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Jerome Brown

Committee Secretary

House of Representatives

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Parliament House

Canberra ACT 2600

A submission in reference to the Joint Select Committee on Cyber Safety's 'Inquiry into Cyber Safety', made on behalf of The Communications Council Ltd.

### **The Communications Council**

The Communications Council was formed on 1 January 2010, merging the former Advertising Federation of Australia (AFA) with the Account Planning Group (APG) and Australasian Writers and Art Directors Association (AWARD) and more recently the Australasian Promotional Marketing Association (APMA). The Communications Council is the peak body representing companies in the marketing and communications industry to government, industry, media and the public.

The Council embodies members from a wide spectrum of creative disciplines, ranging from healthcare to design agencies.

We help grow member businesses and develop individual careers through the provision of professional development services, advocacy and support.

The Communications Council represents businesses in the creative industries<sup>1</sup>, a sector which contributes \$ 31.1 billion towards Australia's GDP and employs over 315,000 workers. The fastest growing segment of the creative industries is the marketing and advertising segment, with around 15,000 businesses employing 60,000 people.

On behalf of its membership, the Communications Council welcomes the opportunity to submit the following comments in response to the Committee's inquiry into Cyber Safety.

(a)

(ii) “the nature, prevalence, implications of and level of risk associated with cyber-safety threats (..)”

The nature, prevalence, implications of and level of risk associated with cyber safety threats outlined in the terms of reference are issues that are beyond the Council’s remit.

However, the Council believes advertising in the digital space may well be an effective vehicle through which children may be made aware of cyber safety threats. As such, the Council supports initiatives such as the SOSO initiative below, aimed at educating children about the risk of cyber threats.

(iii) “Australian and international responses to current cyber-safety threats (education, filtering, regulation, enforcement) their effectiveness and costs to stakeholders, including business;”

The Council regularly leads debate, discussion and education on the different acts, codes and guidelines that may impact on marketing communications business with the intention to promote legal compliance and reduce legal and commercial risks to advertisers and their agencies.

The Council champions the principle of effective and responsible self-regulation. It believes the right to market brands responsibly across all channels is paramount. To this end, the Council supports, often in partnership with other industry organisations, a self-regulatory system and educates its members about the rules of the system.

Where it concerns marketing to children, the Council believes its members should operate responsibly and within the confines of its self-regulatory system, outlined under section (iii).

(iii) a)

- The Communications Council teaches member agencies the Australian Competitions and Consumer Commission Code on internet consumers which stipulates that minors should be treated with care and that when it comes to doing business with minors, parents or guardians should give consent.

- The Council has been a supporter of the Association of Australian Association of National Advertisers (AANA) code on advertising and marketing to children with a view to developing and maintaining a high sense of social responsibility in the industry.

The code restricts the type of marketing members engage in when dealing with children. In respect to the terms of reference pertaining to cyber safety, the AANA code stipulates that advertising shouldn't include sexual imagery and must not state or imply that children are sexual beings. It holds advertising cannot depict unsafe uses of products or unsafe products, or encourage children to engage in dangerous activities. In addition it holds that advertising shouldn't contravene social values by using images that frighten or distress children or demean people on the basis of ethnicity, nationality, race, gender, age, sexual preference, religion or mental or physical disability. The AANA code states that alcohol cannot be advertised to children and that advertising can't encourage unhealthy lifestyles, eating or drinking habits. In addition it stipulates that personal collection of information for marketing purposes can only be obtained with consent of parents.

- The Communications Council is represented on the Alcohol Beverages Advertising (and Packaging) Code (ABAC) Management Committee, which manages and operates the ABAC scheme. The scheme is a voluntary system of compliance based on the ABAC Code. The Code is designed to ensure that alcohol advertising (including internet advertising) will be conducted in a manner which neither conflicts nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by underage persons.

Internet advertising is considered to be referring to internet sites primarily intended for advertising developed by or for producers or importers of alcohol products available in Australia or that are reasonably expected to be made available in Australia, and to banner advertising of such products on third party sites.

The code stipulates that internet advertisements of alcohol must not encourage under-age drinking and not have a strong or evident appeal to children or adolescents.

- The Council has online privacy guidelines for marketers which are in accordance with the Australian Privacy Amendment Bill. The online privacy guidelines provide guidance on this important issue and assist in the development of business-wide actions towards an environment of industry regulation, trust between advertisers and consumers, and to foster the protection of consumer's privacy.

Its guidelines include a section on Responsible Interactive Marketing to Children. It recommends that advertisers ensure that children under 14 obtain their parents' permission before they give any information about themselves or their family while on-line; where the personal information collected would enable someone to contact a child offline, where the personal information is publicly posted or disclosed to third parties and where collection of an email address is necessary for a child's participation at a site.

Where it concerns children over 14, it recommends, in addition, that advertisers disclose why personal information is being requested and what use is being made of it, and whether the information required is optional. It also stipulates that email addresses should be solicited on secure sites only which give the option to opt-out of

future communications and remind and encourage parents to check and monitor their children's use of email and other on-line activities regularly.

If a site offers the opportunity to order or purchase a product or service, the guidelines recommend that the ordering instructions clearly and prominently state that a child must have a parent's permission to order and have a clear mechanism allowing the child or parent to cancel the order.

