Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee,   October 18, 2017

Thank you for the opportunity to make this submission and participate in this inquiry "into the adequacy of existing offences in the Commonwealth Criminal Code and of state and territory criminal laws to capture cyberbullying".

Instagram is a photo and video sharing application, whose mission is to strengthen relationships through shared experiences. As a social media service, Instagram has played a critical role in helping form meaningful communities where people can connect and share what matters most to them.

Instagram was created in 2010 by Stanford University graduates Kevin Systrom and Mike Krieger working out of an old pier in San Francisco, California. Today, Instagram has a community of 800 million monthly actives and over 500 million of this community come to the platform every day - there are now 9 million active accounts in Australia. Since its beginning seven years ago, Instagram understood the universal power of images to connect people to what is happening in the world around them. Images are a unifying and global language - they transcend language and cultural barriers, transport people to a world beyond their own experience, evoke empathy and inspire action. Instagram was acquired by Facebook, Inc. in 2012 but remains a stand-alone app.

Before turning to the specific topics outlined in the terms of reference, we think it may be helpful to the Committee to first provide some background into Instagram's approach to online safety.

Our goal at Instagram is to be one of the safest, most supportive and accepting platform online. As a company, we want to approach this from as many angles as possible. That is why we have teams focused on safety and well-being across the business — product design, engineering, policy operations — to achieve that goal.

As our CEO Kevin Systrom said in September of 2016, "We want to keep Instagram a safe place for everyone and we build tools to safeguard self-expression on our platform."[1]

We believe the best way to create an environment for people to strengthen their relationships with others and the interests they care about is to invest deeply in becoming a place where they

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[1] http://blog.instagram.com/post/150312324357/160912-news

can feel safe, accepted and supported being their true selves.

The most powerful thing about Instagram are the members of its diverse, global community - who connect and share all types of topics, from their love of fashion and sports, to more serious issues like mental health or body positivity. We want Instagram to be a place where the community feels supported and comfortable to express themselves without criticism or harassment.

Facebook and Instagram share the same community operations infrastructure. However, Instagram maintains separate external Community Guidelines because not every Instagram user has a Facebook account - these can be found in Instagram's Help Center: In addition, the tools that we provide to help people to have a safe experience on Instagram are slightly different than those available on Facebook because the nature of the two services are different.[2]

With respect to safety, there are several relevant provisions in Instagram's Community Guidelines:

- *No bullying, harassment or harmful content:* Content may not be shared that bullies and harasses, or content that is harmful or violent.
- *Respect other members of the Instagram community:* We want to foster a positive, diverse community. We remove content that contains credible threats or hate speech, content that targets private individuals to degrade or shame them, personal information meant to blackmail or harass someone, and repeated unwanted messages. Serious threats of harm to public and personal safety aren't allowed. This includes specific threats of physical harm as well as threats of theft, vandalism, and other financial harm. We carefully review reports of threats and consider many things when determining whether a threat is credible.
- *Maintain our supportive environment by not glorifying self-injury:* The Instagram community cares for each other, and is often a place where people facing difficult issues such as eating disorders, cutting, or other kinds of self-injury come together to create awareness or find support. We try to do our part by providing education in the app and adding information in the Help Center so people can get the help they need. Encouraging or urging people to embrace self-injury is counter to this environment of support, and we'll remove it or disable accounts if it's reported to us. We may also remove content identifying victims or survivors of self-injury if the content targets them for attack or humor.[3]

To help promote awareness of our policies and tools, and also provide tips and strategies for having a safe online experience, we have developed additional resources and we partner with

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[2] https://help.instagram.com/

[3] https://help.instagram.com/?helpref=page_content

local organisations to help promote awareness of this information. For example, in 2015 we launched the "Parent's guide to Instagram" in partnership with "headspace" (the National Youth Mental Health Organisation) by hosting a series of parent roundtables in Sydney and Melbourne. We also promoted key messages from this guide online and these were seen over 300,000 times.[4]

We have invested in tools that help people manage their experience on Instagram in a safe way. People choose who they follow, and they can unfollow an account at any time. They can also block people who they no longer wish to be able to contact them.

We also recently introduced new tools that allow people to manage comments on their Instagram posts more easily. People can choose to turn comments off altogether, should they wish to let an image stand on its own, or they can block individual people from commenting on their posts.[5]

Most conversations on Instagram happen in comments and we believe that giving people control over the conversations that happen about their content will lead to more comfortable and authentic self-expression. For these reasons, we introduced a filter to block certain offensive comments and a spam filter in nine languages. This is in addition the comment tools we already have to help people manage their comments, like swiping to delete comments and blocking and reporting users.

In partnership with Facebook, we rolled out new tools to help people when intimate images are shared on Instagram without their permission. When this content is reported to us, we can now remove it and prevent it from being shared on Instagram (including Direct Messaging), Facebook and Messenger.[6]

We also launched a set of in-app tools that offer people, their friends and families resources to help with mental health issues, including eating disorders and self-injury. From time to time, they may see friends struggling and in need of support. If people believe that someone they care about may be thinking about injuring themselves, they can report it anonymously, and we will connect the friend to organisations that offer help. We have teams working 24 hours a day, seven days a week, around the world to review these reports. [7]

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[4] https://scontent.xx.fbcdn.net/v/t39.2365-6/10574680_582159911917452_1678490151_n.pdf?oh=1dc514e75cd815446c57d6718aed4338&oe=5A7E503E

[5] https://instagram-press.com/blog/2017/06/29/keeping-instagram-a-safe-place-for-self-expression/

[6] https://instagram-press.com/blog/2017/04/05/building-a-safer-community-protecting-intimate-images/

[7] https://help.instagram.com/477434105621119/

Instagram has developed multiple hashtag tools to prevent them from being used to spread violating material and to warn the community when they view hashtags associated with sensitive content. For example, we restrict content on certain hashtags to "Top Posts" only showing the top 36 images. We do this to hashtags only when they are consistently being used to share content that violates our Community Guidelines.

