Response to the review into the Enhancing Online Safety Act 2015 and the Online Content Scheme

Submitted by the Alannah & Madeline Foundation

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Alannah & Madeline Foundation

Keeping children safe from violence

Executive Summary

The Alannah & Madeline Foundation (the Foundation) welcomes the opportunity to respond to the Australian Government's discussion paper on the review into the Enhancing Online Safety Act 2015 and the Online Content Scheme.

Our response to this paper is underpinned by the Foundation's mission to keep children safe from violence, and our decade long investment in research, development and implementation of bullying and cyber safety programs. Our learnings are summarised by three fundamental principles, which we believe are critical for sustainable improvement in the online safety of children.

These principles are:

- Children require greater safeguards online than adults do. This stems from society's basic responsibility to protect children, as well as an acknowledgment of the fundamental architectural design of the internet which did not have children in mind from the outset.

- A whole-of-community 'cultural change' approach is the best method to improve children's online safety from birth. This is based on our experience in improving cyber safety in over 2,300 schools and 1,188 public libraries via our eSmart initiatives.

- Sustaining a cultural change approach requires ongoing collaboration between government, industry, community groups and the not-for-profit sector. A 'community of practice', featuring shared messaging and complementary initiatives, is necessary to achieve practical, efficient and effective measures to keep children safe in the rapidly changing online environment. We need a "whole of community" approach.

The Alannah & Madeline Foundation has always been, and continues to be, supportive of the Office of the eSafety Commissioner. It is a critical, nation influencing role that is rightfully widely admired. This review is a timely opportunity to share our thoughts and insights on the sector's recent growth and the Office's response to challenges and opportunities. Our observations are made in the spirit of strong support for its success.

Recommendations

We believe the Office of the eSafety Commissioner should adopt a model of influence that works to:

- foster greater collaboration across the sector, particularly in helping to broker and support meaningful partnerships with and between non-government organisations that have proven, evidence-based expertise.

- utilise the Online Safety Consultative Working Group (OSCWG) to progress more explicit common aims and objectives and to share resources and learnings openly; including driving the adoption of a national definition of (cyber) bullying that recognises it as a predominantly relationship-based issue.

- maintain a regulatory environment that encourages compliance and integrity, and also fosters innovation and growth. Specifically, the Office should be better supported to regularly audit cyber safety providers through robust monitoring and evaluation and to support proven community interventions that improve digital safety.

- champion a holistic approach to combatting cyber bullying and enhancing pro-social behaviours across the Australian community and which acknowledges and explicitly addresses the unequal distribution of skills, education, awareness, services and resources within and across communities.

About the Alannah & Madeline Foundation

The Alannah & Madeline Foundation is a national charity established in memory of Alannah & Madeline Mikac, aged six and three who were tragically killed with their mother and 32 others at Port Arthur, Tasmania on 28th April 1996.

The Foundation believes that no child should feel unsafe, and that raising children to be confident, compassionate and resilient should be the highest priority of Australian society as it is an immeasurable investment in the future. The Foundation's initiatives operate across the spectrum of prevention and care on issues that adversely affect the wellbeing of children. Issues include: family violence, bullying, cyber bullying and cyber safety. The Foundation's programs are evidence-based and responsive to the changing needs of children and their carers.

The Foundation works mostly with children aged 16 and under, focusing on improving the culture and safety of environments where they spend most of their time, such as in their homes, schools and public libraries. The Foundation works within the community to care directly for those who have experienced or witnessed serious violence; as well as improve wellbeing outcomes through the prevention and reduction of bullying, cyber bullying and other cyber risks.

Work is undertaken collaboratively with the experts in relevant fields to identify and reduce threats to children's safety through innovation and partnerships. The Foundation speaks out on the need for systemic change to build a safe and supportive society. To date, the Foundation has reached more than 2.3 million children through its work.

The Foundation's endeavours are underpinned by a set of guiding principles:

- Child centred
- Innovation driven
- Evidence based
- Values led
- Ethical partners.

The Foundation commenced its work in the area of cyber safety ten years ago when it became increasingly apparent that the development of online networks created new risks and challenges in child safety. Since that time, we have become a leader in developing innovative programs and have championed a behaviour change approach that aims to create a society that understands and values online safety.

Our cyber safety work takes place in nearly one third of schools across Australia; nearly eighty percent of public libraries; workplaces where young people work and shop; with families with very young children and our engagement with distressed communities, including remote Indigenous communities has given us a deep appreciation of the need to build a much greater public investment in quality, practical services that promote digital literacy, awareness and skills from birth.

