



Response to the Online Safety Charter consultation paper

Submitted by the Alannah & Madeline Foundation

April, 2019



**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 consultation paper on the newly proposed Online Safety Charter.

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 that we believe are critical in the sustainable improvement in 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.

This is a timely moment for reflection on the need for a strong *Charter* that guides a best practice approach from industry. We are grateful for the opportunity to share our thoughts and insights regarding both the challenges and opportunities afforded to all Australians, including children and young people, through technology.

Recommendations

The Alannah & Madeline Foundation recommend:

- the *Charter* includes a third underlying principle through the incorporation of the Convention of the Rights of the Child (CRC) and this be extended to address digital rights.
- the *Charter* and any associated guidance recognises that while all children and young people need special protections, they are not equally vulnerable. The government should provide specialised resources to help the technology industry implement nuanced protections for the most vulnerable in this cohort.
- the *Charter* and any associated materials or guidance should include the voice of children and young people through a genuine youth participatory model.
- the *Charter* should include, in some form, levers to ensure minimum compliance and ongoing efficacy to be able to measure impact and inform new evidenced based approaches.
- the *Charter* takes into consideration any existing legislation, frameworks and guidance including the new 'safer by design' (SbD) principles and 'national principles', so implementation by the technology industry is as straight forward as possible. Being clear about the role industry needs to play and exactly how they go about it is paramount to successfully protecting children and young people.

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 consultation paper. We recognise we are not technology experts and would rather defer to organisations that can provide relevant knowledge and advice.

The perspectives and advice presented in this response 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 not by addressing specific guiding questions across the four pillars of the *Charter* (Control and Responsibility, Improving the User Experience, Built in Child Safety and Accountability and Transparency), but rather by providing overarching strategic advice regarding gaps and possible opportunities to further strengthen the impact of the Charter.

We will discuss:

- the digital rights of children and young people;
- that while all children are vulnerable and need special protections they are not equally vulnerable;
- hearing the voice of children and young people and the need for a genuine youth participatory approach to any Charter;
- the possible need for the Charter to contain inbuilt mechanisms to establish baseline industry data to ensure at least minimum compliance and ongoing efficacy;
- the need to simplify guidance to industry and bring together the *Charter* and other approaches, frameworks and legislative measures to ensure industry can simply understand the role they need to play in helping to protect children and young people; and
- the need to provide more than a *Charter* but also practical implementation guidance.

1. The digital rights of children and young people

We welcome the Australian governments work with key stakeholders to improve the lives of all Australians online by designing best practice standards to raise the technology industries protective measures via an *Online Safety Charter*. We recognise some thought has been given to children and young people as a vulnerable group. The Alannah & Madeline Foundation has 22 years' experience working with children and young people, and within this cohort some of the most vulnerable. We agree with the governments approach regarding the existing principles that underpin the *Charter*, but in addition hold the belief this group deserves and needs a special set of protections because of their vulnerability to abuse and exploitation. It appears that currently the *Charter* addresses children's needs through pillar three (Built in Child Safety) that may limit a broader rights-based approach.

We are heartened the protection of children's rights in the digital age is in fact being discussed at the highest levels of global government including the United nations, the European Union and the United Kingdom's parliament through progressive changes in legislation and advocacy. Recently the United nations Committee on the Rights of the Child turned their focus to children's rights and digital media. Committee Chair Kirsten Sandberg acknowledged that it was precisely because information and communication technologies (ICT) and social media were an increasing, organic part of children's lives that they decided to focus their attention here. Digital media provides children with vast opportunities to learn, participate, play, work and socialise. We must also acknowledge however that many technologies young people engage with, including some of the platforms owned by largest technology giants and social media platforms - with the largest and deepest reach - were in fact primarily designed for adults. Current global dialogue considers extending Children's rights to include specific online rights and will work to address:

- **non-discrimination (article 2)**

The Internet is an important tool for claiming all human rights, such as the right to education, and for participating in society. As such, government, industry and not for profits should take measures to ensure access for all children and young people, including those who face particular barriers, like children living in remote areas or from disadvantaged backgrounds, and consider the implementation of targeted protections.

