**Submission on the Online Safety Charter**

Collective Shout ([www.collectiveshout.org](http://www.collectiveshout.org)) is a grassroots movement challenging the objectification of women and sexualisation of girls in the media and popular culture.

We target corporations, advertisers, marketers and media which exploit the bodies of women and girls to sell products and services, and campaign to change their behaviour. More broadly we also engage in issues relating to other forms of sexploitation, including the inter-connected industries of pornography, prostitution and trafficking.

Australian children are growing up in a digital, interactive, internet-enabled society and culture. While the benefits of such connectivity can be great, Collective Shout and our supporters are also very conscious of the potential for the internet to enable malicious, and illegal activities against children, as well as more broadly exposing children to harmful and inappropriate content. We share in the growing expert concern about the experiences children and young people risk being exposed to online, and the consequences of these experiences on their wellbeing and healthy development.

We also hold significant concerns for those responsible for the welfare of children, particularly (although not only) parents, as they are attempting to maintain their childrens’ online safety while helping them to navigate life in a digital world.

More broadly we are concerned with the threat to adults, especially women, from cyber bullying, non-consensual sharing of intimate images and the pervasive presence of pornography that presents a distorted view of women and feeds toxic masculinity through what Dr Michael Flood has aptly described as “*rape training*”.

**Principles underlying the Online Safety Charter**

On page 5 of the Consultation Paper it states:

*The draft Charter is underpinned by two fundamental principles:*

1. *Standards of behaviour online should reflect the standards that apply offline.*

*2. Content that is harmful to users, particularly children, should be appropriately restricted.*

We strongly agree with these two fundamental principles. Before discussing the extent to which the draft Online Safety Charter would give effect to these fundamental principles we discuss two major online safety issues – cyberbullying and pornography – in order to illustrate the dimensions of the challenges faced in genuinely protecting children, women and all participants in the online sphere.

**Cyberbullying**

For too long trolling and cyberbullying have been allowed to flourish in the digital world where some users act as if it is perfectly acceptable to express vile, misogynistic, brutal and violent thoughts even directing them personally at individuals, especially women and including overt or implied threats to rape, assault and kill the person or their family members or associates.

In the non-digital world such behaviour is rightly treated as criminal.

Caitlin Roper has [described](https://www.theguardian.com/commentisfree/2014/oct/27/being-pimped-out-online-by-misogynist-harassers-will-not-stop-me-from-speaking-out) her experience of intense cyber bullying by men incensed by her activism on behalf of women and girls:

*My Twitter bio had been updated to include graphic descriptions of sex acts I would perform, inviting men to follow me. It also described me as “the biggest slut in Australia”. My website was changed from collectiveshout.org to a pornographic website. Various tweets were sent out in my name, claiming that I enjoyed being raped.*

*I was gripped with panic. There were so many thoughts running through my mind as I watched tweets going out in my name soliciting some men I knew, and others I didn’t.*

*And so I reluctantly went to the police station, already knowing that threats against women online are not regarded as a priority. “Why don’t you just close down your account?” asked the officer taking my statement.*

*I explained how I used Twitter in the course of my work for a non-profit organisation. She pressed further – “but why do you need to use it?” – as if it was somehow unreasonable for me to believe I had as much right as anyone to access social media without threats.*

*My colleague Talitha Stone also received international media attention when she was targeted with thousands of rape and death threats after criticising Tyler the Creator’s songs (whose lyrics include “rape a pregnant bitch and call it a three-way”). Tyler’s 1.7m twitter followers went after her, with one saying he would “cut her tits off”. A*

*student from a Melbourne Catholic boys school shared her home address with the angry mob. He was out by one street. Local police sent Talitha home with a stack of cyber-safety pamphlets.*

*Another colleague went to the police after one man described how he intended to mutilate her body and dissolve it in acid. The police officer suggested that the Internet was “not a very nice place”, and maybe she should stay off it.*[[1]](#footnote-1)

The [tragic death by suicide of 19 year old Jess Cleland](https://www.nowtolove.com.au/lifestyle/daily-life/cyberbullying-victims-australia-48007), linked by the Victorian Coroner to cyber bullying of the young woman, starkly demonstrates that the harms of cyber bullying, and the need for a robust national scheme addressing this growing problem, are not limited to those aged under 18 years of age.

