



14 February 2021

Director  
Online Safety Branch, Content Division  
Department of Infrastructure, Transport, Regional Development and Communications

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## ONLINE SAFETY ACT

The International Social Media Association thanks the Department for the opportunity to comment on the Online Safety Act of 2021.

### 1. About ISMA

The International Social Media Association (**ISMA**) is a not-for-profit organisation dedicated to harmonising legislation and policies on a global scale. Our mission is to advance, protect and balance the rights of individuals and businesses on the digital platforms which are used every day.

### 2. Definition of “social media”

The legislation should clarify its stance on the use of social media platforms for business purposes, keeping in mind the rising content creator industry based on platforms such as Instagram which service individuals, in both their personal and professional capacity.

Section 13 of the Bill specifies that the legislation does not apply to social media services used for business purposes and similarly excludes business interactions from “online social interaction”. While the provision of advertising material is excluded from consideration under Section 13(3), it does not provide clear guidance as to whether individuals who also generate revenue from other activities such as selling merchandise on these platforms would be protected under the new legislation.

A growing number of Australians use social media platforms as their main source of income – these individuals are vulnerable to cyber-abuse and they do not have the relative advantages of a large business with a social media presence. We urge the Department to extend the Act’s protection to these individuals.

### 3. “Serious harm” threshold and language of “resilience”

Users who have received abuse on social media platforms commonly report that their complaints are not taken seriously by platforms or authorities. When ABC journalist Osman Faruqi’s details were released online, opening the floodgates of racist abuse, he wrote of his experience with law enforcement:

*“I got the sense that, because it was happening on the internet, it wasn’t seen as real.”<sup>1</sup>*

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<sup>1</sup> Faruqi, Osman. “ ‘We’re watching you’: Why doxxing is the new weapon of choice for cyber bullies and trolls.” ABC News, 22 Feb 2019, <https://www.abc.net.au/news/2019-02-22/doxxing-the-new-weapon-of-choice-for-trolls/10833428>. Accessed 12 Feb 2021.

To strike a balance between users' freedoms and protections, the legislation should be phrased in such a way as to encourage authorities to treat social media abuse with the seriousness it deserves.

The threshold of "serious harm" in Section 7 for cyber-abuse targeted at adults is excessively arbitrary. We believe the legislation should include examples of "serious harm" including instances of verbal and image-based abuse, cyberstalking and doxing. Further, the terminology of "resilience" used throughout the Government's discourse surrounding the legislation is inherently harmful in its suggestion that adult victims of online abuse have a responsibility to be able to withstand abusive behaviours by virtue of age, disregarding vulnerabilities of adults in certain marginalised groups.

#### 4. Clearer reporting guidance for users

The existing *Enhancing Online Safety Act* is confusing in its application for both law enforcement and users seeking to make complaints. The proposed legislation should be accompanied by clarification of the reporting process and the rights it protects.

We welcome the clear takedown periods specified in the Bill. However, users will require additional guidance on some of the more confusing parts of the legislation, such as the requirement of making an incident report to the platform before making a complaint to the eSafety Commissioner under Section 36(3)-(6). The public should be given a general guide of how long they are expected to wait for the platform to act before lodging a formal report. Without such guidance, many users may wait for several weeks. The legislation will only be effective if the authorities and the users it seeks to protect are aware of how it operates.

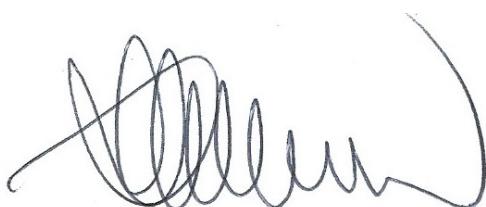
#### 5. Summary

In summary, we recommend a clearer assertion of the legislation's function to protect adults, clarification on the protection of individuals carrying out business activity on social media platforms and the provision of information about how users may access protections.

We agree to the publication of our submission.

Please do not hesitate to contact us about this submission at [secretary@isma.ngo](mailto:secretary@isma.ngo).

Yours faithfully  
International Social Media Association, Inc.



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