

29 March 2014

The Director
Cyber Safety Policy and Programs
Department of Communications
GPO Box 2154
CANBERRA ACT 2601

via email: onlinesafety@communications.gov.au

To whom it may concern

Public consultation process regarding *Enhancing Online Safety for Children*

The Federation of Ethnic Communities' Councils of Australia (FECCA) welcomes the opportunity to make a submission to the public consultation process regarding *Enhancing Online Safety for Children*.

FECCA is the national peak body representing Australians from culturally and linguistically diverse (CALD) backgrounds. FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to the Australian Government and the broader community. FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism, so as to build a productive and culturally rich Australian society. FECCA's policies are designed around the concepts of empowerment and inclusion, and are formulated with the common good of all Australians in mind.

FECCA has a dedicated Youth Advisory Committee that collaborates with key stakeholders on a range of matters pertaining to CALD youth in Australia. The Committee is currently undertaking a specific project focused on the issue of cyber-racism, carrying out this work in collaboration with the University of Technology, Sydney. The aim of the joint project is to explore the extent to which social media can be used positively to build community resilience in the face of cyber-racism.

On behalf of FECCA, I write specifically to urge the Department to consider, as part of its public consultation process, issues relating to cyber-racism as a subset of cyber-bullying, and the impact of such issues upon children and young people from CALD backgrounds. As per the framework of the public consultation

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process, FECCA provides the below advice for the Department's consideration on matters of particular relevance to young people from CALD backgrounds in the context of cyber-bullying.

Establishment of the Commissioner

With regard to the establishment of the Children's e-Safety Commissioner role, FECCA supports the implementation of option two (as per the discussion paper), advocating for the creation of an independent statutory office, with administrative support from an existing government agency.

FECCA views this option as best allowing for synergies in policy development and inter-agency exchange to ensure broad compliance to, and awareness of, the Commissioner's role and functions. This is particularly relevant to complaints handling mechanisms and the need to ensure consistency and transparency with responding to complaints and providing advice on best practice models and how these should be implemented.

As a caveat to this recommendation, FECCA highlights the need for the Commissioner's office to maintain independence through undertaking its various functions and work with industry, state and territory agencies (including law enforcement and education agencies), to deliver on outcomes that would be effectively geared towards enhancing online safety for children without compromise.

Form of Complaints

With regard to the type of information collected from complainants in assessing their eligibility under the proposed scheme, FECCA advocates the need for information to be sought around the cultural, linguistic and/or religious background of the complainant, to identify potential instances of cyber-racism and effectively respond to these. FECCA also believes that gathering such information will allow for the processing of complaints with minimal further investigation required, based upon determining a clearer initial picture of a complainant's specific circumstances.

Given the nature and impact of issues concerning cyber-racism as a subset of cyber-bullying, FECCA highlights the importance of allowing complainants the ability to self-identify with relation to their cultural, linguistic or religious background, to indicate instances where these specific factors have led to a violation of

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online safety. In addition to effectively highlighting trends relating to cyber-racism, FECCA believes that identifying violations of online safety on the basis of culture, religion and/or language will also assist in developing targeted strategies to prevent future instances of cyber-racism.

FECCA also highlights the need for the proposed standardised online form used to collect complaints to be accessible to CALD complainants. This should be facilitated through the provision of translation and interpreting services to complainants of non-English speaking backgrounds, and for information about making a complaint to be made available in key languages. It is imperative that languages for translation are identified on the basis of need, as per any available evidence suggesting higher incidence of cyber-racism or cyber-bullying experienced by particular cultural, religious or linguistic groups.

Process for Complaints Handling

Regarding additional factors to be considered in relation to the proposed statutory test that complainants would be required to undertake, FECCA advocates the need for cultural and religious implications to be considered, with particular focus on relevant provisions of the Racial Discrimination Act 1975 (the Act).

In this context, FECCA draws particular attention to Section 9(1) of the Act, which states:

It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

In addition, FECCA highlights the need for recognition of Section 18C(1) of the Act, which states:

It is unlawful for a person to do an act, otherwise than in private, if:

- (a) the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and

(b) the act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group.

FECCA strongly urges the need for recognition and adherence to the above provisions around the handling of complaints on matters concerning cyber-racism, to ensure due recognition of their harmful impact.

FECCA appreciates the opportunity to submit the above matters for the Department's consideration. For further information, please do not hesitate to contact the FECCA Office on (02) 6282 5755.

Yours sincerely



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FECCA Chair