7 March 2014

The Hon. Malcolm Turnbull, MP
Minister for Communications
c/- Director, Cyber Safety Policy and Programs
Department of Communications
GPO Box 2154
CANBERRA  ACT  2601

Emailed to: onlinesafety@communications.gov.au

Dear Minister,

**Enhancing Online Safety for Children – Response to Discussion Paper**

The Association of Heads of Independent Schools of Australia (AHISA) acknowledges the Australian Government's ongoing commitment to the wellbeing of young Australians and its support for measures to enhance the cyber-safety of young people.

AHISA members are deeply concerned by the capacity of digital technologies to become agents of harm among young people at a critical time in their development. Young people are at risk of becoming not just victims but aggressors, in ways that may have long-term negative effects on themselves and others. AHISA believes schools have an important role to play in assisting governments and other agencies address cyber-safety issues.

AHISA appreciates the opportunity to contribute to the Government's consultation process on measures to address the online safety of young people. In this submission we offer general comment on issues raised in the discussion paper, *Enhancing Online Safety for Children*, and also address the role of schools in supporting the cyber-safety of their students.

**About AHISA**

The primary object of AHISA is to optimise the opportunity for the education and welfare of Australia's young people through the maintenance of collegiality and high standards of professional practice and conduct amongst its members.

The membership of AHISA comprises principals of 421 independent schools with a collective enrolment of some 421,000 students, representing 11.8 per cent of total Australian school enrolments. At senior secondary level, the proportion of total school enrolments rises to 20 per cent; that is, one in every five Australian Year 12 students has gained part of his or her education in an AHISA member's school.

AHISA has a history of leadership in student pastoral care. It was the first organisation in Australia to establish a dedicated conference on pastoral care in schools. Since its formation in 1985, members of AHISA's Social Issues Committee have given evidence to national and state parliamentary inquiries

COLLEGIAL SUPPORT FOR EXCELLENCE IN SCHOOL LEADERSHIP

**AHISA National Office** | Unit 17 National Associations Centre | 71 Constitution Avenue | Campbell ACT 2612
Phone 61 2 6247 7300 | Fax 61 2 6247 3677 | Email enquiries@ahisa.edu.au | www.ahisa.edu.au | ABN 99 006 107 124

into student wellbeing issues such as the effects of violent and sexually explicit video material on children, internet access to pornographic material and alcohol and drug abuse.

## RESPONSE TO THE DISCUSSION PAPER

### 1. Establishment of a Children's e-Safety Commissioner

AHISA supports the establishment of the office of a Children's e-Safety Commissioner. Such an office has the potential to provide an authoritative, single point of focus to implement, coordinate or have oversight of the multiple responses required to address online safety, including:

- response to victim and community inquiry
- online and telephone helplines
- the development and provision of information and educational resources
- research programs
- legislative responses, such as the civil enforcement regime to deal with cyber-bullying outlined in the discussion paper (page 23ff).

The office of a Commissioner affirms to young people the importance placed by the community on their safety. At the same time, the office conveys to the community, and particularly young people, the seriousness of inappropriate behaviours enacted through digital technologies. If allied to oversight of a civil offences regime, the office would also explicitly express the preparedness of government to prevent such behaviours or respond to them.

AHISA agrees that it is important that the office of the Commissioner have some distance from government but believes the office would still be viewed as sufficiently independent of government if it were an administrative unit within the Australian Communications and Media Authority.

In regard to the proposal that the Commissioner have responsibility for 'establishing a voluntary process for the certification of online safety programs offered within schools' (page 5), AHISA believes a prior step would be for the Commissioner to determine in consultation with school authorities a set of criteria for effective school-based online safety programs. AHISA believes consultation only 'with industry' to determine a standard for online safety programs – as suggested in *The Coalition's Policy to Enhance Online Safety for Children*[1] (page 8) – is inadequate. Further, AHISA believes the office of the Commissioner should carry the function of funding the development of resources for such programs.

While any certification program or schools funding program for the delivery of online safety education should be dependent on the outcome of these actions, AHISA believes there is a place initially for the Commissioner to fund schools in the development or trial of online safety education programs.