Our approach to this review

In this submission, the Foundation addresses key areas that cover some, but not all, aspects of the review. We have largely focused our contribution on providing knowledge, understanding, suggestions and insight regarding the Enhancing Online Safety Act 2015 and the associated challenges and opportunities of the current environment. We have also incorporated relevant information on the review of the Online Content Scheme where we felt it was appropriate.

Where we have opted not to address specific questions or sections it is because we believe we are not experts in those areas, and would rather defer to organisations that can provide relevant knowledge and advice.

The perspectives and advice are based upon:

- the Foundation's deep knowledge and success in developing and delivering evidenced-informed community programs that support the safety and wellbeing of children and young people including:

    - eSmart Schools (Appendix A)
    - eSmart Libraries (Appendix B)

- the Foundation's insight and reach achieved through the development of education support tools and initiatives for the existing eSmart framework including:

    - the Digital Licence (adapted to audience, literacy levels, age and culture)
    - Connect workshops on cyber safety, bullying, respectful relationships and image based bullying
    - Young Women in Remote Indigenous community's workshops

- the Foundation's expertise and commitment to working with, and for, children and young people

- our work in setting up and managing the National Centre Against Bullying (NCAB) as a peak body to advise and inform the Australian community on the issue of on and offline childhood bullying and the creation of safe schools and communities, including the issues of cyber safety, and the enhancement of young people's wellbeing

- the Foundation's ability to work in a collaborative manner across government, law enforcement, the technology industry, corporate, academic and not-for-profit sectors.

We have chosen to address the review in the following three areas that are reflected in the next three sections of this response:

1. A maturing sector: the challenges and opportunities

a) We will address the rapidly changing online environment and discuss how governments, industry and the not-for-profit sector must continue to mature in a cohesive and collaborative manner to best serve Australian children and adults.

2. Effectiveness through greater coordination, oversight, targeted regulation and better research

a) We will address the opportunity for the Office of the eSafety Commissioner to lead greater coordination and oversight with specific reference to the OSCWG, and the Certified Provider program.

b)   We will offer insight into the Cyber Bullying Complaints Scheme and the need for a universally accepted definition of bullying and cyber bullying.

c)   We will discuss opportunities to drive systemic changes through the regulatory framework and coordination of capacity building in local communities. We will also discuss the need for new industry approaches to prevention via a commitment to 'safer by design' principles.

d)   We will discuss the need for a better evidence base to provide a more thoughtful community conversation on digital participation, technology and children.

3.   A holistic approach – from birth

a)   We will emphasise the value and significance of a holistic approach in combatting cyberbullying and providing positive online safety education to children and communities. Our children are online before they can read. Our approach to digital learning and safety needs to start well before school and we need to build a critical component focussing on families. Australia can be a world leader in this area.

1. A maturing sector: the challenges and opportunities

a) Australians are considered early adopters of technology, and for several decades have increasingly immersed themselves in the online world through gaming, social networking sites, education and business opportunities, applications and other content services. While this access to data and content created many positive opportunities for users, it has also brought about increasing challenges regarding the lack of control of the Internet and associated illegal and antisocial behaviour.

In response to Australian children's increased engagement online and exposure to these risks, the Alannah & Madeline Foundation was supportive when the Australian Government, in 2015, took the world first step of establishing the Office of the Children's eSafety Commissioner. We continue to believe in the role of the Office to help protect Australian children from cyber bullying harm, and to take a national leadership and coordination role in online safety for children. We are also supportive of the Office's name change and the increased remit to service all Australians – regardless of their age.

We are mindful that with an increased remit into these new areas of work including adult cyber bullying and Image Based Abuse, and taking on the responsibility to provide programs to older Australians online, keeping young adults eSafe and championing a safe space for women to speak out online, there is some risk that the important core regulatory and enforcement work of the Office may in fact be diluted. We firmly believe this is where the Office stands to have the largest impact - improving program standards, fostering a shared sector responsibility, driving industry compliance and innovation to better protect all Australians.

With this increased remit in mind, we would encourage the Office to continue to utilise its leadership and coordination role to grow practical partnerships, and then support these partnerships through funding to deliver its mandate. This shared approach would be particularly appropriate in the area of education where the not-for-profit sector has well established local relationships and credibility with the Australian community, including schools, to deliver high value and high impact programs and initiatives.

It is worth noting that even in the short three years since the Office of the eSafety Commissioner was first established, the online environment continues to rapidly evolve, but so too does the knowledge and understanding of this environment and the number of organisations and individuals with expertise, or simply a keen interest and enthusiasm for better outcomes. It is critical therefore, that as this rapid growth occurs it is managed through strong coordination, oversight and targeted regulation – all areas the Office of the eSafety Commissioner can and must play an integral role.

