

Senate Standing Committee on Environment and Communications

Answers to Senate Estimates Questions on Notice

Budget Estimates May 2017

Communications Portfolio

Office of the Children's eSafety Commissioner

Question No: 148

Office of the Children's eSafety Commissioner

Hansard Ref: Pages 6-7, 25/05/2017

Topic: Terrorism Scheme

Senator O'Neill, Deborah asked:

Senator O'NEILL: ... My next question is: what jurisdiction does the Office of the eSafety Commissioner have with respect to terrorism related material under the Online Content Scheme under the Broadcasting Services Act 1992, and could you explain how that scheme is administered by your agency?

Ms Inman-Grant: We do not administer the terrorism scheme but through the hotline we do receive notice of illegal content which could contain CVE or terrorism related material. I will take that on notice to give you some specific statistics in terms of what has come through. Obviously something like that would be triaged as a top priority. One example I can give you that has happened on my watch is that after the Bourke Street massacre there was some content that was up on YouTube that was pretty gratuitous. I got a call from the Prime Minister's cybersecurity adviser and was advised of it. We got right on the phone with YouTube, because our relationships with Google and YouTube are so good, and it was down within the hour.

Senator O'NEILL: Would you give me a description of the scheme as you understand it? If it is not administered by your agency, do you know who administers it?

Ms Inman-Grant: I believe that is through the Australian Attorney-General's Department.

Senator O'NEILL: Could you please confirm for the committee whether any other government department has been in contact with your office on the pragmatic advertising issue?

Ms Inman-Grant: The advertising issue—I do not recall that anyone has been in touch with us.

Senator O'NEILL: Could you take that on notice and indicate which agency and when? I will take a risk here and ask for an opinion. The division of responsibilities between agencies in cybersafety and cybersecurity matters in Australia may lead to a lack of clarity about the responsibilities for matters in the cyberspace. There are so many moving parts.

Answer:

The Online Content Scheme ('the Scheme') is established by Schedules 5 and 7 to the *Broadcasting Services Act 1992* (Cth) ('the BSA'). The Scheme provides the eSafety Commissioner with powers to investigate complaints from Australian residents and bodies corporate about prohibited online content. Online material that is likely to be classified Refused Classification (RC) by the Classification Board will be regarded as 'potential prohibited' under the BSA. Content likely to be classified R18+ or X18+ will also be regarded as potential prohibited.

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The RC category includes material that advocates the doing of a terrorist act, as established by section 9A of the *Classification (Publications, Films and Computer Games) Act 1992* (Cth). Online content will be caught by section 9A if it directly or indirectly promotes, or provides instruction in, the doing of a terrorist act. The section will also apply to content that directly praises the doing of a terrorist act in circumstances where there is a substantial risk that the praise might lead a person to engage in a terrorist act.

If such content is hosted in Australia, the eSafety Commissioner will confer with the Australian Federal Police (AFP) before taking action. Where an interim takedown notice would ordinarily be issued to the Australian content host, the Commissioner will defer such action at the request of police. Otherwise, the Commissioner will issue an interim takedown notice before lodging a priority application for classification with the Classification Board. Once the classification decision is received, the Commissioner will issue a final takedown notice.

If the content is hosted overseas, the Commissioner will in all circumstances refer the relevant URL to the AFP for consideration, and potential further referral through INTERPOL.

During the 2016-17 financial year, the Office dealt with two complaints concerning content advocating terrorism. One complaint was formally assessed by the Classification Board as falling within section 9A of the *Classification Act*. The other concerned substantially similar material to the first, and was assessed as likely to be classified under section 9A. In both of these instances, we also conferred with AGD, as the content was relevant to the work of the Communications Against Violent Extremism (CAVE) Group.

No other government agency has been in contact with the Office on the pragmatic advertising issue.