

Senate Standing Committee on Environment and Communications

Answers to Questions on Notice

Online Safety Bill 2021

Communications Portfolio

Department of Infrastructure, Transport, Regional Development and Communications

Agency name: Department of Infrastructure, Transport, Regional Development and Communications

Hansard Ref: p.25

Topic: Online Safety Bill

Senator Nita Green asked:

Perhaps on notice, because we don't have a lot of time today, could you let the committee know what those amendments were—that information that you were about to give? I think it would be better if we got those on notice because they're not going to impact the inquiry so much, but it would be good to know.

Answer:

Seven amendments were made to the Bill following the consultation process, these were:

1. Adding the power for merits based review of a decision to issue a notice for not complying with reporting requirements under the Basic Online Safety Expectation (clause 220);
2. Capturing new and emerging technologies in how we define access-control systems (clause 5);
3. Requiring the eSafety Commissioner to refer sufficiently serious matters to law enforcement (clause 224);
4. Aligning the definition of material depicting abhorrent violent conduct with the existing definition in the Criminal Code (clause 5).
5. Making it clear that the Bill does not cover services that are not accessible to Australians (clause 13A and clause 14);
6. Clarifying the disclosure power of the eSafety Commissioner by adding a reference to Part 15 of the *Telecommunications Act 1997* (clause 218)
7. Enabling the eSafety Commissioner to disclose information to the Office of the Australian Information Commissioner.

A full list of amendments to the Exposure Draft of the Bill are at the table attached.

Hansard Ref: p.26

Senator Nita Green asked:

Do you want to take on notice the dates of that consultation with the Attorney-General's Department and the issues that they raised?

Answer:

- We met with representatives from the Attorney-General's Department (AGD) on 10 February 2021.
- We exchanged emails with representatives from AGD throughout November 2020, January and February 2021.
- Topics discussed were the delegation of the eSafety Commissioner's powers, AAT review of decisions of the Commissioner, procedural fairness, the Commissioner's investigative and information gathering powers, jurisdiction of courts, criminal law, international law, Legislative Instruments and the Online Safety Special Account.

Hansard Ref: p.31

Senator Nita Green asked:

Has the Department been consulting with the Australian Human Rights Commission on this bill?

Answer:

Yes.

The Australian Human Rights Commission is made up of a President and seven Commissioners, including the Sex Discrimination Commissioner and the National Children's Commissioner. On 12 February 2021, the Sex Discrimination Commissioner Kate Jenkins and National Children's Commissioner Anne Hollands provided a submission to the Department's consultation on the Exposure Draft of the Online Safety Bill. The Sex Discrimination Commissioner Kate Jenkins previously provided a submission to the *Online Safety Legislative Reform Discussion Paper* on 21 February 2020. Both submissions are publicly available.