We have also learned from experts that for some issues, especially around eating disorders, making hashtags unsearchable is not the best practice. Instead, we keep the hashtags searchable and provide a message before a user sees the associated content. In Australia, we work with the Butterfly Foundation to show a message of support when users are searching content related to eating disorders. The message includes a warning about the content and offers resources and links for support. Many users have found discussing their journeys with self-injury or connecting with others who have battled similar issues is an important part of the recovery process. Only if the hashtag is consistently being abused or if the hashtag itself inherently promotes self-injury like #probulimia will we make it unsearchable. We have zero tolerance for content that encourages self-injury.

We recognise that this is a complex issue, so we strive to go beyond simply removing the content or making the hashtag unsearchable. Instead we employ tools and resources, and work in partnership with organisations who specialise in mental health issues. We're always consulting with expert academics and organisations, such as National Eating Disorders Association (USA), The Trevor Project, GLAAD, NAMI, among dozens of others around the world, as well as people who experience these issues, so we can continue to find practical ways to support the community. In Australia, we work with PROJECT ROCKIT, CyberSafety Solutions, REACHOUT and The Butterfly Foundation.[8]

To help manage the content that people see on Instagram, we launched sensitive content screens so that the community may now see a screen over sensitive photos and videos when they scroll through their feed or visit a profile. While these posts don't violate our guidelines, someone in the community reported them and our review team has confirmed they are sensitive. This change means that people are less likely to have surprising or unwanted experiences in the app.[9]

To help people more easily find information and resources about keeping themselves safe on Instagram, we launched Instagram-together: https://instagram-together.com. Here people can explore tools such as account blocking, comment controls, photo tagging and more. They can also connect with support services in their country and read more about how we're building a

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[8] https://instagram-together.com/resources/
[9] https://instagram-press.com/blog/2017/03/23/fostering-a-safer-kinder-community/

positive community.[10]

To celebrate and promote the togetherness of the Instagram community on September 8 and 9, 2017, tens of thousands of people on Instagram ("Instagrammers") all over the world — including in Australia — came together for Worldwide InstaMeet 16 to share their stories and spread kindness in the world. This was the 16th time Instagram had organized Instameets all over the world. To clarify, an Instameet is a casual meeting between users of Instagram at a photogenic place. Hashtags (#) help to locate these Instameets on the platform and see photos which have been taken. They are often organised by known "Instagrammers" - users of Instagram with an active follow-ship. The goal is for different members of the Instagram community to meet in real life and connect.

We also started a movement #KindComments in 2016 and continued in 2017 - a global movement to spread kindness both on and off Instagram. By focusing on kindness in comments, we hope to acknowledge the important ways people care for each other every day.

Recently, the Instagram team noticed how people come together around beautiful murals and street art to take photos and share their stories. That is why in 2017 we transformed walls around the world into colorful beacons of kindness - to encourage people not only to come together as a community but also to spread #KindComments and compassion. We hope these colorful murals around the world, and the kind comments they inspire, uplift and strengthen connections in real life and on Instagram. To encourage kindness throughout the Instagram community, we also introduced kindness stickers created by artists who actively use Instagram. These stickers can be used when posting in Instagram stories and come mostly in the form of positive elements like flowers and hearts. [11]

Given the complexity and nuances of how Instagram is used, we encourage the Committee to consider whether existing criminal laws are already suitable to address cyberbullying. To address the specific and relevant issues raised in the terms of reference:

- **The application of section 474.17 of the Commonwealth Criminal Code 'Using a carriage service to menace, harass or cause offence', and the adequacy of the penalty, particularly where the victim of cyberbullying has self-harmed or taken their own life**

We defer to law enforcement on the suitability of this provision for their prosecutions, but we would note that we would encourage the Committee to also consider additional measures that

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[10] https://instagram-together.com/
[11] https://instagram-together.com/blog/2017/09/26/strengthening-our-commitment-to-safety-and-kindness-for-800-million/

focus on the education of law enforcement about the availability of the offense and the importance of treating online harassment as a serious offense:

- **The adequacy of the policies, procedures and practices of social media platforms in preventing and addressing cyberbullying**

We have outlined above our investment in preventing and addressing cyberbullying. In our experience, online safety is best achieved when government, industry and the community work together. Given the strong commitment of industry to promote the safety of people when they use our services, we believe that no changes to existing criminal law are required. If anything, we would encourage the Committee to consider carve outs from liability for responsible intermediaries:

- **Other measures used to combat cyberbullying predominantly between school children and young people**

We believe that ongoing education and outreach are essential to continue to promote a positive and safe experience by young people online. We have outlined many of the initiatives that we have undertaken and resources that we have developed above and encourage the Committee to welcome the ongoing collaboration between government, industry and the community to combat cyberbullying.

Please let us know if you have any questions.

Kind regards,

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