1 November 2023

Dr Bulent Hass Dellal AO

Chair

Multicultural Framework Review Panel

Via email: multiculturalaffairs@homeaffairs.gov.au

Dear Dr Dellal**,**

I am writing to you in relation to the public consultation that the Review Panel are undertaking in relation to the Multicultural Framework Review (Review).

As Australia's eSafety Commissioner, I welcome this public consultation which will advise the Australian Government on what institutional, legislative and policy settings can best build Australia's multiculturalism over the next decade, including how best to meet the needs of Australia's increasingly diverse society.

As Australia's independent online safety regulator, eSafety leads, coordinates, educates and advises on online safety issues. Our aim is to empower all Australians to have safer, more positive online experiences.

To do this, we draw upon social, cultural, technological and regulatory initiatives and interventions. Using key pillars of protection, prevention and proactive and systemic change, eSafety's aim is to minimise harm online.

eSafety's role

We deliver a wide range of programs and resources to cater for all Australians, including those from multicultural communities, to have safer online experiences.

People from culturally and linguistically diverse communities have a broad range of digital literacy skills. Multicultural young people are often highly digitally connected but there is also evidence of a digital divide between some newly arrived migrant parents and their children. These parents may rely on their children for help using the internet because of insufficient digital knowledge or English proficiency. This can make it more difficult to effectively assess and monitor their children's online safety. Lower levels of English proficiency also correlate with higher levels of socio-economic disadvantage.

eSafety undertakes an extensive research program to ensure its programs and resources are evidence-based. This equips eSafety with the insights and knowledge it needs to understand the nature of online safety issues and design, implement and evaluate best possible solutions.

The issues and insights raised below are drawn from eSafety's research program, the full suite of which can be accessed on eSafety's website at https://www.esafety.gov.au/about-us/research.

At-risk groups

eSafety's research and experience points to the fact that online harms can disproportionately impact at-risk and diverse groups.

People from culturally and linguistically diverse backgrounds are at increased risk of online hate speech targeting their race, ethnicity or religion, and adult cyber abuse. Women from diverse backgrounds experience image-based abuse as part of domestic and family violence at higher levels than the national average in Australia. Children and young people from diverse backgrounds are at increased risk of cyberbullying, making contact with strangers online and sharing information with people who they have not met in person.

Low digital literacy and lack of digital access are several of many factors that may place an individual at greater risk of experiencing or being seriously impacted by harmful online content or behaviour.

The factors can also be intersectional. This means that the layering of factors can increase a person's risk. There is also strong link between the inequality, discrimination and disrespect that underpins harms experienced online and harms experienced offline. This is why eSafety places a strong emphasis on capacity building.

Targeted eSafety initiatives

eSafety conducts research and works closely with representative groups and community organisations to understand the online risks and identify the needs of people from different cultural and linguistic backgrounds. Tailored resources are translated into multiple languages.

Key initiatives include:

- **Young people** — inclusive advice and educational programs, such as Tagged, with lesson plans and videos translated into five languages; and research including State of Play – Youth, Kids and Digital Dangers (2018), State of Play – Youth and Online Gaming in Australia (2018), Social Cohesion National Survey (2017) and Young People and Sexting – Attitudes and behaviours (2017).
- **Parents** — Our Online safety for every family resources include videos and easy-to-read advice sheets in 13 community languages. Additional resources include How to talk with children about online safety, Online Safety: a guide for parents and carers translated into five languages, Start the chat online safety tip sheets, podcasts and videos translated into 16 languages, easy-to-read guidance in English about key online safety issues affecting young people; and research including Parenting in the Digital Age (2019), Digital Parenting (2018) and Parenting and pornography (2018) .
- **Women** — postcards and downloadable guides on domestic and family violence and key online safety issues translated into 12 languages; and research including Women from Culturally and Linguistically Diverse Backgrounds (2019).
- **All people from culturally and linguistically diverse backgrounds** — easy-to-read online safety advice translated into 22 different languages on eSafety's website; and over 600 Be Connected digital literacy resources and webinars translated into eight languages.

Assistance for multicultural individuals experiencing online harms

Under the *Online Safety Act 2021* (Cth) (the Act), eSafety also administers complaints-based regulatory schemes to address:

- cyber-abuse material targeted at an Australian adult (adult cyber abuse)
- cyberbullying material targeted at an Australian child (cyberbullying)
- the non-consensual sharing of, or threat to share, intimate images (image-based abuse)

- illegal and restricted content.

The cultural context of harmful material reported under eSafety's schemes can be relevant to our assessment as to whether it meets the applicable legislated thresholds. For example, the use of ethnic slurs in a post may be considered as a relevant factor in determining whether the content meets the threshold of adult cyber abuse, and the depiction of a person without their usual attire of religious or cultural significance is relevant in determining whether image-based abuse can be made out under the Act. It should be noted that, where adult cyber abuse material is hateful in nature, it is only actionable by eSafety when targeted at an Australian adult, rather than a group.

Where relevant thresholds are met, eSafety can issue removal notices to the online service on which the content is posted and the hosting service provider that hosts the content on the service. Depending on the scheme, there may be other options available. For example, where adult cyber abuse, cyberbullying or image-based abuse are established, eSafety can require removal by the end-user responsible for posting it. Under both the child cyberbullying and image-based abuse schemes, eSafety can exercise powers compelling a perpetrator to take certain remedial actions, such as refraining from posting further material. More information can be found in our Compliance and Enforcement Policy.

A failure to comply with these notices attracts civil penalties.

In addition to formal action, we work with online service providers and others to achieve positive outcomes for victims and survivors of online harm. This support may involve facilitating rapid removal of abusive content posted online; referrals to law enforcement, mental health providers or legal services; and providing tips and strategies for how to mitigate further harm.

We recognise it can be confusing for people who have experienced online harm to know where to go for help, as the types of online content that can be reported to eSafety could, in some circumstances, also amount to:

- a criminal offence which could be reported to law enforcement
- a civil cause of action which could be pursued in court
- a form of discrimination, hate, or vilification which could be reported to an anti-discrimination body at the state/territory or Commonwealth level.[1]

Accordingly, as highlighted within the Review's terms of reference, collaboration and coordination between the range of services working to support multicultural communities at the intersection of these different types of online harms is crucial.

In addition to our complaints-based schemes for individuals, the Act empowers eSafety to regulate the systems and processes of the online industry through the Basic Online Safety Expectations and co-regulatory industry codes and standards. The Australian Government is expected to conduct an

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[1] This is canvassed in more detail in eSafety's October 2023 submission to the Victorian Government's review of protections against vilification, hate speech, and hate conduct.

independent review of the Act throughout 2024. eSafety will be closely working with the Australian Government to ensure the Act remains fit for purpose and adequately reflects the needs and expectations of all Australians, including those most at risk of harm.

Opportunities to help inform the review

eSafety is committed to ongoing research, improvement and translation of our resources to ensure accessibility for people from culturally and linguistically diverse backgrounds.

I welcome the opportunity for eSafety to continue to engage with the Review Panel on this important issue and would welcome eSafety's involvement in any upcoming roundtables that are hosted as part of this consultative process.

Yours sincerely,

Julie Inman Grant
eSafety Commissioner