

# Chapter 4

## Social media platforms and other preventative measures

4.1 This chapter examines how cyberbullying could be addressed other than through criminal offences. It examines the evidence the committee received regarding:

- social media platforms, including their policies, procedures and practices; and
- education and prevention initiatives.

### The policies, procedures and practices of social media platforms

4.2 As discussed in Chapter 2, the committee heard a great deal of evidence about the concerning prevalence of cyberbullying, and the significant harm it can cause to victims and those around them.

4.3 Several submitters posited that social media platforms have a role to play in addressing cyberbullying.<sup>1</sup> Some submitters also reported that social media platforms sometimes respond to complaints slowly or inadequately.<sup>2</sup> For instance, Ms Jenna Price, Committee Member, Women in Media, explained that:

Sometimes you can complain about something that has happened to you on social media and it takes days. It depends. If your group has a strong connection with Facebook in Sydney, you can get help, but that's not available to everybody and sometimes it's not available even to the people who already have established that relationship...And then if they don't agree with you then you have to appeal, and that takes more time, and in the meantime your image, in whatever version it is, has been plastered all around the internet.<sup>3</sup>

4.4 The committee heard evidence from Facebook, Instagram, and the Digital Industry Group Incorporated (DIGI). Each of these organisations highlighted that

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1 See, for example, Law Council of Australia (Law Council), *Submission 15*, pp. 16–18; Media, Entertainment & Arts Alliance (MEAA), *Submission 28*, pp. 5–6; Professor Marilyn Campbell, Founding Member, Australian Universities' Anti-bullying Research Alliance (AUARA), *Committee Hansard*, 9 February 2018, p. 1; Mrs Liza Davis, Director of Strategic Communications and Government Relations, ReachOut Australia, *Committee Hansard*, 7 March 2018, p. 29.

2 See, for example, Northern Territory Police Force, *Submission 22*, p. 2; Women in Media, *Submission 26*, p. 13; Miss Hayley Chester, Law Reform Committee Co-Chair, Victorian Women Lawyers, *Committee Hansard*, 9 February 2018, p. 18; Mr Josh Bornstein, Principal, Maurice Blackburn Lawyers, *Committee Hansard*, 7 March 2018, p. 2; Ms Terese Edwards, Chief Executive Officer, National Council of Single Mothers and their Children, *Committee Hansard*, 7 March 2018, p. 27.

3 Ms Jenna Price, Committee Member, Women in Media, *Proof Committee Hansard*, 9 February 2018, p. 35.

social media platforms operate under terms of service or 'Community Guidelines'.<sup>4</sup> DIGI further explained that:

...across the industry, we have:

- policies that prescribe how old you must be to use our services
- policies that outline what can and cannot be shared via our services
- tools that allow any of the millions of people who use our services to flag content to us that may violate our policies;
- we invest in tools that can provide additional protections for minors, and
- we invest in a reporting infrastructure that allows us to promptly review and remove any such content.<sup>5</sup>

4.5 The Law Council of Australia (Law Council) raised a number of issues with the operation of Facebook's 'Statement of Rights and Responsibilities' (Statement). These included whether an Australian minor is capable of agreeing to the Statement, and therefore whether the Statement is legally binding.<sup>6</sup>

4.6 Facebook submitted that '[o]ur content policies have been developed with the goal of allowing people to expressly themselves freely whilst also ensuring that people feel safe and respected.'<sup>7</sup> Ms Nicole Buskiewicz, Managing Director at DIGI, argued:

We have an interest, as an industry, to ensure that the online space is a safe and respectful place. We want to ensure that people who are using our services are having a positive experience online.<sup>8</sup>

4.7 The committee also heard that social media platforms are implementing specific tools to improve safety for users. Ms Julie de Bailliencourt, Head of Global Safety Outreach at Facebook, stated that '...the way technology is evolving is exciting and offers a lot of possibilities that will help complement the notice-and-take-down system...'.<sup>9</sup> Ms de Bailliencourt provided some examples, including that Facebook checks 80 data points when a new account is created to identify whether or not it is a fake. She also stated that:

...we have recently launched, in December, two anti-harassment tools, one in Messenger and one on Facebook, that will basically leverage the signal that we get from you. So, if you were blocking somebody on Facebook, and if we had any indication that this person had created, let's say, a new

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4 Instagram, *Submission 3*, p. 2; Facebook, *Submission 4*, p. 2; Digital Industry Group Incorporated (DIGI), *Submission 17*, p. 2.