We wish for the sector to continue to develop in a cohesive and collaborative manner, to ensure the best outcomes for Australian children and adults. The Foundation welcomes the current Commissioner's approach and commitment, and her leadership of the Office as a regulator and not a policy body.

2. Effectiveness through greater collaboration, coordination, oversight, targeted regulation and better research

a) We believe high quality oversight and a strong regulatory environment serves to allow all Australians to live safe and prosperous lives. We welcome the approach the government is taking with this review to ensure good governance, as both digital opportunities and challenges continue to expand in Australia.

The OECD suggests high performing regulators achieve positive outcomes through a variety of mechanisms and levers, while also encouraging innovation and fostering growth. The Alannah & Madeline Foundation is more familiar with good coordination and oversight mechanisms, rather than the technical and legislative frameworks concerned with the Online Content Scheme. We believe increased rigour and oversight regarding the OSCWG and the Certified Provider program is critical to developing a cohesive sector that delivers evidenced based, best practice outcomes.

In addition to its current regulatory powers, we suggest that the Office of the eSafety Commissioner also be granted the power to declare social media services as a Tier 2 service as part of the regulatory scheme. This power is currently reserved for the Minister of Communications, however, we argue that centralising this entire function (end to end) within the Office will give the scheme – which is a voluntary-based scheme – greater gravitas within the industry.

Online Safety Consultative Working Group

The group has the important role of providing advice on measures to protect Australian children from online risks including cyber bullying, exposure to illegal content and privacy breaches. The group meets several times a year and has members drawn from community groups, internet service providers, industry associations, business and government. Sub-working groups are formed as required to address specific online safety issues.

The Alannah & Madeline Foundation welcomes our involvement in the OSCWG, and would encourage a longer term approach to the aims and objectives of the group, further transparency regarding consultation and feedback and a supported administrative position and administrative platform if required.

The OSCWG provides a vital platform that helps foster a shared vision within the sector, which ensures the delivery of a more cohesive and best practice approach to online safety challenges and opportunities. The OSCWG is one of a few regular opportunities to gather representatives from the sector to discuss matters in an open and robust forum to produce the best results. We would encourage this forum be used not only to discuss ad-hoc or pending government issues, but to work towards progress using a business planning approach in the sector around:

— resourcing to ensure effectiveness and impact (including transparency around planned eSafety initiatives, and the planning of sector wide events to avoid duplication, competition and increase collaboration)

— establishing best practice advice, policies and procedures

— sharing learnings and pooling resources where appropriate

- establishing the gaps in research and determining the best arrangements to commission these studies; and
- where appropriate, helping to develop a shared perspective and agreement on community messaging underpinned by clear research. The Office plays a key role in being a thoughtful and trusted voice in dispelling "popular misconceptions" regarding digital life (e.g. 'gaming addiction', babies, sleep and screen time, cyber bullying and youth suicide).

We understand the Office of the eSafety Commissioner may require dedicated funding to leverage the OSCWG to its full potential through a supported administrative position and platform - we would encourage this.

Certified Provider Program

The Office of the eSafety Commissioner has responsibility for certifying providers of online safety programs. Individuals and organisations can apply to become a certified online safety program provider, and may be eligible for certification under the Office's Voluntary Certification Scheme if they can satisfy the requirements set out in the Voluntary Guidelines. The Scheme was originally established to give schools assurance that they were accessing qualified (and high quality) online safety education providers, certified by the Office.

In our experience, this program has become ineffective. However, there is no doubt that there is a need to ensure a quality standard is encouraged and maintained. Australian schools express concern over the increasing number of providers to choose from and the difficulty they have in selecting the program fit for purpose. We regard this as a flawed process and will expand upon this view in the following section of this submission. It appears there is a varying range of programs in both content and quality, some lacking an evidence-base or evaluation.

Unfortunately, the 'Certified Provider' badge is increasingly losing credibility within the education sector, negating the government's original intent. We believe that the original intention to 'create a market' has actually resulted in a poor service to schools with far too many sub-standard and unqualified providers marketing themselves as 'solutions' to cyber safety and digital education. The safety of our children online should be a very high priority for the Office and cyber safety providers should be accredited only after proving that they have the highest standards of professionalism, currency and probity.

