



January 12, 2015

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

VIA EMAIL: [ec.sen@aph.gov.au](mailto:ec.sen@aph.gov.au)

**Inquiry into the Enhancing Online Safety for Children Bill 2014 and Enhancing Online Safety for Children (Consequential Amendments) Bill 2014**

We refer to your email dated 9 December 2014 inviting the Interactive Games and Entertainment Association (the **IGEA**) to submit to the Senate Standing Committees on Environment and Communications (the **Committee**) inquiry into the Enhancing Online Safety for Children Bill 2014 and Enhancing Online Safety for Children (Consequential Amendments) Bill 2014. Our comments in this response are directed at the Enhancing Online Safety for Children Bill 2014 (the **Bill**).

IGEA is an industry association representing the business and public policy interests of Australian and New Zealand companies in the computer and video game industry. IGEA's members publish, market, develop, sell and/or distribute interactive games and entertainment content and related hardware. As active members of Australia's online community, the interactive entertainment industry aims to provide and support a safe online environment for all users, including young Australians. The interactive entertainment industry is an active stakeholder in the National Classification Scheme and often goes beyond the requirements of the law to provide Australians with appropriate tools, including parental controls, to ensure parents and other users are able to ensure that interactive entertainment content is enjoyed in a safe and healthy environment.

IGEA has previously raised concerns about the introduction of a rapid removal scheme for social media services, such as the one proposed in Part 4 of the Bill. Our primary concern is that any attempt to legislate and regulate the rapid removal of damaging content would only operate to regulate those social media platforms that already cooperate with Government departments and agencies and that already provide accessible tools and processes to quickly remove harmful material in a responsible manner. Regulation in this area needs to be approached cautiously to ensure that young Australians are not pushed away from responsible platforms towards social media

service that are outside the regulatory reach of Australian law. Notwithstanding the underlying concerns about the merits of a rapid removal scheme the Government has decided to proceed and introduce the scheme.

We understand that our stakeholders, including those that distribute online games and game platforms, are not intended to be captured by the rapid removal scheme in Part 4 of this Bill. Accordingly, we have only provided some minor recommendations that will provide further assurances to our industry.

**Recommendation 1 – Amend sub-section 9(1)(a)(i) to the following:**

**(i) the sole or primary purpose of the service is to enable online social ~~interaction~~ communication between 2 or more end-users.**

The term ‘online social interaction’ could potentially have broader interpretations beyond those that the policy is designed to capture. For example, ‘interaction’ could potentially include users playing games together for the social experience. We have suggested the word ‘interaction’ be replaced with the word ‘communication’ - a more specific term that addresses the core objective of the provision without having any unintentional consequences on other services such as online games and game platforms.

**Recommendation 2 – Remove sub-section 9(1)(b)**

Sub-section 9(1)(b) would allow any electronic service to be identified as a social media service and therefore subject to the rapid removal scheme as set out in Part 4 of the Bill. The definition of ‘electronic service’ is broad and would capture a wide variety of services that do not necessarily have social media functionality. Sub-section 9(1)(a) should be sufficient to capture the intended services for Part 4 of the Bill and there should be no ability to unilaterally expand the definition of ‘social media service’ and therefore the operation of the rapid removal scheme without appropriate review and consultation with a broad range of electronic service providers. Accordingly, we strongly recommend that sub-section 9(1)(b) be removed and that the definition of ‘social media service’ be limited to those electronic services that satisfy all of the requirements in sub-section 9(1)(a).

**Recommendation 3 – Confirm cumulative approach to the conditions in section 9(1)(a)**

We understand that the conditions set out in section 9(1)(a) are intended to be cumulative - i.e. all four conditions set out in 9(1)(a)(i), (ii), (iii) and (iv) must be satisfied before an electronic service can be regarded as a ‘social media service’ for the purposes of the legislation. For the avoidance of any doubt, we recommend that this cumulative approach be confirmed by inserting the word ‘and’ at the end of paragraph 9(1)(a)(iii).

**Recommendation 4 – Include statement on game platforms in the explanatory memorandum for the Bill**

The Explanatory Memorandum clearly states that the definition of ‘social media service’ is not intended to include online games that have a communication function (as the primary purpose would be to play the game). We request that the Explanatory Memorandum should specifically state that online games and game platforms that have communication functions are not included within the scope of the Bill’s definition of ‘social media service’ as the primary purpose of online games and game platforms is gameplay rather than social communication.

IGEA supports ongoing efforts to create and maintain a safe online environment for all Australians, including young Australians. As an active member of the Government’s Online Safety Consultative Working Group, we strongly support a collaborative approach to address online safety issues. Legislation should only be introduced to address a demonstrated failure in collaborative efforts. While we have concerns about the merits and operation of the proposed reforms, should these proposed reforms be introduced we would continue to work collaboratively with the Government and any Children’s e-Safety Commissioner that is appointed.

Yours sincerely,

Ron Curry  
Chief Executive Officer