5 DIGI, *Submission 17*, p. 2.

6 Law Council, *Submission 15*, pp. 16–17.

7 Facebook, *Submission 4*, p. 2; also see Instagram, *Submission 2*, p. 1.

8 Ms Nicole Buskiewicz, Managing Director, DIGI, *Committee Hansard*, 9 February 2018, p. 46.

9 Ms Julie de Bailliencourt, Head of Global Safety Outreach, Facebook, *Committee Hansard*, 9 February 2018, p. 43.

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account or a similar, duplicate account, with the view to harass you, we have established with high certainty that we can block those other accounts without you having to do anything. We call this the super-block.<sup>10</sup>

### ***The role of the eSafety Commissioner***

4.8 As discussed in Chapter 1, the eSafety Commissioner has various powers to address cyberbullying material targeting an Australian child. The eSafety Commissioner explained that:

[a]s an office, we also work closely with social media sites to get the cyberbullying material taken down. Thus far, we've had a 100 per cent compliance rate and so have not had to use our formal powers. And we are reaching out proactively to a broad range of online services and app providers to make sure that they're in compliance with the scheme.<sup>11</sup>

4.9 The Office of the eSafety Commissioner (eSafety Office) submitted that '[o]n balance, the Commissioner considers that the policies, procedures and practices of the large social media services to address cyberbullying are working.'<sup>12</sup> However, it also submitted that its role '...is to offer a safety net when a social media services does not consider a report made to them under their reporting tool to amount to a breach of their terms of use.'<sup>13</sup> As the eSafety Commissioner explained:

...it's written into the provisions that the child, or the parent or guardian must report to the social media sites initially. As Nicole [Buskiewicz, Managing Director at the Digital Industry Group Incorporated] said, that's the most expeditious way of getting that down in the first instance. But if the content doesn't come down within 48 hours, they can come to us. The role we play as a safety net is that a lot of the moderators, depending on the platform, may have 30 seconds or a minute to look at the reports as they come in. They're dealing with huge volumes and they often miss context. What the young people that report to us can do is give us that context and we can make a case on their behalf and advocate on their behalf. That's why we have had success with the 700 cases we've brought down. There have been very few times when the social media sites say 'You determined that this was serious cyberbullying, we're going to contest you on this.'<sup>14</sup>

4.10 Ms Buskiewicz highlighted that '...no civil penalties have been levied under the scheme since it started'. She argued:

This is because the robust and well-established report-and-take-down systems that members have had in place for over a decade leading up to the establishment of the eSafety office allow them to effectively and

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10 Ms de Bailliencourt, Facebook, *Committee Hansard*, 9 February 2018, p. 43.

11 Ms Julie Inman Grant, eSafety Commissioner, Office of the eSafety Commissioner, *Committee Hansard*, 9 February 2018, p. 61.

12 Office of the eSafety Commissioner (eSafety Office), *Submission 13*, p. 8; also see Ms Inman Grant, eSafety Commissioner, *Committee Hansard*, 9 February 2018, p. 62.

13 eSafety Office, *Submission 13*, p. 7.

