



12 January 2015

Committee Secretary

Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

By email: ec.sen@aph.gov.au

Dear Committee Secretary,

RE: Enhancing Online Safety for Children Bill 2014 and Enhancing Online Safety for Children (Consequential Amendments) Bill 2014

Communications Alliance welcomes the opportunity to comment on the Enhancing Online Safety for Children Bill 2014 and Enhancing Online Safety for Children (Consequential Amendments) Bill 2014.

As we have stated previously, Communications Alliance recognises that cyber-bullying is a serious problem and strongly supports efforts to combat it.

Nonetheless, we do have concerns with some elements of the proposed legislation as outlined in the Exposure Draft Bill.

The definition of social media service

The definition *Social Media Service* under Section 9 refers to exempt services. Communications Alliance requests that the scope of the definition is clarified. For example:

- It is not clear if services that facilitate verbal communications are intended to be included in the definition of *Social Media Service*; including social interaction made via Voice over IP (VoIP) telephone services. Monitoring verbal communications is arguably beyond the policy intent, which is to remove cyber bullying material targeted at an Australian Child. We recommend the exclusion of verbal communications and communications made via VoIP telephone services, to avoid uncertainty.

Role of ISPs

As Communications Alliance has stated previously, we are concerned about any additional burdens the Exposure Draft Bill obligations may impose on internet intermediaries. In particular, any requirement for ISPs to participate in the

identification of users that are the subject of complaints. Communications Alliance is opposed to the e-Safety Commissioner using the powers of investigation conferred by provisions in the Exposure Draft Bill to compel ISPs to identify the subject of complaints.

Consideration of Cost Recovery

Communications Alliance considers that, if ISPs will be subject to a cost burden as a result of the introduction of this legislation, consideration should be given to the introduction of a cost recovery mechanism.

Part 14, Section 314(2) of the *Telecommunications Act 1997* outlines obligations on carrier and carriage service providers to help law enforcement agencies and terms and conditions on which help is to be given. The terms and conditions specify a requirement to assist 'on the basis that the person neither profits from, nor bears the costs of, giving that help'.

Communications Alliance considers that similar mechanisms relating to cost recovery be included in the Consequential Amendments Bill, particularly given that the burden to be placed on internet and mobile phone service providers in assisting the Children's e-Safety for matters is unknown.

- For example, the e-Safety Commissioner may require the assistance of ISPs to confirm the personal details of account holders for cyber bullying complaints that occur on social media services or relevant electronic services not controlled by them.

Thank you for your consideration of the issues raised above.

Yours sincerely,

John Stanton
Chief Executive Officer