### 2. Rapid removal of material that is harmful to a child from social media sites

The discussion paper notes that various agencies have called for faster, more effective means to deal with content posted online that is harmful to a specific child in Australia. Clearly, the distress suffered by young people can be minimised if harmful or offensive content is removed rapidly. However,

processes involving legal action and court cases are unlikely to prove useful or attractive to many young people as the means to achieve this.

Given the global nature of social media sites, it is not clear how effective legislative approaches by the Australian Government will be if they are difficult to enforce. However, AHISA believes some form of legislative framework could be useful as a means to describe Australia's position on:

- the removal of harmful content from social media sites
- any recourse individuals and organisations might have in following up on complaints to such sites
- any penalties which might apply to sites that fail to remove harmful content and to the individuals who post harmful content to them.

Such a framework could support the powers of the office of the Commissioner to investigate complaints and to publish information about sites that fail to respond adequately to complaints. If young people were aware that the office of the Commissioner would pursue cases where complaints are deemed warranted but not acted upon by a social media site – in effect, act as an advocate for them – this could reduce their distress and also act to counter tolerance among young people of abusive online behaviours.

### 3. Options for dealing with cyber-bullying under Commonwealth legislation

Given that much of the content harmful to children is posted by other young people, and that harmful behaviours include emailing and SMS texting as well as posting on social networking sites or chat rooms, it is important that any legislative framework addressing the removal of harmful material from websites and other forms of cyber-bullying:

- is not unnecessarily punitive to offenders aged under 18 years
- covers harmful electronic communications and postings on chatrooms as well as major social networking sites
- empowers the office of the Children's e-Safety Commissioner or like agency to use a range of responses or sentencing options for minors, including mediation, counselling, restorative justice programs, community-based orders and probation (as signalled in *The Coalition's Policy to Enhance Online Safety for Children*, page 6)
- enables complaints to be made directly by the complainant (or their parent/carer) as well as school principals or police
- aligns with existing legislation that covers harmful online behaviours.

The discussion paper proposes that under legislation covering the removal of harmful material from major social media sites an eligible complainant would be a child who is the specific target of the harmful material, the child's parent or guardian, or another adult in a position of authority in relation to the child (including a teacher) (page 13). In its coverage of a civil enforcement regime dealing specifically with cyber-bullying, the discussion paper describes a proposal that the Commissioner 'would receive cyber-bullying complaints either from school principals or police' and would receive complaints directly from the public 'only in a limited range of circumstances' (page 25).

Given the potential for one incident to require investigation and follow up of a complaint to a major social media site, and involve a complaint of cyber bullying against the person posting the harmful material, AHISA believes there is merit in investigating whether a single legal framework could be devised to cover both removal of harmful material from social media sites and the elements of a civil enforcement regime as proposed in the discussion paper (page 23ff).

If a single legislative framework is possible, AHISA recommends that eligible complainants in all processes to address online safety as covered by the discussion paper include children, their parent or guardian or another adult in a position of authority in relation to the child. While AHISA recognises there is value in creating a filter for complaints, we suggest that many young people will avoid using the office of the Commissioner to investigate complaints if they must share with a teacher or principal what in many instances they may regard as private or even shameful.

Research undertaken in 2008 by Independent Schools Victoria (ISV) showed that students are more likely to seek help from parents or friends when they experience bullying online or by phone. Generally, younger students tended to rank their parents and teachers more highly as someone they would turn to for support, while older students favoured their friends.[2] More recent research, reported in the discussion paper (page 3), indicates that 'only a fraction' of those children reporting that they have been exposed to cyber-bullying choose to tell their parents. AHISA believes consideration must therefore be given to finding ways for young people to pursue complaints through the office of the Commissioner without recourse to the police, their school or even their families in the first instance.

**THE ROLE OF SCHOOLS**

The 2008 ISV research showed:

- 95.4 per cent of students surveyed knew their school had a policy on bullying and 92.4 per cent said they had talked about bullying in a class or meeting
- 80.9 per cent of students had talked in a class or meeting about safety and security online and 77.6 per cent had talked about cyberbullying.

These findings indicate that schools successfully raised student awareness on cyber-bullying and online safety even at a time when media exposure of these issues was not as prevalent as it is today. However, education must go beyond raising awareness and positively affect student choices and behaviours.