14 Ms Inman Grant, eSafety Commissioner, *Committee Hansard*, 9 February 2018, p. 62.

expeditiously resolve complaints. With or without civil and criminal laws, we will continue to do this.<sup>15</sup>

4.11 However, the eSafety Office also noted that there is room for improvement:

Social media services champion community standards, rules and basic norms of behavior on their platforms. However, sometimes the services fall short of evolving these policies in response to malfeasance they are witnessing on their platforms, and in ultimately enforcing these norms. The Commissioner would like to see better policing of conduct by providers, as a clear demonstration that they intend to be held to their published policies. The Office understands that safety is a journey – not a final destination – and we will continue to work with social media providers to share online abuse trends and to encourage them greater innovation and investment in safety protections.<sup>16</sup>

4.12 When asked whether legislative changes might make the eSafety Office more effective in addressing cyberbullying, the eSafety Commissioner stated that '[w]e found the act quite workable, and our discretionary powers are quite broad.'<sup>17</sup>

4.13 The eSafety Office cited some challenges in applying its end user notice scheme in cases where the perpetrator's identity cannot be established from public records. It stated that in order to access social media account data from a platform hosted in the USA, a formal court or treaty process is generally required. This process is most effective if a request to the service to preserve the relevant data has already been made. The eSafety Office stated that there may be merit in the office being able to reach a formal arrangement with the Australian Federal Police (AFP) in which the AFP makes preservation requests on behalf of the Office. The eSafety Office could then manage the court process.<sup>18</sup>

4.14 The Law Council expressed support for the eSafety Commissioner's two-tier scheme, but recommended some changes.<sup>19</sup> First, it recommended that the Tier 2 scheme be expanded to allow small service providers to be declared as Tier 2. Second, it highlighted that a social media platform's Tier 1 status can only be revoked (and replaced with Tier 2 status) if 12 months has passed since it became a Tier 1 service. The Law Council argued that '[t]his is a long period in which serious consequences could occur from cyberbullying.' It recommended that:

...the eSafety Commissioner be given a discretion to remove a service's 'tier 1' status after a shorter period of time, if the provider has clearly failed to remove material that has potentially serious consequences.<sup>20</sup>

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15 Ms Buskiewicz, Managing Director, DIGI, *Committee Hansard*, 9 February 2018, p. 41.

16 eSafety Office, *Submission 13*, p. 9.

17 Ms Inman Grant, eSafety Commissioner, *Committee Hansard*, 9 February 2018, p. 64.

18 eSafety Office, correspondence received 23 March 2018, p. 1.

19 Law Council, answers to questions on notice, 9 February 2018 (received 5 March 2018), p.4.

20 Law Council, *Submission 15*, pp. 20–21.

4.15 The eSafety Office raised the possibility of increasing the basic online safety requirements under the *Enhancing Online Safety Act 2015* (Online Safety Act) to require '...robust user settings and terms of use, clear and unequivocal community standards, and a proactive approach to dealing with cyberbullying on the platform.'<sup>21</sup>

4.16 The Australian Women Against Violence Alliance submitted that the work of the eSafety Commissioner should be extended to focus not only on cyberbullying directed at children but also on other groups at risk.<sup>22</sup> The eSafety Commissioner also stated that this idea may have merit, noting that the eSafety Office has received a growing number of complaints from adults since its remit was expanded to include all Australians.<sup>23</sup> The relevant groups of vulnerable adults could include people with disability, Aboriginal and Torres Strait Islander people, people who identify as LGBTIQ, women experiencing domestic violence, and people with a non-English speaking background.<sup>24</sup> The eSafety Commissioner noted that any extension of the scheme '...should come with additional resourcing.'<sup>25</sup>

4.17 Additionally, the eSafety Commissioner expressed concern that the definitions of 'social media service' and 'relevant electronic service' under the Online Safety Act are not sufficiently clear and do not adequately capture gaming platforms or anonymous social interaction apps such as Sarahah.<sup>26</sup> The eSafety Office stated that it would be useful to amend these definitions so that the eSafety Office could bring these kinds of platforms into the tier scheme.<sup>27</sup>

#### *A duty of care for social media platforms*

4.18 Mr Josh Bornstein, Principal at Maurice Blackburn Lawyers, supported a publicly funded regulator to monitor and investigate cyberspace issues and safety breaches. But he also stated that the regulator would be unable to manage all cyberbullying cases because '...cyberspace is enormous...'. He proposed:

...empowering individuals, whether they are journalists who are targeted and trolled or whether they are the parents of children who are bullied online, to take legal action against Google, against Facebook and against Twitter for, in effect, breaching their duty of care.<sup>28</sup>

4.19 Mr Bornstein argued that this would:

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21 eSafety Office, correspondence received 23 March 2018, p. 4.