- **evolving capacities (article 5)**

Children and young people should be able to exercise their rights as they acquire the competence to do so. All those involved in determining children's Internet access should recognise that children mature at different rates and there is a vast difference between the capacity of children of different ages to understand and assess risk. Parents should be empowered to guide their children's Internet use, with respect for their evolving capacities.

- **the right to be heard (article 12)**

The CRC asserts children's right to be listened to and taken seriously on matters affecting them, and an entitlement to have their views considered in accordance with their age and maturity. Governments, industry and non for profits should draw on children and young peoples' own experiences and views when developing and distributing guidance, or the building of new technologies

- **Freedom of expression (article 13) and access to information (article 17)**

Children have a right to hold and express opinions, and to seek, receive and impart information and ideas of all kinds, “regardless of frontiers” through the full range of media. This includes the right to express controversial views which others may not agree with - online or offline. Any restrictions on this right should comply with international human rights standards on freedom of expression and this framework should underpin moderation efforts. Children should have the right to know about any restrictions that are in place. They should also have access to information appropriate to their age and circumstances about how to make a complaint or report abuse.

- **Freedom of association (article 15)**

Children have the right to peaceful assembly. In the digital context, this means they should be able to participate in online groups, including political action and debate (within the bounds of the law). States should encourage the development of tools to enable children to participate in political and other decision-making processes online

- **Right to privacy and respect for confidentiality (article 16)**

Article 16 provides that ‘no child shall be subjected to arbitrary or unlawful interference with his or her privacy ... or correspondence’. It is not only governments who have a responsibility to protect personal data; private service providers also have responsibilities where personal information is concerned. Children and young people should be made aware that anything they post about themselves online may be available worldwide and have consequences either in the immediate or in the long term. Children and young people should have control over this information, for instance, their informed consent should be secured before any transfer of data is made. It should be possible to have information removed on request, with respect for confidentiality.

- **Parents’ joint responsibilities (article 18)**

Article 18 establishes that parents and legal guardians have primary responsibility for raising their child. It also requires States to support parents in this role. Parents and other adults in children’s lives should be encouraged to engage with children and guide them in their online lives, with respect for their evolving capacities, to equip them to deal with other users’ behaviour - e.g. bullying, grooming, etc. and know where to report abuse. States should provide training to help parents and other caregivers develop the skills to be able to support children in this way.”

- **Protection from violence (article 19) and sexual exploitation and abuse (article 34)**

Children should receive special protection from sexual exploitation and abuse and other forms of harm, such as cyberbullying. In addition, children should be able to access information and support appropriate to their age and circumstances about options to report anything illegal or harmful. Attempts to protect children should be balanced with their right to information: they should not be seen as opposing goals.

- **Right to education (articles 28 & 29)**

Children should have access to education online, including freely available content in a language that they understand to help them reach their full potential. Education should also cover knowledge and skills relating to the internet, including how to think critically about messages conveyed in information.

Recommendation: The Alannah & Madeline Foundation recommend the *Charter* includes a third underlying principle through the incorporation of the Convention of the UN Rights of the Child (CRC) and this be extended to address the need of specific digital rights (as outlined above).

2. All children need special protections, but they are not equally vulnerable

All children and young people require special protections, however not all children and young people are equally vulnerable in the real world or online. Research published earlier this year by leading online safety organisation, Internet Matters, highlights the different potential online risks and challenges facing the most vulnerable young people. The research presents the findings of a British wide survey of 2,988 young people aged 10–16 years who were care leavers, lived in care, or had communication difficulties, physical disabilities, special educational needs, or mental health concerns. The findings aim to help inform targeted education and prevention efforts for cyber safety and could be directly used to inform either further Australian research and or an evidence informed Charter along with any associated resources to guide implementation.

All of us are guilty, governments included, in rolling out new measures that target and often cater for the mainstream and those on the margins of society are often in the 'other' or 'nice to have' bracket if funding allows for it. In the design and implementation of this *Charter* we would like to challenge that all too familiar process. We would encourage that the most up to date evidence base should be adopted to support targeted protective approaches, within the core *Charter*, for those young people who are most likely to fall prey to negative online behaviors. This more tailored approach would require subject matter expertise that many in the technology industry wouldn't have or would perhaps come at a prohibitive cost. We believe the government has a role to play in helping to build strong *Charter* guidelines and resources to ensure measures can be implemented that will support Australia's most vulnerable groups of children and young people.