*Gregarious and seemingly happy, Jess had big plans. In April 2014 she was due to attend orientation for her university course and she was learning to drive. On the morning of Easter Sunday she messaged her mother Jane to say she was going for a run. When she hadn't returned four hours later the family went out to look for her. It was Michael who discovered her alone in the bush. She was cold to the touch and her pockets were stuffed with suicide notes.*

***Confused and too shocked to grieve properly, Michael and Amy started hunting for the reason behind the tragic demise of their sunny, funny girl.***

*"We still had her iPad and her laptop," Michael says. "You could see that they had been nasty to her the night before."*

*They are two boys Jessica knew from school. They can't be named, by order of the Victorian Coroner's court. But in her report on the death, coroner Jacqui Hawkins found messages received by Jessica before she took her own life, in conjunction with the difficulties she was having with her boyfriend, were "precipitating factors."*

***"The circumstances of Jessica's death highlight the important role that social media and other communication technologies can play in young people's lives," Coroner Hawkins found.***

*The Facebook and text messages were problematic because ease of access to her phone meant she was exposed to potentially upsetting communications 24 hours a day, and she was able to re-read the upsetting messages and ruminate about them, the coroner found.*

*"This physical separation of parties to a conversation through online chat and SMS creates an environment where it is easier for individuals to say hateful and hurtful things without facing the immediate consequences of doing so," Coroner Hawkins said.*

*The "tragic and unintended consequences" of the messages left Jess' loved ones hungry for justice, and asking themselves how they could stop this from every happening again.*

*"I was questioning them saying why would you do that, why would you say that, how could you have the right to tell someone they're not worthy to be in this world?" Amy says.*[[2]](#footnote-2)

**Women, children and pornography**

Any proposal for improving online safety needs to effectively address the global flood of pornography which is, as Melinda Tankard Reist recently [commented](http://www.abc.net.au/religion/articles/2018/07/03/4865737.htm) “*a particularly monstrous*” enabler of violence against women. After describing a horrific genre of pornography known as “*refugee porn*” Tankard Reist comments:

*While looking into this genre - and trying to remain sane - I noticed the Prime Minister and Opposition Leader in rare bi-partisan agreement following the*[*death of Eurydice Dixon*](http://www.abc.net.au/news/2018-06-15/melbourne-comedian-eurydice-dixon-remembered/9873080)[[3]](#footnote-3)*: saying that we*must not tolerate*violence against women, and that we must tackle the*enablers*of that violence. We are hearing pronouncements like this more and more. But while there are many enablers of violence against women, there is a particularly monstrous one that rarely rates a mention. It is the global industrialisation of the bodies of women - among them, the most powerless - as fodder for men's consumption.*

*As Abigail Bray writes in*[*Misogyny Re-loaded*](http://spinifexpress.com.au/Bookstore/book/id%3D250/)*, porn and rape culture means "inhabiting a paradoxical space where the rape and murder of women is prohibited but everywhere eroticised and the object of laughter."*[[4]](#footnote-4)

*Pornhub is the*[*world's largest provider*](https://www.nytimes.com/interactive/2018/02/07/magazine/11mag-porn-literacy-kids.html)*of porn content*[[5]](#footnote-5)*. It attracts*[*80 million visits a day*](https://www.theguardian.com/commentisfree/2018/may/13/choking-women-me-too-breath-play)*.*[[6]](#footnote-6) *The company, now owned by MindGeek, is headquartered in beautiful Montreal, where its more than 1,000 employees toil day and night to bring you the best scenes of suffering on the market.*

*Pornhub is both a repository and disseminator of hate propaganda. It hosts evidence of crimes against women for men to enjoy. Popular videos depict brutal sexual violence against women. Sadistic titles revel in women's inability to stop the violent assaults carried out against them. The most violent have views in the millions. Many titles are centred around the sexual abuse and rape of teen and underage girls. Men are fantasising about raping young girls with impunity while government, children charities and advocacy groups try to tackle an epidemic of child sexual abuse.*

***Cultural norms are taught through pornography. When boys learn early to enjoy, take pleasure in, laugh at, and get off on torture and humiliation videos, when they are fed a diet of rape porn and racist sexual abuse, does the avalanche of violence against women come as a surprise?***