22 Australian Women Against Violence Alliance, *Submission 14*, p. 2.

23 eSafety Office, correspondence received 23 March 2018, p. 4.

24 eSafety Office, correspondence received 23 March 2018, p. 4.

25 eSafety Office, correspondence received 23 March 2018, p. 4; Australian Women Against Violence Alliance, *Submission 14*, p. 2.

26 eSafety Office, correspondence received 23 March 2018, p. 4.

27 eSafety Office, correspondence received 23 March 2018, pp. 1–2.

28 Mr Bornstein, Maurice Blackburn Lawyers, *Committee Hansard*, 7 March 2018, p.1.

...provide a very strong financial incentive to the big social media companies to clean up their act. In the same way that we provide strong financial incentives to employers and to occupiers of premises—to supermarkets—to make sure that their premises are safe when people use them, we should require Facebook, Google and others to take all practicable and reasonable steps to ensure that their sites are safe for users as well.<sup>29</sup>

4.20 Some other witnesses agreed that this kind of model is at least worthy of consideration.<sup>30</sup> Ms Van Badham of the Media, Entertainment & Arts Alliance stated:

I agree with Josh Bornstein's position, that there has to be a duty of care. Coming from professional media anyway, if a publication, *The Guardian*, *The Australian*, Fairfax, if any of the major media organisations in this country were facilitating the harassment and abuse of individuals, they would be held accountable. Social media are media corporations. Facebook is effectively a modern newspaper. So is Twitter. It has a pretty loose content policy, but those platforms exist as publication vehicles, and they must take responsibility for the care of participants within that.<sup>31</sup>

4.21 However, the submission from DIGI supported a contrary position:

Given the strong commitment of industry to promote the safety of people when they use our services, we believe that no change[s] to existing criminal law is required. If anything, we would encourage the Committee to consider carve outs from liability for responsible intermediaries.<sup>32</sup>

4.22 Additionally, Ms Mia Garlick, Director of Policy, Australia & New Zealand, Facebook and Instagram, was asked about legal liability for social media platforms. She stated that '...regulations are clearly a matter for the government. But from our perspective, regulation isn't what motivates us; it's the consumer experience.'<sup>33</sup> Facebook and Instagram also stated that:

[o]n Facebook, people choose who to be friend with, and which Pages or Groups to follow. Consequently, people make a decision about the types of content that they can see in their News Feed. News Feed then ranks the stories based on how relevant a particular piece of content is that a person has chosen to see. We do not write the posts that people read on our services.

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29 Mr Bornstein, Maurice Blackburn Lawyers, *Committee Hansard*, 7 March 2018, pp.1–2.

30 See, for example, Mr Adam Portelli, Director, Victorian Branch, MEAA, *Committee Hansard*, 7 March 2018, p. 10; Ms Sonya Ryan, Chief Executive Officer and Founder, Carly Ryan Foundation, *Committee Hansard*, 7 March 2018, pp. 20–21; Ms Edwards, National Council of Single Mothers and their Children, *Committee Hansard*, 7 March 2018, p. 27.

31 Ms Van (Vanessa) Badham, Media Section Vice President, Victorian Branch, MEAA, *Committee Hansard*, 7 March 2018, p. 13.

32 DIGI, *Submission 17.1*, p. 2.

33 Ms Mia Garlick, Director of Policy, Australia & New Zealand, Facebook and Instagram, *Committee Hansard*, 9 February 2018, p. 47.