- The Communications Council also supports the Australian Direct Marketing Association's (ADMA) Code of Practice, which includes provisions that address marketing to minors. The code includes provisions relating to the content of commercial communications, with a view to ensuring that marketers do not exploit minors' credulity, loyalty and vulnerability or lack of experience. In addition, the provisions of the ADMA Code prohibit marketing that projects images of minors in hazardous situations.

(iii) b)

The Communications Council is aware that the Minister for Broadband, Communications and the Digital Economy has previously proposed an Australian internet filter with a view to protecting children from pornography and other offensive material. The Communications Council does not support an internet filter that restricts access to general online content as it believes this amounts to unwarranted censorship and has the potential to be an ineffective and unaccountable process.

The Council does, however, support a filter that allows full access to the internet but would see Internet Service Providers block domains that host child sexual abuse material.

(iv) "opportunities for cooperation across Australian stakeholders and with international stakeholders in dealing with cyber-safety issues;"

The Council is aware of an initiative by the Organisation of Economic Cooperation and Development (OECD) to initiate work on the protection of children online to enhance mutual understanding of existing and planned policy approaches for the protection of children online and to explore how international co-operation could better protect minors on the Internet.

The organisation has previously explored best practices on the protection of children online at a symposium in Singapore in 2009. Its report, an overview of the nature of risks faced by children online, details policy responses to address these risks, and policy analysis of commonalities and differences in approaches to protecting children online, as well as a discussion of possible avenues to reduce gaps and increase cooperation. It will be made available to the public by early 2011.

The Council is of the opinion that global cooperation on cyber safety, such as the OECD initiative, is both necessary and desirable.

Our industry is a global industry and many of our members operate across borders, having established offices in various countries. In order to be internationally competitive and effective, the Council believes a unifying set of rules governing the digital arena generally, and specifically governing online cyber safety, would be desirable and conducive to international competitiveness. The Council would support a policy and regulatory environment that supports innovation and competition and assures a level playing field for competition.

(v) “examining the need to ensure that the opportunities presented by, and economic benefits of, new technologies are maximised”

Our industry is at the forefront when it comes to monitoring and using new digital technologies. In recent years an array of digital and interactive media options and channels have become available to advertisers and marketers, giving them unprecedented opportunity to reach and interact with their consumers. It has also seen them achieve great successes capitalizing on new technologies.

The Council holds that any regulatory proposals pertaining to cyber safety should aim to stimulate investment and competition in communication infrastructures and the development of new technologies.

(vi) “ways to support schools to change their culture to reduce the incidence and harmful effects of cyber-bullying:”

The Communications Council (previously the Advertising Federation Australia) has long been a supporter of the digital media initiative ‘Smart Online, Safe Offline’, (SOSO), a collaboration between industry, media and the not-for-profit sector, run by the National Association for Prevention of Child Abuse and Neglect (NAPCAN). The SOSO initiative delivers online campaigns educating young internet users about the dangers of the online environment. The Communications Council supports the initiative as an important step in digital media industry taking responsibility for the online spaces in which these dangers may be present. It supports any agencies that engage, through research, sponsorship and resources, in partnerships with SOSO. It also supports the SOSO’s intention to become an ongoing, fully funded continuous communication vehicle delivering educational messages to young Australians.

(viii) “the merit of establishing an Online Ombudsman to investigate, advocate and act on cyber-safety issues”

The Council is of the opinion that, rather than establishing a new body such as the Ombudsman, which may make matters increasingly complex, options in which cyber safety issues are tackled through existing structures should be explored.



The Council would support an option which would see relationships between existing enforcement agencies and publishers be strengthened.

(b) “such other matters relating to cyber-safety referred by the Minister for Broadband, Communications and the Digital Economy or either House.”

The Communications Council, in partnership with Von Muenster Solicitors & Attorneys, last year released a guide on legal compliance for the marketing communications industry. It highlights the legal issues digital agencies may face in the online space and includes explanations of relevant acts and codes including the Trade Practices Act, the Copyright Act and various other codes impacting on agencies operating in this space. The legal guide contains details on the type of digital content that children can be exposed to and describes Restricted Access System age verification processes. It also warns that care needs to be taken when encouraging children to view and interact with advertisers' campaign, provide personal information about themselves and enter into digital purchase transaction.

The Council also regularly holds workshops for members around legal compliance on an ongoing basis. Currently it offers workshops on the legal considerations in social media, which outlines agency and client responsibilities in the social space.

The Communications Council believes the above outlined codes and initiatives reflect community standards and provide a self-regulatory framework within which agencies and members should operate. In addition it holds that education through the mechanic of digital advertising may be used to make children aware of cyber threats.

We would welcome the opportunity to discuss this submission in further detail.

Yours sincerely,

Daniel Leesong  
Chief Executive Officer  
The Communications Council

Attachments:

- I. The Alcohol Beverages Advertising and Packaging Code
- II. The Communications Council Online Privacy Guidelines

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<sup>i</sup> Creative industries comprise advertising, marketing, architecture, design and visual arts, film, tv and radio, music and performing arts, publishing, software and digital content.