



Enhancing Online Safety for Children

Submission to the Department of Communications (Cth)

March 2014

INTRODUCTION

The Council of Catholic School Parents [CCSP] is the officially recognised body representing the parents and carers of students in Catholic schools in the dioceses of NSW and the ACT. Members of the Council are the Diocesan Parent Organisations, each of which represents the parents of students within the respective dioceses in Catholic systemic schools, and the group of Catholic Independent schools.

The CCSP responds to the Department of Communications' discussion paper, *Enhancing Online Safety for Children* on behalf of parents and carers who have their children in 584 NSW Catholic schools, which enroll more than 250,000 students.

As partners in school education, parents in Catholic schools are pleased at the opportunity to make a contribution to this important area of Government decision-making.

The CCSP agrees with the assertion in the discussion paper that the Internet has "become a daily, integrated part of life for many Australian families" and that it is an essential tool for all Australians representing "a vast resource of information, education and entertainment¹".

The ubiquity of the internet and social media means that young people are exposed to an increasingly open and collaborative digital environment – this provides substantial benefits both educationally and socially but also increases the prevalence of unsafe behaviour, increased vulnerability and online bullying for young people².

The CCSP believes that:

- online bullying is a new form of a long-standing problem rather than a product of the technology itself
- the nature of the online world is, however, distinctive with it's own characteristics which does necessitate a particular and targeted approach
- parents play a critical role in assisting their children to be safe online and in preventing and responding to cyber-bullying
- the relationship between parents and schools is critical in building parental awareness and capacity in being able to assist their children and in addressing and responding to cyber-bullying incidents.
- there is a critical and on-going need to develop young people's technological competence and/or 'digital citizenship'.
- parents, schools and young people themselves are part of what should be a whole-of-community response supporting young people's safety online.

¹ Department of Communications (2014), *Enhancing Online Safety for Children*, Discussion Paper.

² Robinson, E. (2012). Parental involvement in preventing and responding to cyberbullying, Australian Institute of Family Studies; Department of Communications (2014), *Enhancing Online Safety for Children*, Discussion Paper

Proposed Policy Approach:

The CCSP notes the Government's proposed policy *to Enhance Online Safety for Children*, which seeks to address the risks to children in relation to the internet, so that content and cyber-bullying concerns are handled faster; children can quickly access assistance with online safety concerns; Commonwealth criminal laws relating to cyber-bullying are appropriate and effective; and there is clear and expert leadership in online safety. It also notes the following proposals designed to give effect to the overarching policy commitment:

1. The establishment of a Children's e-Safety Commissioner;
2. developing an effective complaints system, backed by legislation, to get harmful material down fast from large social media sites; and
3. examining existing Commonwealth legislation to determine whether to create a new, simplified cyber-bullying offence.

Current Situation:

It is our understanding that the current system involves a suite of state and federal laws that apply to internet content and that the Australian Communications and Media Authority (ACMA) has a key role in promoting self and co-regulation within the industry, working with consumers and other stakeholders to ensure compliance with those laws and codes that apply to Internet content, investigating complaints about online content and providing advice and support to the community³.

The CCSP agrees with the fundamental principle of "co-regulation" in that government, industry and the community all play a role in managing cyber-safety issues.

The CCSP also acknowledges from a parental perspective that the regulatory and policy landscape is very dense and complex. Many parents, for example, would not be aware of the range of laws that exist or how they might serve to protect their interests. The proliferation of resources and websites offering support and advice on cyber-safety can also pose a difficulty for parents trying to navigate the issue. The 'system' which involves legislation, government and non-government agencies, business and the community sector, needs to be made simpler, more transparent and easier to navigate when there is a problem.

CCSP would support the streamlining of resources – for example a 'one-stop shop' approach. A decision-tree tool would also be useful for parents to navigate the system when something does go wrong.

³ Australian Communications and Media Authority (ACMA) (2014). [Internet](http://www.acma.gov.au/web/landing/pc=internet_main). Retrieved from <www.acma.gov.au/web/landing/pc=internet_main>

The CCSP makes the following comments in relation to the discussion paper:

1. Establishment of a Children's e-Safety Commissioner

The CCSP is supportive of the proposal for an e-Commissioner and a lead agency for cyber-safety. The CCSP believes this would allow for a single-point of authority and greater efficiency and would address the issue of unnecessary duplication and overlap.

We would suggest that an existing agency should take on this role. ACMA, we believe, could easily fulfill the role and has a strong track record within the education sector with its *CyberSmart* site and associated resources and professional development for teachers and parents. Many of the functions listed on Page 5 of the discussion paper are already being fulfilled by ACMA through the *CyberSmart* website.

For example the *CyberSmart* website:

- features a number of excellent resources offering advice and guidelines for parents about cyber-bullying: what it is, what to do when it happens and where to go for help
- points to a range of support services both online and offline and offers advice in a number of places about ways to mitigate online risk for children through parent education, engagement with social networking companies and enlisting the police or seeking legal advice, and
- offers an impressive suite of professional education for parents, teachers, pre-service teachers and students around cyber-safety in formats that range from online presentations to more in-depth presentations by ACMA personnel.