While we are not in the business of picking which issues the world should read about, we are in the business of connecting people and ideas — and matching people with the stories they find most meaningful.<sup>34</sup>

4.23 The Law Council clarified that existing positive obligations under the *Telecommunications Act 1997* '...will generally not be applicable to social networking sites, as they are not carriage service providers.' However, the obligations may apply to the direct messaging applications of social media platforms, because '...these messaging applications...may be regulated carriage service providers and hence caught by the Telecommunications Act obligations.'<sup>35</sup>

4.24 Additionally, the Law Council referred to the civil penalty regime that already exists under the Online Safety Act and is administered by the eSafety Commissioner. The Law Council noted that civil penalties have not yet been applied to social media platforms, and that the eSafety Commissioner reports largely positive experiences with social media platforms. It submitted that it:

...does not consider that there has been a demonstrated need at this time to impose a positive obligation by way of a criminal penalty on social media services to remove cyberbullying content from their platform.<sup>36</sup>

### ***Safety by design***

4.25 Safety by design is '...the notion that safety ought to be built-in to social media services from the outset as a fundamental and core principle of design.'<sup>37</sup> The eSafety Commissioner strongly supports this approach, and her office submitted that:

[t]he Commissioner considers it is reasonable to expect that large social media services should proactively adopt a 'safety first' approach to engineering their platforms and features, much as they have already done with 'security by design' and 'privacy by design'.<sup>38</sup>

4.26 The eSafety Office provided some positive examples of this, including:

- the Lego Life children's social networking app, which employed '...trained moderators to enforce an extensive code of conduct for users'; and
- Snap, Inc. requiring '...users to deliberately opt-in to the Snap Map feature, rather than opt-out.'<sup>39</sup>

4.27 The eSafety Commissioner also noted a negative example, Facebook Live:

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34 Facebook and Instagram, answers to questions on notice, 9 February 2018 (received 7 March 2018), p. 4.

35 Law Council, answers to questions on notice, 9 February 2017 (received 5 March 2018), pp. 3–4.

36 Law Council, answers to questions on notice, 9 February 2017 (received 5 March 2018), pp. 4–5.

37 eSafety Office, *Submission 13*, p. 8.

38 eSafety Office, *Submission 13*, p. 8.

39 eSafety Office, *Submission 13*, p. 8.

When Facebook Live went live, it took about a dozen murders, suicides and rapes on Facebook Live for them to say, 'We're going to hire 3,000 moderators,' yet Periscope and Meerkat had been out in the market for some time, so they could have reasonably anticipated that there would be some safety issues requiring moderation.<sup>40</sup>

4.28 The Alannah & Madeline Foundation submitted that '...the "start-up" (innovation) culture of the technology industry prioritises "testing in the marketplace" and responding to user feedback to improve their services – this takes precedence over "user safety by design".'<sup>41</sup> Further, new start-up platforms:

...can often have significant cyberbullying and harassment issues, due to their lack of monitoring and reporting processes. Young people are often the "play-testers" in this environment, as their age group has a higher proportion of "early adopters".<sup>42</sup>

4.29 The eSafety Commissioner stated that one role her office would like to play is to '...encourage companies to put safety by design first' and to '...develop and implement stronger policies and enforcement procedures.'<sup>43</sup> She also noted the difficulties of legislating on safety by design:

I think that would be very hard to implement. Technology is always going to outpace public policy. I imagine any legislator would have a hard time anticipating where the newest technology might be or where it might go, and I don't think we want to stifle innovation.<sup>44</sup>

4.30 However, as the eSafety Commissioner stated:

...if [social media platforms are] not responsive or don't acquiesce and they're active in our market and young people are being abused on them, that's when we can go to the minister's office and declare them a tier-2 player.<sup>45</sup>

### ***Social media platforms and data***

4.31 Some submitters stated that it may be beneficial for social media platforms to publish relevant data, including data about complaints received and the platforms' responses to them.<sup>46</sup> The National Children's Commissioner at the Australian Human Rights Commission stated that reporting on data:

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40 Ms Inman Grant, eSafety Commissioner, *Committee Hansard*, 9 February 2018, p. 70.