It must be recognised that legislative responses and raising awareness of legislation – or even of non-legal consequences, such as a damaged reputation – are not necessarily deterrents to abusive or unsafe online behaviours in young people. For example, some of our members have reported that while outside agents are often invited to schools to address students and parents on the serious nature of online safety, including cyber bullying, their message in and of itself does not always have the desired impact on student behaviour. For example, visiting police officers may effectively convey the legal implications of 'sexting', but the outcome may be that some students will not cease sexting but simply look for ways to experiment with 'safe' sexting. The popularity of the Snapchat app is evidence of the attraction of this kind of negative response to legislative solutions. A user comment

posted as a testimonial for the more recently published Ansa app ('I can finally say what I want to without worrying!')[3] typifies this response.

Schools have an important role to play in helping their students develop the internal moral compass or ethical framework necessary for them to both discern and avoid abusive or inappropriate behaviours. In this regard, AHISA would look for the office of an e-Safety Commissioner to embrace ethical considerations as part of its suite of resources to educate young people about online safety and cyber-bullying.

To positively affect student behaviour through the development of both knowledge and character, AHISA members' schools have introduced a range of programs, including:

- 'digital citizenship' programs, including the concept of digital responsibility

- cross-age mentoring: some schools are asking older students to teach online safety to younger students, which can be effective in educating both age groups while developing a sense of responsibility and accountability

- equipping students to respond to their friends: given the evidence that older students especially will first choose to discuss an online safety or cyber-bullying problem with a friend, some schools are also presenting information about online safety issues and resources in a way that challenges students to think about them from the perspective of a friend of the victim or as a friend of the aggressor

- providing parents with access to class resources on online safety and cyber-bullying through school intranet 'parent portals' so that a shared language and home-school alignment can be developed around online safety issues

- one-stop shop wellbeing apps: some schools with iPad or laptop programs are creating online resources housed on the school intranet and accessed by a home screen app, not unlike the Cybersafety Help Button; other schools are downloading the Cybersafety Help Button to student and school computers.

AHISA members' schools also have strong pastoral care systems, which might include home group teachers and house masters or mistresses as well as class teachers and school counsellors. Many AHISA members' schools are introducing innovative programs that incorporate positive education and emotional intelligence approaches. Other schools are using restorative justice programs. All AHISA members' schools explicitly teach values systems.

Schools can and do contribute significantly to children's cyber safety through both educative and support functions. Even so, many AHISA members comment that one of the biggest challenges faced by schools is to teach wisdom and discernment to children and adolescents in a digital world; another is to find ways for students to be able to learn from their mistakes safely, without lifelong repercussions.[4]

As mentioned above, AHISA believes the office of a Children's e-Safety Commissioner could enhance the work of schools by providing funding to schools to develop and test programs that are successful in helping to grow good 'digital citizens'. The office of the Commissioner could also provide a focus and forum for schools to share best practice.

At present the schools sector is not represented on the Government's Online Safety Consultative Working Group. AHISA believes consideration should be given to including on the Working Group a representative nominated by the four national principals' associations to help bring a schools perspective to the deliberations of the office of the Commissioner.

AHISA would welcome further inquiry on any of the above responses to the discussion paper. We would also be pleased to have the opportunity to contribute further to the Government's development of policy and programs in children's online safety.

Yours sincerely,

**Phillip Heath**
AHISA National Chair 2013-15
Head of Barker College, Hornsby, NSW
nat.chair@ahisa.edu.au

**Further inquiries may be addressed to AHISA's Chief Executive, Elizabeth Tobler, telephone (02) 6247 7300; mobile 0417 170 436; email elizabeth.tobler@ahisa.edu.com.au**

**NOTES**

[1] Viewed at http://lpaweb-static.s3.amazonaws.com/Coalition%202013%20Election%20Policy%20-%20Enhance%20Online%20Safety%20for%20Children.pdf, 28 January 2014.

[2] Reported in 'Data Check 2: Cyber Culture', *Independence*, Vol 33 No 1, May 2009; available at http://independence.realviewdigital.com/?iid=62581#folio=60

[3] Viewed at https://play.google.com/store/apps/details?id=com.ansa.messenger, 24 January 2014.

[4] AHISA submission to Australian Parliament Joint Select Committee on Cyber-Safety, 22 March 2011