*James Ogloff, an experienced clinical forensic psychologist, was*[*recently quoted in*The Australian](https://www.theaustralian.com.au/news/nation/resident-evil-women-much-safer-on-streets-than-in-the-home/news-story/5f0f81845ae7478ce6874c35d7dc091a)*: "In serious sexual offending, the motivation is often a deviant sexual interest. It is very much a sexual motivation."*[[7]](#footnote-7) *That deviant sexual interest has to come from somewhere. Pornhub features in the*[*top five favourite sites of boys aged 11-16*](http://www.thewave.co.uk/news/local/1-in-10-12-13-year-olds-may-be-addicted-to-porn/Eroticized%20violence%20against%20women.)*, according to [ChildWise UK](http://www.childwise.co.uk/).*[[8]](#footnote-8)

*Rape is on the menu for boys whose sexuality is still being formed. They see, and are taught to be aroused by, girls who are choking, sobbing, vomiting, their eyes popping, having their skin bruised, being called abusive names, slapped, kicked, pounded, hair ripped out.*

***Tell me this is not enabling.***

*There is a disturbing disconnect between condemnations of violence against women that invariably follows horrifying events like the rape and murder of Eurydice Dixon and the utter silence about the role played by pornography in*enabling*that violence. Failing to address pornography as a driver of male violence gives future porn-inspired perpetrators a leave pass to commit it.*

*If we truly care about confronting the enablers of violence against women and girls, we must tackle porn's role as, in [Tom] Meagher's words, "a deeply regressive sexual re-enforcement of the cultural misogyny." If we don't, I fear that all the talk about addressing enablers and creating a safe culture for women is mere rhetoric and cant, devoid of meaning.*[[9]](#footnote-9)

**DRAFT ONLINE SAFETY CHARTER**

We note that the Online Safety 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 Australian users to access content and information. This includes social media services, internet service providers, search engine providers, content hosts, app developers, and gaming providers, among others*.”

We agree with this comprehensive reach. Too often technology firms disclaim responsibility for protecting end users arguing they only play a role in enabling access but have no control over content. The Charter needs to make it clear that online safety is a shared responsibility that cannot be evaded in such a way.

* 1. ***There should be a specific point of contact within each technology firm for the referral of complaints about illegal and harmful content or legal notices from Australian authorities.***

As it reads it is not clear that this “specific point of contact” is for complaints from end users and community groups and not just from “Australian authorities”. It should be amended to clarify this.

***Recommendation 1:***

***Amend the second sentence in Section1.1 to read:***

***There should be a specific point of contact within each technology firm for receiving complaints about illegal and harmful content from individual users and community groups as well as legal notices from Australian authorities.***

***1.2 Where feasible, this should include a triaging system***

“Where feasible” serves as a “get out of jail free” card and simply encourages technology firms to argue that a triage system targeted at “expeditiously” addressing “high risk content” is not “feasible” for them.

***Recommendation 2:***

***Delete the words “Where feasible” in Section 1.2.***

 ***1.3 Content removal***

The Charter is addressed to all technology firms “*that offer the opportunity for users in Australia to interact or connect, and technology firms whose services and products enable Australian users to access content and information*.”

Using language such as “content removal” could be understood to only apply to technology firms that host content rather than also applying to technology firms that, in various ways, enable access to content .

This section needs to be rewritten to refer both to content removal and to blocking access to content.

***Recommendation 3:***

***Rewrite Section 1.3 so that it applies equally to an obligation to remove content and to block access to content***

***2.3 Account control***

We welcome the proposed provision that “*Users under 16 years should be required to secure parental or guardian consent to open an account or register as a user. Verifying parental consent should require more than just ticking a box. Users under 16 years should be required to secure parental or guardian consent to open an account or register as a user. Verifying parental consent should require more than just ticking a box*.”

However, for access to content such as pornography a far more robust system is required to protect children (all those under 18 years of age).

Section 14 and related provisions of the UK’s *Digital Economy Act 2017* are scheduled to come into operation in April 2019.