We are also concerned that an unregulated market promoting 'digital safety' may result in a market that also reinforces inequity. In our experience, children and families from some of the most vulnerable communities are not being reached, encouraged and supported to be cyber safe by the existing system. There is a higher number of providers targeting affluent private schools and high SES communities, with a lack of funding allocated to support organisations who deliver best practice and much needed training and resources into rural and regional areas and indigenous communities, at considerable cost.

There needs to be active support to ensure that children from regional and remote Australia and other disadvantaged communities are provided with high quality services to ensure digital literacy and cyber safety. We would support the reallocation of funds to target those communities currently underserviced, particularly in remote and regional Australia. The current market is not reaching such communities and in most cases, it is only through charitable donations that organisations such as ours have been able to provide much needed training and support to remote communities.

The Office should be better supported to promote core messaging on cyber safety, developed from leading research and through consultation with expert representatives on industry committees such as the OSCWG.

We also believe, in order to maintain professional integrity in the sector, the Office should be better supported to regularly audit cyber safety providers through robust monitoring and evaluation. There are good examples of monitoring and evaluation processes within the

international online safety sector, including the United Kingdom's National Crime Agency (NCA) ThinkUKnow suite of resources, training and delivery model. Strong monitoring and evaluation would also allow the Office and the government to clearly understand the impact each provider is having, and the coverage of children and young people being exposed to this content across the country. It would help with both efficacy of programs and initiatives moving forward, and provide knowledge as to where gaps exist.

b) Bullying

Myths about bullying are persistent. For instance, it was once regarded by some as a rite of passage or a character-building experience for young people. Such attitudes were dismissive of the seriousness of bullying and led to a failure to address it appropriately.

Bullying is now recognised as a significant problem in Australian society and across the world. Its effects on individuals can result in poorer physical, psychological, cognitive and social outcomes for many involved, such as targets, perpetrators and often bystanders; negative effects that can persist into later life.

Cost of bullying

Bullying costs the Australian economy billions of dollars. A recent report commissioned from PricewaterhouseCoopers by the Foundation found that the costs associated with bullying total $2.36 billion for each individual school year group, incurred while the children are in school and for 20 years after school completion. This includes associated costs relating to productivity through chronic health issues, and effects on family and other members from resultant family violence.

Bullying – a national definition

It would be advantageous if a definition of bullying were to be accepted Australia-wide. Lack of a common definition of bullying leads to confusion in schools and other settings. For example, research results cannot be compared effectively if definitions differ from one study to another.

The Alannah & Madeline Foundation through the National Centre Against Bullying defines bullying as an ongoing misuse of power in relationships through intentional and repeated verbal, physical and / or social behaviour that causes physical and / or psychological harm. It can involve an individual or a group misusing their power over one or more persons. Bullying can happen in person or online, and it can be obvious (overt) or hidden (covert).

All in all, it is generally considered that cyber bullying is a form of bullying.

Cyberbullying complaints scheme

The Alannah & Madeline Foundation continues to be supportive of the Cyberbullying Complaints Scheme (including the Rapid Removal Scheme and End-User Notice Scheme), although we recognise that these mechanisms are not a quick or easy solution to this.

As a principle, the Alannah & Madeline Foundation advocates for a response which enhances the protection of children and we believe that rapid removal of harmful material to children from the Internet is critical to minimising harm. We have seen first-hand the devastating impact that prolonged exposure can have on the young people subjected to this material.

It is acknowledged the eSafety Commissioner has not needed to use statutory powers under the Rapid Removal Scheme or the End-User Notice Scheme but has had material removed through industry cooperation. There is much merit in building relationships with industry to achieve the desired outcomes and for this progressive and collaborative work the Office should be congratulated. However, there is also merit in applying the schemes where appropriate in due course to ensure compliance and a strong regulatory presence. The latter approach may also encourage industry to consider their internal systems and processes, apply 'safety by design' methodology, and encourage more proactive behaviours generally.

We would encourage industry to 'flip' how they apply community standards and protect users by investing more heavily in AI and machine learning to stop anti-social content from being posted or shared, rather than rely on the community to report concerning or illegal content. The Office, through its Tier Scheme and newly created 'Safety by Design' industry working group, can greatly influence these developments.

c)   With technology solutions in mind, we understand that protecting young people online requires the efforts of the entire community – industry included. In our work with young people, schools and communities, it is our experience that a decade on from the 'social media' explosion, it is still not an easy process for young people who have a negative experience online to receive timely resolutions from many of the platforms and applications they use. The Office of the eSafety Commissioner is a much needed resource in the removal of the worst cyber bullying material, however we also believe industry could do much more to make their platforms safer and take a collective stance on discouraging the posting and sharing of anti-social or illegal behaviour.