Recommendation: The Alannah & Madeline Foundation recommend the *Charter* and any associated guidance recognises that while all children and young people need special protections, they are not equally vulnerable. The government should provide specialised resource and guidance to help the technology industry implement nuanced protections for the most vulnerable in this cohort.

3. Hearing the voice of children and young people

Children and young peoples' participation is more than just asking them for their ideas and views. It's about listening to them, taking them seriously and turning their ideas and suggestions into reality. It is also about providing them with the ability to influence some of the things that affect them and at the same time helping adults and particularly those adults who are in traditional decision makers, understand children's issues through their lens.

We recommend any Charter or associated guidance that addresses protections for children and young people should be in-part designed using a genuine youth participatory model. This process should empower children and young people to form their own opinions on harnessing their rights in the digital world.

In Australia, we recognise the good work of Australia's own National Children's commissioner advocating nationally for the rights and interests of children and young people – this includes all children and young people up to eighteen years of age and particularly their work in advocating for children's participation in decisions that impact on them. We would recommend working with the National Children's commissioner and other relevant stakeholders to access a diverse range of children and young people's voices through this consultation process.

Recommendation: The Alannah & Madeline Foundation recommend that the Charter and any associated materials or guidance should include the voice of children and young people through a genuine youth participatory model.

4. Compliance through an efficacy approach to ensure a measurable impact

We understand when finalised, the Charter will be an important foundation document to shape the direction of future reform of online safety policy and legislative arrangements in Australia. We make the argument the Charter should, in some form include levers to ensure minimum compliance and ongoing efficacy to measure impact.

This Charter provides a tangible opportunity to gather deep baseline data in areas such as the number of bullying reports made to industry, time taken to address incidents to completion, resources invested in Safer by Design measures to see 1. If the Charter is making a difference and 2. to continually inform new approaches through real time data

Recommendation: The Alannah & Madeline Foundation recommends the Charter should be, in some form, include levers to ensure minimum compliance and ongoing efficacy to be able to measure impact and inform new evidenced based approaches.

5. Streamlining guidance and providing supporting resources to ensure effective implementation

We understand the Charter is directed towards technology firms that offer the opportunity for users in Australia to interact or connect, and technology firms whose services and products enable users to access content and information. This would potentially include social media services, internet service providers, search engine providers, content hosts, app developers, and gaming providers, among others.

We also understand this Charter was developed in line with new Safer by Design (SbD) standards created by the Office of the eSafety Commissioner. We would only recommend that both initiatives are released together and are cohesively explained for ease of understanding and implementation.

We would also recommend due consideration be given, in the development of both new indicatives, as to how they may interact with other existing legislation including the review of the Enhancing Online Safety Act 2015, Schedules 5 and 7, and the new National Principles that reflect the ten child safe standards recommended by the Royal Commission. The National Principles have a broader scope than child sexual abuse to cover other forms of harm to children and young people, and any other relevant frameworks.

The Charter will affect many organisations that have never had to think with a child centered approach or perhaps even with protective measures built into their design, level of customer service or processes.

We believe the Charter will require a significant level of support from Government in helping those implementing these approaches, by providing resources, face-to-face or virtual workshops and bespoke guidance including the provision of case studies.

Recommendation: The Alannah & Madeline Foundation recommends the Charter takes into consideration any existing legislation, frameworks and guidance including the new Safer by Design principles and National Principles, so implementation by the technology industry is as straight forward as possible. Being clear in the role industry needs to play and exactly how they go about it is paramount to successfully protecting children and young people.

Recommendation: The Alannah & Madeline Foundation recommends the government provide implementation support through associated resources, face to face or virtual workshops and bespoke guidance including the provision of case studies.

4. Appendices

Appendix A Evaluation eSmart Schools
Appendix B Evaluation eSmart Libraries

5. Foundation contact details

Lesley Podesta
Chief Executive Officer

Alannah & Madeline Foundation
Level 1, 256 Clarendon Street
PO Box 5192
South Melbourne VIC 3205

THANK YOU.



Alannah & Madeline
Foundation

amf.org.au