Subection 14 (1) provides that:

*A person contravenes this subsection if the person makes pornographic material available on the internet to persons in the United Kingdom on a commercial basis other than in a way that secures that, at any given time, the material is not normally accessible by persons under the age of 18.*

The new UK law applies to anyone making services available in the UK and so is not limited to UK based content.

UK ISPs can be directed to block content from websites that do not comply with the age verification requirement.

The worldwide online pornography industry is accepting that this is happening and preparing to comply.[[10]](#footnote-10)

Note that although the provision refers to making pornographic material available “*on a commercial basis*” this appears to cover “*free*” porn sites, such as Pornhub that carry advertising or links to paid pornography sites.

At this stage the law will not apply to social media such as Facebook but there is already discussion in the UK of extending it to do so.

Third party age verification services such as AgeID[[11]](#footnote-11) will provide independent age checks so that the pornography sites will have no access to personal details.

Age can be verified online by uploading a passport, driver’s license or credit card or face to face at retail outlets using similar criteria used for sales of alcohol or tobacco.

**We are calling for a similar age-verification law to be enacted in Australia.**

In the meantime the Online Safety Charter should refer to international best practice - which is now the UK model – and include an explicit provision that technology firms only allow access to pornographic material to users who have been age-verified as 18 years or older by a robust method such as AgeID and not by merely ticking a box claiming to be aged 18 or more.

Only such an approach can give real effect to the two “fundamental principles” that “*Standards of behaviour online should reflect the standards that apply offline”* and *“Content that is harmful to users, particularly children, should be appropriately restricted.”*

Offline we cannot buy alcohol or tobacco, or enter gambling venues without proving we are aged 18 years or more. Online there should be no access to pornographic material without requiring a similar standard of proof of age.

***Recommendation 4:***

***Section 2.3 should be amended to include an additional provision that technology firms must only allow access to pornographic material to adults who have undergone a robust age-verification process (such as AgeID) to establish that they are aged 18 years or older.[[12]](#footnote-12)***

***2.4 Content management***

As the consultation paper notes (p. 14): ”*Current practice suggests that technology firms that enable posting, distribution and access to content don’t offer a full range of user-controlled content management options. For example, no self-imposed user restrictions such as lockout times of day or bans based on content type have been identified.”*

Given this starting point is likely to take more than an aspirational, voluntary charter to move technology firms to invest the resources need to develop and implement the content management safety options envisioned, each of which could contribute significantly to online safety and support users in feeling more in control of their own online presence.

So while supporting the inclusion of this provision in the Charter we are sceptical about the likelihood of its implementation unless the Australian government is prepared towards making compliance with the Charter a legally enforceable requirement for technology firms to do business in Australia regardless of where they are located.

***Recommendation 5:***

***Section 2.4 should be included in the Charter and its implementation monitored closely to establish whether technology firms are readily complying. If there is not widespread and swift compliance then consideration should be given to a regulatory model that requires compliance with this and all other provisions of the Charter.***

***3.1 Default settings and age guidance***

As the consultation paper notes (p. 15) “*For products and services that are not explicitly marketed as ‘child friendly’, no examples of default ‘most-restrictive’ safety and privacy settings have been identified, even where the platform or service allows child users (under 16 years). The Government expects child users (and some services allow users from 13 years of age) to be given special protection. This is consistent with community attitudes in Australia*.”

This is another example, similar to “content management” where given the substantive gap between what technology firms are currently doing and the standard expressed in the Charter, we are sceptical about the likelihood of succeeding in bridging this gap the Australian government is prepared towards making compliance with the Charter a legally enforceable requirement for technology firms to do business in Australia regardless of where they are located.

***Recommendation 6:***

***Section 3.1 should be included in the Charter and its implementation monitored closely to establish whether technology firms are readily complying. If there is not widespread and***

***swift compliance then consideration should be given to a regulatory model that requires compliance with this and all other provisions of the Charter.***

***4.2 Reporting and compliance***

The Consultation Paper (p. 16) notes: “*in 2018 the United Kingdom (UK) introduced a requirement for social media companies to supply annual internet safety transparency reports to the UK Government. The reports are required to contain relevant UK data on what moderation policies each site has in place and how these are reviewed; how many complaints have been received; how they are dealt with; the volume of content removed; and information on how users can get help and access safety centres on their platforms*.”[[13]](#footnote-13)

There are advantages in dealing with the internationally operating technology firms if countries such as Australia adopt similar requirements for such firms as other countries that re actively concerned about online safety. The United Kingdom is one such country and it is currently setting new benchmarks in international bets practice in online safety regulation.

