

ADDITIONAL REMARKS FROM GOVERNMENT MEMBERS

1.1 Government members of the committee are in agreement that there is no dispute about the harmful effects of cyberbullying on both children and adults. Similarly, Government members agree that bullying in any form represents a complex social phenomenon that cannot be reduced to a solely legal formulation.

1.2 Nonetheless, Government members are persuaded that the current legal mechanisms that capture cyberbullying behaviours did not contemplate such conduct at the time they were devised. Similar to the creation of legislative schemes to enhance and update relevant telecommunications law around the capture and storage of metadata as a result of the advent of widely available internet access, so too should some thought be given to the utility and cohesion of existing legal frameworks for cyberbullying. Government members would stress, however, that any legislative developments should be conducted in context of the social and cultural realities of these behaviours, particularly in the case of child perpetrators and victims.

1.3 Government members agree with recommendation 1 of the committee report – that state and territory governments and stakeholder bodies should work with the commonwealth to develop a clear definition of cyberbullying. Government members agree that the issue warrants a cross-jurisdictional approach that involves governments, stakeholders and communities in addressing the causes of, and potential remedies for, the problem of cyberbullying.

1.4 Government members agree in principle with Recommendation 2 of the committee report – that governments should acknowledge that cyberbullying is a social and public health issue and devise education initiatives accordingly.

1.5 Government members agree with Recommendation 3 – that the general public, and law enforcement agencies, be made fully aware of the scope of any applicable legislative schemes. Government members expect that such education would form part of the inevitable national conversation around the development of a revised legislative framework.

1.6 Government members do not agree with Recommendation 4 of the committee report – that the maximum penalty for ‘using a carriage service to menace, harass or cause offence’ under s474.17 of the Criminal Code Act 1995 should be increased from three years imprisonment to five years imprisonment. Government members are not currently persuaded that enhancing the punitive regime is the correct response to what is acknowledged widely to be a complex social issue. Government members suggest further consultation is required before committing to such action.

1.7 Government members of the committee agree with Recommendation 5 of the committee report – that the office, functions and procedures of the eSafety Commissioner should be enhanced.

1.8 Government members do not agree with Recommendation 6 of the committee report – that financial penalties, and other pressure, should be exerted by government

upon the operators of social media platforms regarding prevention of, and responsiveness to, cyberbullying. Government members expect that social media platform operators acknowledge the negative impacts of cyberbullying upon their business models and should be very willing to co-operate in such matters and should be consulted further.

1.9 Government members of the committee agree with Recommendation 7 of the committee report – that social media platforms should share information regarding cyberbullying with the eSafety Commissioner.

Senator the Hon. Ian Macdonald

Deputy Chair