41 Alannah & Madeline Foundation, *Submission 10*, p. 6.

42 Alannah & Madeline Foundation, *Submission 10*, p. 6.

43 Ms Inman Grant, eSafety Commissioner, *Committee Hansard*, 9 February 2018, p. 70.

44 Ms Inman Grant, eSafety Commissioner, *Committee Hansard*, 9 February 2018, p. 70.

45 Ms Inman Grant, eSafety Commissioner, *Committee Hansard*, 9 February 2018, p. 70.

46 See, for example, UNSW Law Society Inc., *Submission 34*, p. 4; Ms Ginger Gorman, Committee Member, Women in Media, *Committee Hansard*, 9 February 2017, p. 35.

...provides the social media providers an opportunity to enhance their education by demonstrating what they're doing in this space. If they've got a good story to tell, I think they should be telling it.<sup>47</sup>

4.32 Ms Buskiewicz of DIGI said that the data on complaints vary, and stated:

The member company policies vary on whether they release those numbers. The example I can give is YouTube, which receives 275,000 flags a day for review across all types of content, and that is in the context of having 400 hours of video content uploaded to YouTube every day. So there is a real volume of content that goes up.<sup>48</sup>

4.33 Ms Buskiewicz stated that she did not have this data for Australia only.<sup>49</sup>

4.34 In answering questions on notice, Facebook and Instagram stated that '[w]e understand the rationale behind your requests for us to provide more detail around the data showing reporting trends, however, unfortunately at this stage, we are not able to do so.'<sup>50</sup> However, Facebook and Instagram also highlighted methods of removing content before users report it to them. For instance, they stated that:

...we use automation, image matching and other tools to proactively identify and remove 99% of the terror-related content before anyone in our community has flagged it to us, and in some cases, before it goes live on the site.<sup>51</sup>

4.35 Ms de Bailliencourt of Facebook also said that complaint wait times vary, but '[t]he vast majority...' are reviewed within 24 hours, and '[s]ome may go to 48 hours.' She explained that '[w]e try to go even faster on very sensitive reports, such as bullying. Suicide prevention is the one we try to get to in minutes—when we're very good.'<sup>52</sup>

4.36 The eSafety Office told the committee that between 1 October 2017 and 31 January 2018, the '...average length of time between the Office requesting removal of content from a social media service, to the Office being informed that the material has been removed, was 39 hours.' It stated that '[i]n the majority of cases, material will have been removed well before notification.' In addition, '[t]he fastest time for

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47 Ms Megan Mitchell, National Children's Commissioner, Australian Human Rights Commission, *Committee Hansard*, 9 February 2018, p. 58.

48 Ms Buskiewicz, Managing Director, DIGI, *Committee Hansard*, 9 February 2018, p. 47.

49 Ms Buskiewicz, Managing Director, DIGI, *Committee Hansard*, 9 February 2018, p. 47.

50 Facebook and Instagram, answers to questions on notice, 9 February 2018 (received 7 March 2018), p. 2 and p. 3.

51 Facebook and Instagram, answers to questions on notice, 9 February 2018 (received 7 March 2018), p. 2.

52 Ms de Bailliencourt, Head of Global Safety Outreach, Facebook, *Committee Hansard*, 9 February 2018, p. 50.

content removal by a social media service following a request by the Office was 26 minutes.<sup>53</sup>

4.37 Facebook and Instagram informed the committee that:

[w]e now have around 14,000 people working across community operations, online operations, and our security efforts. We are committed to increasing this number across all of these teams to a total of 20,000 by 2018.<sup>54</sup>

4.38 The eSafety Commissioner stated that, based on her industry experience, social media moderators have a very short time to consider complaints:

It is 30 seconds to a minute. It may vary. You would have to verify that with Facebook...Most of the social media sites have triaging functions. So, depending on which boxes you tick, they'll be able to determine—if it's image based abuse it may go to one queue, versus child sexual exploitation versus bullying, or 'this comment was inappropriate'.<sup>55</sup>

4.39 The eSafety Office submitted that from 1 October 2018 to 31 January 2018 it responded to 97 percent of all complaints about cyberbullying within three hours and resolved complaints, on average, in 150 minutes.<sup>56</sup>

4.40 The social media representatives at the hearing on 9 February 2018 were asked whether they would object to a law requiring platforms to publish data about complaints, broken down by category. Ms Buskiewicz of DIGI said:

We need to ask: what are we trying to get from the numbers? If we're talking about incentivisation, that's only one way. As Mia [Garlick of Facebook and Instagram] said before, we are very much reliant on feedback and we're continually striving to do better, and we will do that regardless of whether we have to publish numbers.<sup>57</sup>

4.41 Ms Garlick of Facebook and Instagram argued that published data '...might not be clear as to what it's showing', and added:

It's up to you guys to make recommendations and decisions on the law. From our perspective, that's not going to be what motivates us to make sure we're doing the best we can to remove the content as fast as we can.<sup>58</sup>

4.42 The eSafety Office stated that the publication of this kind of data would be beneficial, but also acknowledged that the data's usefulness would be limited:

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53 eSafety Office, answers to questions on notice, 9 February 2018 (received 7 March 2018), p. 2.

54 Facebook and Instagram, answers to questions on notice, 9 February 2018 (received 7 March 2018), p. 4.

55 Ms Inman Grant, eSafety Commissioner, *Committee Hansard*, 9 February 2018, p. 70.

56 eSafety Office, answers to questions on notice, 9 February 2018 (received 7 March 2018), p. 3.

57 Ms Buskiewicz, Managing Director, DIGI, *Committee Hansard*, 9 February 2018, p. 48.

58 Ms Garlick, Facebook and Instagram, *Committee Hansard*, 9 February 2018, p. 48.

Data about cyberbullying and other abuses collected by the social media services would be useful to have. For example, the information might be used to target resources, raise awareness, and provide education on specific issues.

However, it is unclear how much weight we could place on this type of information. There are two reasons for this. The first is that user-flagging of objectionable material on a service will always rely on the specific rules, guidelines or standards applicable to that service, rather than the statutory thresholds employed by the eSafety Commissioner. The second is that the data, being user-generated and unverified, may not reliably reflect the actual incidence of cyberbullying on a platform.<sup>59</sup>

## Education and prevention

4.43 A large number of submitters and witnesses, including government agencies responsible for children and education, emphasised the importance of education in addressing cyberbullying.<sup>60</sup> As the Australian Government Department of Education and Training (Department of Education) submitted:

In dealing with cyberbullying, the department supports a whole-school, systemic approach that emphasises early intervention and provides tiered levels of support for school children and young people affected by the negative behaviour. Measures should be age-appropriate and child focused, working with the person being targeted, their family and school, social media services, the perpetrator and when appropriate the police to address the issue.<sup>61</sup>

4.44 The Department of Education also provided details on how the Australian Curriculum addresses cyber safety and security both explicitly and implicitly from Foundation to Year 10.<sup>62</sup>

4.45 However, the eSafety Commissioner stated that '...there isn't consistent and comprehensive online safety education. Some schools do it really well; some schools totally miss the boat.' She explained that the eSafety Office has:

...a certified online safety provider program, where I believe there are about 127 presenters from 27 different organisations—everyone from the

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59 eSafety Office, answers to questions on notice, 9 February 2018 (received 7 March 2018), p. 1.

60 See, for example, Australian Government Department of Education and Training, *Submission 2*, p. 8; Queensland Family and Child Commission, *Submission 8*, p. 2; Mental Health Commissions of Australia, *Submission 9*, p. 2; Alannah & Madeline Foundation, *Submission 10*, p. 3; Western Australia Department of Education, *Submission 12*, p. 2; Australian Human Rights Commission, *Submission 16*, p. 3; DIGI, *Submission 17.1*, p. 1; Tasmanian Government, *Submission 19*, pp. 5–6; Women in Media, *Submission 26*, p. 12; ReachOut Australia, *Submission 31*, p. 2.

61 Australian Government Department of Education and Training, *Submission 2*, p. 4.

62 Australian Government Department of Education and Training, answers to questions on notice, 9 March 2017 (received 16 March 2016), p. 1.

