in the Byron review in the UK:

"The challenge for policy makers is that we need to keep in mind the vulnerability of some children while enabling them and others to use technology to truly develop and grow."¹¹

We believe this inquiry provides an important opportunity to address this challenge for Australia. We look forward to learning more about the progress of this inquiry and are happy to provide further information should you wish us to do so. In particular we were pleased to note that at the public hearings in Melbourne the Committee indicated its intention to consult with children and we would encourage the Committee to ensure it includes the voices of a broad range of children, including those who experience out-of-home care. We would be happy to provide you with suggestions and support to enable you to do so.

Yours sincerely

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Child Safety Commissioner

¹¹*Safer Children in a Digital World The Report of the Byron Review* (2008), (p. 34), available at <http://publications.dcsf.gov.uk..>