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7 March 2014

The Director

Cyber Safety Policy and Programs
Department of Communications
GPO Box 2154
CANBERRA ACT 2601

By email: onlinesafety@communications.gov.au

Dear Sir or Madam,

RE: Enhancing Online Safety for Children

The Australian Mobile Telecommunications Association and Communications Alliance (AMTA/CA) welcome the opportunity to respond to the Department of Communications' *Enhancing Online Safety for Children – Public Consultation on Key Election Commitments* (the Consultation Paper).

AMTA/CA recognise that cyber-bullying is a serious problem that is a shared responsibility and needs to be addressed through a range of government, industry and consumer initiated actions.

Notwithstanding this, AMTA/CA have some concerns with the proposed approach outlined in the Consultation Paper.

The paper outlines at pages 10 and 11 the existing arrangements for removal of online content. It then goes on to observe that "*Academic commentators have expressed the view that the occurrence of cyber-bullying is not adequately addressed by current measures:...*"

The paper does not provide much, if any, quantitative evidence around the extent of the problem, nor whether it is principally due to a failure of the existing online content-removal arrangements.

AMTA/CA believe that educational initiatives are key to creating an environment where it is more difficult for would-be cyber bullies to harm their intended victims. It should be noted that there is a range of education programs being undertaken by

AMTA/CA members – as good digital citizens – to reduce the prevalence of cyber bullying. Education must be given the same importance by Government as regulation and enforcement in counteracting cyber bullying activities. (See Attachment of industry cyber-bullying education initiatives)

In addition, the Australian Communications and Media Authority is responsible for a national cyber-safety and cyber-security program, Cybersmart. This program encourages the concept of individuals becoming good digital citizens and is well supported by industry.¹

AMTA/CA also have concerns about the potential to inadvertently capture intermediaries – such as Internet Service Providers (ISP) and Carriage Service Providers (CSP) who provide the underlying networks used by consumers to access social media sites through legislation that will not necessarily, in our view, address the issue at hand.

Internet Intermediaries

The Consultation Paper proposes the introduction of a scheme “to enable the rapid removal from a large social media site of material targeted at and likely to cause harm to a specific child” (the Proposed Scheme). The Proposed Scheme is to be enshrined in legislation.

The Consultation Paper considers the ways in which the Proposed Scheme may capture foreign or multi-national companies and concedes that “where a relevant social media site operator is not located, or does not have a sufficient presence in Australia, enforcement of the above regulatory measures is likely to be more difficult”.

Grappling with the way in which regulators can capture foreign companies within Australian legislation is not new. The most effective way to regulate the internet has been the subject of ongoing debate between industry and Government for many years.

AMTA and Communications Alliance's concern is that the default position of Government in these circumstances may be to impose obligations on ISP and CSPs who provide the connection. That is, in lieu of regulating the publishers of content, ISPs and CSPs may be burdened with additional regulation even though the Federal Government is focused on cutting red tape in the telecommunications sector. AMTA/CA would be strongly opposed if it was proposed that this approach, or something similar, should be adopted in relation to cyber-bullying.

The problem with targeting internet intermediaries in order to regulate content can be summarised as follows:

*“Intermediaries are what carry, store, and serve every speck of information that makes up the Internet....
And yet, if we're not careful, we can easily lose all the benefits these intermediaries bring us.
..
...by relieving intermediaries of liability for the content passing through their systems it has allowed for much more, and much more diverse, content to take root on them than there would have been had intermediaries felt it necessary to police every byte that passed through their systems out of the fear that if they didn't, and the wrong bit got through, an expensive lawsuit could be just around the corner. Because of that fear, even if those bits and bytes did not actually comprise anything illegal intermediaries would still be tempted to over-censor or even outright prohibit scads of content, no matter how valuable that content might actually be.”²*

¹ Australian Communications and Media Authority, <http://www.cybersmart.gov.au/>

² Gellis, C, 'Protecting Internet Intermediaries', <http://www.project-disco.org/intellectual-property/021814-protecting-internet-intermediaries/>

It is of serious concern to AMTA/CA that the notion of safe harbour and intermediary liability seems to be an increasingly unstable concept in Australia.