The Office of the eSafety Commissioner can play an integral role in lifting the collective standards and internal mechanisms used by these companies to keep all Australians safe online, but in particular their younger users. Companies spend millions of dollars in protecting users' privacy and security and we would strongly encourage the same principles and effort be applied to safety.

Technology often outpaces legislation, codes and other mechanisms that are used to enforce online safety, but where there is an ability to update the regulatory framework and shape better outcomes, we must do so. Discussion regarding updates often centre around new technologies or services. We would instead encourage any new scheme or framework to firstly address behaviours and where possible be technology neutral.

We would also encourage further collaboration and capacity building across sectors, to act in support of this regulatory framework. In this spirit, the Alannah & Madeline Foundation has recently signed an MOU with the Australian Federal Police, the overarching aim of which is to work together, leveraging each other's skills and expertise to keep children safe online.

We would encourage, where possible, the Office to act in a coordination role to foster collaborations and further build capacity into local communities (local law enforcement, legal services and other front line services) to be able to effectively deal with challenges that occur – regardless of the postcode. The stronger the network of expertise is across every State and Territory the better we will be able to meet the needs of local communities.

d)   The Foundation is concerned that there is ongoing pressure on the Office of the eSafety Commissioner to demonstrate the impact – negative and positive – of technology on children and young people. This is not the role of the Office. The Foundation would strongly support the creation of a formal research fund – potentially through the National Health and Research Council – which supports contemporary, peer reviewed research on media and technology impacts on the health and wellbeing of children.

Contemporary, peer reviewed research is also essential in forming strategies to ensure child and family digital wellbeing.

3. A holistic approach – from birth

a) It needs to be understood that for children and young people to be safe from violence, it requires multi-faceted and complex approaches stemming from a multi-stakeholder strategy.

At the Foundation this is represented in the way we work and can be seen in the development of programs like *eSmart* which supports whole communities to address cyber bullying and to foster pro-social behaviours in our children and young people.

It is essential to note that many schools have robust policies to reduce and respond to bullying, cyber bullying and other behavioural challenges. However, our experience in working with nearly 3,000 schools is that there needs to be ongoing investment across a school's systems, practices and training to ensure that the school is confident, prepared and committed to building a cyber safe and digitally competent school community. Schools succeed when there is a clear framework, which lays out expectations, actions, responses and responsibilities to promote ethical online communication. Schools require consistent support to enable them to meet this challenge.

We have also developed an educative tool to enhance children's knowledge of the digital environment, the *Digital Licence*. We are now re-developing this for the 0-5 age group to provide young children with knowledge and skills they need to be safe and respectful users of digital devices.

We are committed to this redevelopment because we know that children's digital safety learning begins as soon as they have access to devices. The *Royal Commission into Institutional Responses to Child Sexual Abuse* acknowledges that "access to digital media is an essential component of children's rights and that most online interactions for children are positive and support their social development, relationships and education". In our view, families of young children should have access to high quality advice, education and support regarding children and digital play, exploration and learning.

The Foundation recently completed a significant piece of market research with consulting firm PricewaterhouseCoopers, on families with children aged 0-5 and how they use technology in the home. While technology offers wonderful opportunities for entertainment and education, parents and carers are faced with daily challenges trying to navigate the digital world with their children. Our research revealed that the majority of parents and carers think there is a lack of relevant and trustworthy information on online safety to help them decide on approaches to technology with their young children. They also reported that technology was an element of their child's life that they struggled to control – both in terms of time spent using it (on / offline balance) and protecting their children from online threats such as unwanted contact and exposure to inappropriate content.

We have contributed extensively to the policy work of Early Childhood Australia on digital technology in the early years setting and would recommend that the findings of this important work (to be launched in November / December 2018) be seriously considered in the context of the review of the Office of the eSafety Commissioner. The early years are a critical period for the development of learning, behaviours, attitudes and understanding, yet sadly, the quality standards and accreditation requirements omit any reference to esafety. This emerging issue of young children and their interactions with technology, just as with technology in primary and secondary schools, requires a coordinated, holistic approach, that includes advocacy, education material, and where appropriate, face-to-face training. Staff, families and services supporting early learning should have access to proven, high quality education and training support to increase the skills, confidence of the youngest Australians as digital learners. This is an emerging priority and the Office should have a strong remit to support this critical sector.

4. Appendices

Appendix A Evaluation eSmart Schools
Appendix B Evaluation eSmart Libraries

5. Foundation contact details

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THANK YOU.

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