ACMA too, is already a recognised authority on 'cyber-safety' for parents, teachers and students. Many other agencies including LawStuff and Australian Human Rights Commission among others link their material to ACMA and the *CyberSmart* website. This intricate web of cross-referencing developed over many years is a strength that can be leveraged by ACMA and the proposed e-Commissioner.

There is a clear benefit for whomever takes up the role of e-Commissioner in being part of, or closely associated with, ACMA and *CyberSmart* to leverage off the reputation and 'market position' that it has come to occupy in this space. We would also strongly suggest that the role of the National Children's Commissioner should be explored in this context too, given the Children's Commissioner role is to focus on the rights and interests of children, and the laws, policies and programs that impact on them.

Overall, and noting the guidelines for the Governance Arrangements for Australian Government Bodies, we would be opposed to the development of a new agency. Option 3 in the discussion paper would be a preferred option – namely that the role of e-Commissioner should be situated in ACMA, either as an existing member of the ACMA board or an Associate Member.

CCSP agrees that existing online safety resources and programmes could be transferred to the Commissioner's control where appropriate in order to provide a centralised repository. However, we do acknowledge that purpose built resources like *ThinkUKnow*, *The Line* and *LawStuff* fulfill a very specific function and already have strong brands in the community. In this case, the CCSP would support a strategy whereby the e-Commissioner establishes strong working relationships with such providers.

2. Rapid removal of material that is harmful to a child from social media sites

It is agreed that adequate remedies are not easily accessible or enforceable when children are the victims of harmful, aggressive and bullying material targeted at them using the Internet. We also agree that to deny rapid removal of harmful material posted on the Internet is to deny a duty of care to our children. The CCSP supports a scheme which would ensure the swift removal of harmful material and mitigate potential damage to young people. We would also support the development and promotion of an effective complaints process. We acknowledge the need to manage the level and types of complaints to be received to avoid the process becoming overloaded and ineffectual.

It is not clear to us that new legislation is required to address the issue and question whether existing legislation could be better used and promoted, for example better use of telecommunications and consumer protection laws, Child Protection and Anti-Discrimination legislation.

The CCSP also believes that the best response to supporting young people's safety online needs to be a whole-of-community response, involving governments, non-government agencies, educators, parents/carers, young people themselves and social media and Internet providers.

Participating social media sites

In terms of a definition of social networks (Question 4), it is suggested that it could be expanded to capture games, since some games allow children enter into a social environment with other players, potentially exposing themselves to the risk of being cyber-bullied.

Eligible complainant

Page 13 of the discussion paper lists suggested categories of eligible complainants. We support this list. We note however on page 25 of the discussion paper that it states that school principals or police would be lodging the complaints and in some circumstances the members of the public. This appears to be inconsistent with the list of eligible complainants as shown on page 13.

Children who are unsupported by adults (Question 7) should have the capacity to be active participants since they are recognized in law from the age of 10⁴ but they would need assistance or representation from someone like a Commissioner for Children and Young People, the Australian Human Rights Commission, Legal Aid or the e-Commissioner.

Form of complaints

In relation to Questions 10 and 12, social media and Internet companies should include in their policies and processes, complaints handling processes and rapid removal arrangements. Companies should be required to provide an immediate acknowledgment of receipt of a complaint stating their process and proposed timeline. The complainant can provide this acknowledgment to the Commissioner as evidence of the process not being correctly applied, for example. A 48 hour period to respond to complainants should be the maximum period.

⁴ http://www.aic.gov.au/crime_community/demographicgroup/youngpeople/definition.html

Penalties and enforcement

The CCSP agrees that where a participating social media site fails to comply with its obligation to maintain complaints handling and rapid removal arrangements (and maintain satisfactory performance of these arrangements), sanctions for non-compliance should apply.

3. Options for dealing with cyber-bullying under Commonwealth legislation

The CCSP would support a civil penalty regime to target cyber-bullying behaviour in offenders recognising that the existing laws do not clearly apply to cyber-bullying and the penalties for infringements may be disproportionately large. The proposal in the discussion paper for the Commissioner having the power to facilitate negotiation and mediation between the parties, or subsequently having to make a decision about the dispute would be an appropriate redirection of these disputes.

Of importance in a regime of civil enforcement is that it captures sms and email communications which are other platforms for cyber-bullying to occur.

We would suggest that the list of eligible complainants on page 13 should be the reference point and that parents and unsupported youth should also be able to lodge a complaint (alongside police and school principals) with the e-Commissioner.

In relation to an Australian cyber-bullying offence, the CCSP's main concern is that the penalties match the severity of the offence, particularly for minors. Often, what is needed is education, restorative justice and/or lower range penalties. We also acknowledge that there are much more severe cases and the level of remediation and/or penalty needs to reflect that.

CCSP also agrees that much more could be done to raise awareness among young people, parents and schools about the existing law and its application to cyber-bullying.

CONCLUSION

The CCSP is grateful for the opportunity to add the voice of Catholic school parents to this discussion. The CCSP believes this is a critical issue that needs to be addressed. CCSP is supportive of the role of an e-Commissioner and a lead agency to help streamline and promote and protect young people's safety online.