Definition of 'Social Networking Site'

The definitions of social networking sites as described in the Consultation Paper are too broad and need to be narrowed significantly. As described, they are likely to capture numerous sites which are, in AMTA/CA's view, not the intended focus of the Proposed Scheme. The unintended consequences of such a broad definition of 'social networking site' is that businesses such as, for example, TripAdvisor or RSVP, would incur significant costs to ensure that their complaint and rapid removal systems comply with the Government's criteria. These are not sites used by children (in fact, the terms of many of these sites require users to be over 18 years of age) nor are they likely to be sites on which bullying is taking place.

Large Players have Complaints Procedures

AMTA/CA are also concerned that the scope of the program is likely to capture companies that already have appropriate complaints processes in place and/or those that are signatories to the *Cooperative Arrangements for Complaints Handling on Social Networking Sites*. On the other hand, companies that may not have sophisticated complaints systems in place will not be captured by the scope of the Proposed Scheme as the definition of 'large social media site' is based on the number of user accounts held by the site in Australia. In addition, many children are using newer social media platforms, rather than the larger well-established ones, and these newer platforms may not have sufficient users to be captured by the definition proposed in the Consultation Paper.

The Consultation Paper fails to provide a detailed examination of current market initiatives relating to complaints and cyber-bullying, nor does it discuss the effectiveness of these initiatives.

The Concept of 'Harmful' in Law

AMTA/CA have concerns relating to the introduction of the concept of 'harmful' in legislation. It is unclear what 'harmful' means to a child and may differ between children of different ages and background. For example, some elements of the content that appears in news media may be considered by some people to be harmful for a child. This is particularly unclear when, for example, news media is posted on a social media site.

Establishment of a Children's Safety E-Commissioner

The Consultation Paper provides four options for the establishment of an E-Safety Commissioner, namely:

- Option 1 - Establishment of a statutory authority;
- Option 2 - Establishment of an independent statutory office, with administrative support from an existing government agency;
- Option 3 - Designation of a Member of the ACMA as the Commissioner; or
- Option 4 - Designation of a non-government organisation with expertise in online child safety.

AMTA/CA do not support Option 1 on the basis that the costs associated with the creation of an independent statutory authority would be significant. Minimising costs is particularly relevant noting the context of the Government's de-regulatory agenda and red tape reduction programme.

AMTA/CA do not support Option 4 on the basis that it is likely that oversight would be required and again, it would be a significant cost burden.

In recognising that we are not yet completely convinced about the need for an E-safety Commissioner to be established, AMTA/CA see Option 3 or (less preferred) Option 2 as the preferred choice – i.e that option which would involve the ACMA. There are well established processes in place for industry to work with the ACMA, and industry's experience is that the small team within the ACMA that deals with cyber-bullying and related issues is an efficient unit that has built up solid expertise and relationships with industry in this area over recent years. Option 3 appears to be both administratively simpler and more cost-effective than Option 2.

Smartphones and other Devices

Finally, AMTA/CA note that the Consultation Paper states that the Government's election policy commitments included "*working with industry to ensure that better options for smartphones and other devices and internet access services are available for parents to protect children from harmful control*".

It should be noted that some of AMTA/CA's members have been in discussion with Government about the potential introduction of devices with default content management tools, over and above the parental control tools already available in the marketplace, but there are some practical challenges associated with this.

We thank you for the opportunity to comment on the Consultation Paper. AMTA and Communications Alliance would be pleased to provide any further information relating to the content of our letter. Given our interest in the establishment of an E-Safety Commissioner and the associated Proposed Scheme, AMTA and Communications Alliance would request that the Department of Communications continue to engage with us as this proposal evolves.