Carly Ryan Foundation and the Alannah & Madeline Foundation to PROJECT ROCKIT.<sup>63</sup>

4.46 Additionally, Ms Lesley Podesta, Chief Executive Officer at the Alannah & Madeline Foundation, posited that:

[o]verwhelmingly—and this distresses me so much—it is a postcode lottery as to whether the teacher knows what to do. It's not because they don't care; it's because they have absolutely no resources or support about the most effective pathways to deal with it.<sup>64</sup>

4.47 The committee heard evidence regarding many existing initiatives and organisations offering education and support related to cyberbullying, including:

- Carly Ryan Foundation;<sup>65</sup>
- eSmart schools and eSmart libraries;<sup>66</sup>
- Kids Helpline;<sup>67</sup>
- Out of the Dark;<sup>68</sup>
- PROJECT ROCKIT;<sup>69</sup>
- ReachOut Australia;<sup>70</sup>
- Student Wellbeing Hub;<sup>71</sup>
- ThinkUKnow;<sup>72</sup>
- various initiatives cited by the Tasmanian Government,<sup>73</sup> and
- various initiatives cited by the Western Australia Department of Education.<sup>74</sup>

4.48 yourtown noted that children should not be the only focus of education initiatives:

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63 Ms Inman Grant, eSafety Commissioner, *Committee Hansard*, 9 February 2018, p. 67.

64 Ms Lesley Podesta, Chief Executive Officer, Alannah & Madeline Foundation, *Committee Hansard*, 9 February 2018, p. 25.

65 Carly Ryan Foundation, *Submission 23*, p. 1.

66 Ms Podesta, Alannah & Madeline Foundation, *Committee Hansard*, 9 February 2018, p. 25.

67 yourtown, *Submission 6*, p. 3.

68 Queensland Family and Child Commission, *Submission 8*, p.2.

69 Instagram, *Submission 3*, p. 4; Facebook, *Submission 4*, p. 6.

70 ReachOut Australia, *Submission 31*, p. 2.

71 Australian Government Department of Education and Training, *Submission 2*, pp. 5–6.

72 Australian Federal Police, *Submission 18*, p. 1.

73 Tasmanian Government, *Submission 19*, p. 5–6.

74 Western Australia Department of Education, *Submission 12*, pp. 2–4.

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As with addressing other cyber safety concerns that confront our children and young people on a daily basis, such as sexting and pornography, government must recognise the importance, impact and potential value of the behaviour and responses of not just cyberbullying victims and perpetrators but also of bystanders, parents, teachers and wider support services.<sup>75</sup>

4.49 Indeed, the Queensland Family and Child Commission submitted, '[e]ducation initiatives must target adults as well as children and young people.'<sup>76</sup> The Australian Human Rights Commission also stated that '...parents are a critical target group for public awareness and support for children as they navigate online spaces...'.<sup>77</sup>

4.50 The committee heard that one important point for education and awareness initiatives is to encourage help-seeking behaviour. As Professor Barbara Spears of the Australian Universities' Anti-bullying Research Alliance stated:

There's a stigma attached to seeking help. It means: 'I'm weak.' It means: 'I can't fix it myself.' We need to remember that young adolescents are of the age where they are trying to develop and identify as young, autonomous adults, and so they want to be seen to be solving problems themselves. So we have to give them the skills. We have to help them understand what help seeking means and how to go about looking for help and coping with bullying.<sup>78</sup>

4.51 The eSafety Commissioner cited her office's research, which '...tells us that young people are much less likely to use formal channels to seek support.' She stated that:

[o]nly 50 per cent of young people turn to the family for assistance, around 13 per cent will involve their school and only 12 per cent report to a social media website. Fewer still, two per cent, report to the police.<sup>79</sup>

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75 yourtown, *Submission 6*, p. 11.

76 Queensland Family and Child Commission, *Submission 8*, p. 4.

77 Australian Human Rights Commission, *Submission 16*, p. 3.

78 Professor Barbara Spears, Member, AUARA and Leading researcher, University of South Australia, *Committee Hansard*, 9 February 2018, p. 4.

79 Ms Inman Grant, eSafety Commissioner, *Committee Hansard*, 9 February 2018, p. 61.