We therefore support the proposal for the Charter to include a provision for technology firms to produce and publish annual transparency reports and for those reports to closely mirror the UK requirements.

***Recommendation 7:***

***The Charter should include the provision that “For firms with a significant presence in Australia, a local version of these reports [on content controls, complaints and compliance] should be published and the underlying data should be made available to relevant Australian authorities on request.” The requirements for the Australian version of the reports should closely mirror the requirements being implemented in the United Kingdom under its Internet Safety Strategy.***

1. #  Caitlin Roper, “Being pimped out online by misogynist harassers will not stop me from speaking out”, *The Guardian*, 27 Oct 2014, <https://www.theguardian.com/commentisfree/2014/oct/27/being-pimped-out-online-by-misogynist-harassers-will-not-stop-me-from-speaking-out>

 [↑](#footnote-ref-1)
2. **“**Sticks and stones and mobile phones: The horrible truth about cyber bullying and its victims” *Australian Women’s Weekly,* 22 Feb 2018 <https://www.nowtolove.com.au/lifestyle/daily-life/cyberbullying-victims-australia-48007> [↑](#footnote-ref-2)
3. “Melbourne comedian Eurydice Dixon remembered by friends as 'an amazing young woman'”, *ABC News, 15 Jun e 2018,* <http://www.abc.net.au/news/2018-06-15/melbourne-comedian-eurydice-dixon-remembered/9873080> [↑](#footnote-ref-3)
4. Abigail Bray, *Misogyny Re-loaded*, Spinifex Press, 2013 [↑](#footnote-ref-4)
5. “Do You Think Porn Affects the Way Teenagers Think About Sex?”, *New York Times,* 7 February 2018, <https://www.nytimes.com/interactive/2018/02/07/magazine/11mag-porn-literacy-kids.html> [↑](#footnote-ref-5)
6. Gail Dines, “Choking women is all the rage. It’s branded as fun, sexy, ‘breath play’”, *The Guardian*, 14 May 2018, <https://www.theguardian.com/commentisfree/2018/may/13/choking-women-me-too-breath-play> [↑](#footnote-ref-6)
7. Chip LeGrand, “Resident evil: women much safer in the streets than in the home”, *The Australian,* 23 June 2018, <https://www.theaustralian.com.au/news/nation/resident-evil-women-much-safer-on-streets-than-in-the-home/news-story/5f0f81845ae7478ce6874c35d7dc091a> [↑](#footnote-ref-7)
8. “NSPCC: Porn addiction concerns”, *The Wave, 31 March 2015,* <http://www.thewave.co.uk/news/local/1-in-10-12-13-year-olds-may-be-addicted-to-porn> [↑](#footnote-ref-8)
9. #  Melinda Tankard Reist, “Never Again? Addressing Sexual Violence Must Include Pornography”, *ABC Religion and Ethics*, 3 July 2018, <http://www.abc.net.au/religion/articles/2018/07/03/4865737.htm>

 [↑](#footnote-ref-9)
10. Rob Waugh, “Here’s how Pornhub and YouPorn’s compulsory age checks will work from next month”, *Metro,* 4 March 2019,[*https://metro.co.uk/2019/03/04/pornhub-youporns-compulsory-age-checks-will-work-next-month-8811336/*](https://metro.co.uk/2019/03/04/pornhub-youporns-compulsory-age-checks-will-work-next-month-8811336/) [↑](#footnote-ref-10)
11. <https://www.ageid.com/> [↑](#footnote-ref-11)
12. We are aware that Age ID is not yet available for use in Australia. The Australian Government should immediately open negotiations with AgeID – and similar services – to facilitate its use in Australia. [↑](#footnote-ref-12)
13. HM Government, *Government response to the Internet Safety Strategy Green Paper*, May 2018, p. 67-71, <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/708873/Government_Response_to_the_Internet_Safety_Strategy_Green_Paper_-_Final.pdf> [↑](#footnote-ref-13)