Yours sincerely,



John Stanton
CEO, Communications Alliance



Chris Althaus
CEO, AMTA

Appendix – Industry Initiatives to Combat Cyber-Bullying

The mobile telecommunications industry takes a range of measures to minimise the risks associated with the misuse of mobile technology. Mobile providers are committed to providing practical advice to help prevent the misuse of mobile technology.

There are now many solutions available to parents and carers that enable them to filter internet content as well as place other controls on their children's use of mobile devices. Parents can now safely give their child a smartphone knowing that they will not be able to access inappropriate content or use the phone's features inappropriately if they take a few simple steps to turn on restrictions or install the relevant software that will enable them to manage their child's use of the device.

These solutions range from network-based controls, in-built controls on devices and a growing range of apps and software solutions. While Optus and Vodafone have developed their own apps for mobile customers, Telstra has a network-based solution available for its customers. There are also 3rd party apps available specifically designed for implementing parental controls or security measures. Other popular 3rd party applications and services, such as YouTube, Google, and iTunes also have safe modes or the ability to enable restrictions so that parents can control purchases and/or searches.

Other sources of cybersafety information:

[ACMA's Cybersmart website and programs](#)

[Kids Helpline](#)

[Cybersafety Help Button program](#)

[The Alannah and Madeline Foundation](#)

[MobileTips.org.au](#)

[Vodafone's Digital Parenting resources](#)

[Optus Cybersafety resources](#)

[Telstra's Internet and Cybersafety resources](#)

Provider specific information:

The following information provides a summary of some of the cyber-safety solutions available to parents and carers in Australia from specific providers.

iiNet

As part of its long-standing Online Safety program, iiNet has implemented the following initiatives:

- Feature articles in the iiNet Blog and customer newsletter on cyber safety issues such as safe social networking, protecting your identity, and securing your personal devices.

- Supporting a number of government and community initiatives such as Safer Internet Day, Over the Horizon, and R U OK? Day.
- Actively broadcasting relevant security issues across social media platforms.
- Running tailored Online Safety seminars at iiNet HQ, as well as off-site visits to interested schools and community groups throughout Perth.
- Providing Factsheets to teachers with up-to-date and practical information for specific devices and programs.

Optus

Optus participates in a number of cyber safety programs. Some information on these programs is outlined below:

1. ERASING CYBERBULLYING

In 2011, Optus and Kids Helpline realised there was a need for high quality and credible resources to help address issues such as cyber safety, cyber bullying and sexting from the misuse of technology or devices. As a result, we collaborated to develop a pack called "Erasing Cyberbullying" which was sent out to every school in Australia, providing a potential reach of approximately 3.5 million children. This pack was designed for teachers to educate students on the aforementioned key issues and contained detailed lesson plans and video resources. It was deliberately designed to deliver key messages on these topics in a positive way.

The resources referred to in the pack are available on the Kids Helpline and Optus websites: <http://www.kidshelp.com.au/grownups/news-research/hot-topics/cyber-bullying.php>

2. KIDS HELPLINE @ SCHOOL

Optus and Kids Helpline have also recently launched Kids Helpline @ School. This national primary school program is delivered via Skype. It gives students the opportunity to talk with a counsellor in a group discussion about topics influencing their lives. This could include any topics such as sexting, relationships or bullying.

Teachers work with a Kids Helpline counsellor to deliver the classroom session and are provided with activities and resources to help prepare for the video or phone link up. The classroom sessions aim to increase each participant's knowledge about the topic and enhance their capacity to deal with the issue at school and in their lives. Sessions are designed with the general capabilities of the Australian curriculum in mind.

3. DIGITAL THUMBPRINT

In August 2013, Optus commenced a new program called "Digital Thumbprint". This pilot aims to develop well-informed, responsible and proactive members of Australia's online community now and in the future.

The program was created in close consultation with leading education experts and will be delivered to secondary schools in metropolitan NSW and VIC by a team of facilitators. The program contains three face-to-face, curriculum-aligned workshops tailored to the needs of specific year groups that empower and inform Australia's young digital natives.

