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30 September 2022

Steering Committee of Industry Associations  
Online Safety.org

By submission: <https://onlinesafety.org.au/>

## **RE: Draft Consolidated Industry Codes of Practice for the Online Industry**

### **INTRODUCTION**

Thank you for the opportunity to express the Internet Association of Australia's (IAA) perspective on the Draft Consolidated Industry Codes of Practice for the Online Industry (Code). We recognise the work and effort of the industry associations in drafting the Code, and recognise the importance of having a sound Code that will address the issue of online safety in Australia. As Internet usage becomes more ingrained in our every day living, IAA acknowledges the role that the Internet industry must play to ensure an appropriate balance between protecting individuals from harmful and offensive material, preserving individuals' freedoms, and appropriate responsibility placed on the Internet industry.

IAA's membership is largely comprised of small to medium Internet Service Providers. As such, our response will largely pertain to Schedule 7 - Internet Carriage Services Online Safety Code (Class 1A and Class 1B Material).

### **OUR RESPONSE**

In general, IAA agrees with the measures proposed for ISPs under the Code. We appreciate the recognition that as ISPs generally don't have control over or dealing with what content is distributed to the end-user, and thus responsibilities should be reflective of the specific role and function ISPs play in the Internet eco-system.

However, there are certain compliance measures which do not reflect this principle. Furthermore, we believe the Code should provide greater clarity in certain areas to ensure effectiveness and ease the burden of compliance for ISPs.

### **MINIMUM COMPLIANCE MEASURE 6**

IAA opposes the proposed minimum compliance measure 6 which sets out a requirement for all ISPs to notify hosting service providers if the ISP becomes aware of alleged class 1A material being hosted. If such a measure is to come into place, it should be specifically and only in circumstances where the hosting service provider hosting the alleged class 1A material is a direct customer or direct partner of the ISP. This reduces burdens on the ISP having to take "reasonable steps" to identify and obtain the email address of a potentially random hosting provider the ISP does not have any relationship with.

While we appreciate that this measure seeks to foster cooperation and collaboration with other industry participants, the Internet industry is not a law enforcement network and industry participants should not be made to take on the role of general policing of the Internet. If an ISP becomes aware of such offensive material that exists on an unknown or unrelated hosting service provider, a mechanism should be set in place for the ISP to report the material to a central reporting body that is properly resourced and able to take the steps to ensure such material can be removed.

## **MINIMUM COMPLIANCE MEASURE 14**

We believe that there should be limited circumstances wherein ISPs are requested to submit a Code report to eSafety. For example the circumstances could be limited to where there have been complaints specifically against the ISP, where eSafety is aware of class 1A or 1B material that was distributed online involving the ISP's direct customer carriage services (ie through that of a directly connected hosting provider or retail customer) and eSafety believes the ISP's report will be cogent and relevant to better understanding the nature of harmful material being distributed online, or where the ISP's report is necessary to help the uplift of safety measures for the industry as a whole and the preparation of a report will not be unreasonably burdensome for the ISP.

This is in recognition of the specific role that ISPs play in the Internet industry. To reiterate, due to their limited interaction with the content, the measures which ISPs must comply with should be similarly limited to relevant and appropriate circumstances.

## **HEAD TERMS**

At clause 7.2(b) under Head Terms, we believe the requirement for all industry participants to keep records of compliance measures for "reasonable period" is too vague and clarity should be provided. IAA is open to further industry collaboration on what that reasonable period should be but by way of a proposal, a period of two years could ease regulatory burdens on the telecommunications sector by setting out a time period consistent with other data retention laws applicable to the sector.

## **CONCLUSION**

Once again, IAA appreciates the opportunity to contribute to the Draft Consolidated Industry Codes of Practice for the Online Industry. We reiterate our recognition of the importance of having sound and effective rules to ensure the safety of the Internet, as well as our appreciation of the great amount of work that has gone into drafting separate requirements in recognition of the various sections of the Internet industry. We sincerely look forward to continued cooperation and collaboration with industry, regulators, and other stakeholders to ensure a measured, and effective Code that will best serve all Australians.

## **ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA**

The Internet Association of Australia (IAA) is a member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the

Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IX-Australia is a service provided by the Internet Association of Australia to Corporate and Affiliate members. It is the longest running carrier neutral Internet Exchange in Australia. Spanning six states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

IAA is also a licenced telecommunications carrier, and operates on a not-for-profit basis.

Yours faithfully,

Narelle Clark  
Chief Executive Officer  
Internet Association of Australia