

Senator McDonald asked whether section 42 of the Enhancing Online Safety for Children Act, which has an end-user notice, does the same sort of job as the intervention order proposed by the foundation.

Answer:

Section 42 would not do the same sort of job as the intervention order scheme proposed by the foundation. Our understanding of s42 is that it's essentially a takedown power for the eSafety Commissioner which is enforced through civil proceedings in the Federal Court. The foundation's proposal for an intervention order scheme would be mirrored on domestic violence orders which are issued by police or a court upon application by a victim, and there are criminal penalties imposed where an order is contravened. Further, while s42 allows the Commissioner to require a person to not post cyber bullying material, there is no explicit power to prevent all communication or contact with a person, which is generally the terms of a DVO or IVO and again, there is no criminal penalty for refusing to comply with the end-user notice.

The Carly Ryan Foundation does not want to criminalise children, but believes that for the most incessant and serious cases of cyber bullying an intervention order would provide reprieve for a victim and give a perpetrator a chance to stop their behaviour before criminal penalties are imposed. Only if they persist and disrespect a court or police imposed order would they face a criminal penalty.

The Carly Ryan Foundation

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