By making digital education fun and interactive, Digital Thumbprint teaches students the advantages of a positive online presence whilst arming them with the facts they need to stay safe online in a way students can understand, use and enjoy.

For more information see: <http://www.digitalthumbprint.com.au/about/>

4. ADDITIONAL PARTNERSHIPS

In addition to their work with Kids Helpline, as a responsible telecommunications company and a participant in the Internet Industry Association (IIA) Family Friendly ISP program, Optus believe that they do play a role in assisting to educate society as well as their customers about sexting. It is for this reason that Optus participates as a corporate partner in many government and industry initiatives, such as the Australian Consumer Fraud Taskforce's annual Fraud Week and the recent National Cyber Security Awareness Week (now known as Stay Smart Online week). Optus also provided input into the ACMA's recently launched Digital Citizenship Guide.

Optus has information on its website (at www.optuszoo.com.au/onlinesafety) on a range of cyber safety topics and provide links to other resources, such as the Australian Communications and Media Authority (ACMA) Cybersmart website.

Telstra

Telstra supports and has developed a number of cyber safety initiatives for children, young people, parents and schools. These include:

- A range of consumer education material available for children, teenagers and parents that is distributed in hard copy format via school newsletters, libraries, schools and our workforce, and in digital format via our website. The topics cover cyberbullying, balancing screen time, protecting personal information, avoiding inappropriate content and digital footprints.
- Commissioning research on cyber safety issues, and develop pro-active education campaigns in response to the findings. An example of this is our recent research into the experience of young people growing up with an established media presence, and their expressed desire that their parents had engaged more fully with them regarding their online safety. In response to this, Telstra then ran a campaign encouraging parents to talk to their children about cyber safety.
- In 2012, the Telstra Foundation committed \$8 million to a cyber-safety partnership with the Alannah and Madeline Foundation to develop and deliver an eSmart Libraries framework to 1500 public libraries across Australia.
- actively supporting a range of government and public awareness initiatives such as Safer Internet Day, National Day of Action Against Bullying and Violence, Stay Smart Online Awareness Week, and we run public cyber safety campaigns at Christmas and the commencement of the school year.
- In 2013, Telstra supported a Victorian Department of Education and Early Childhood Development program, 'Bully Stoppers', which aims to develop sustainable bullying prevention initiatives in schools.
- supporting the Geelong Football Club's 'Cyber Cats' program, empowering young people with knowledge to help counteract anti-social online behaviour.
- Co-chairing the Technology and Wellbeing Roundtable with Reachout by Inspire Foundation and are a partner organisation of the Young and Well Co-operative Research Centre.
- training 11,500 parents and high school students in 2012/13 at cyber safety seminars. Telstra is now working with anti-bullying and youth leadership organisation, Project Rockit, to bring a range of digital citizenship workshops to schools and parents around the country.
- Telstra is the only Australasian member of the Family Online Safety Institute (FOSI), an international, non-profit organisation that convenes leaders in industry, government and the non-profit sectors to collaborate and innovate in order to develop new solutions and policies in the field of online safety.

Vodafone

Vodafone has developed a free application, called **Guardian**, that is available on android phones, and can be used on any network, not just the Vodafone Network. Guardian lets a parent or a child select the best smart phone settings to support safe and responsible mobile use at any age. Families now have the flexibility to decide what services children have access to at any time of the day, including the internet browser, camera, Wi-fi, apps and games and social media. They can decide who can call and text and who calls and texts can be received from. Vodafone Guardian can be used on any mobile network in Australia. Features of Guardian Include;

- Set the times of day children can use their phone for calling, receiving TXT messaging and accessing the web browser
- Bar calls from numbers not in contacts/address book (i.e. Set phone to only accept calls from friends and family)
- Internet can be turned off via browser; Wi-Fi; and/or even certain apps e.g. YouTube™
- Prevent certain apps being used and social media.

The **Vodafone Digital Parenting magazine** features tips and advice from Australian and International child safety and parenting experts, along with handy 'How to' guides for safety settings on Facebook®, Google™, Microsoft products.