

Digital Industry Group
<https://onlinesafety.org.au/>

Submission on Online Safety Codes

Thank you for the opportunity to consider the draft Online Safety Codes.

WESNET provides comments on the basis of its role as the national peak body for specialist women's domestic and family violence services. With almost 350 eligible members across Australia, WESNET represents a range of organisations and individuals including women's refuges, shelters, safe houses and information/referral services. WESNET is also recognised as the leading non-government organisation specialising in the intersection of family violence and technology abuse.

While the codes reflect and are consistent with the *Online Safety Act 2021* and the eSafety Commissioner's *Development of industry codes under the Online Safety Act position paper*, WESNET raises the same issues it has raised regarding the regulatory and policy approach to technology safety in the context of domestic and family abuse more generally. Neither the legislation, nor the codes, are adequate in addressing technology safety as it applies to those victimised by an intimate partner, former partner or other family member.

That said, the codes do offer the opportunity to improve some elements of online safety. WESNET is very pleased to see many technology providers taking proactive measures to lessen harms, and potential harms, to women and children. The key points WESNET wishes to make are outlined below.

The framework is not appropriate in the context of preventing or providing remedies for technology abuse in the context of domestic violence.

Limiting these codes to actions to address material classified as 1A and 1B based on the classification of films, video games and publications, serves to position those harmed (or potentially harmed) by technology as passive consumers of a product. This classification system does not sit comfortably with many of the sectoral codes, including social messaging services, relevant electronic services, distribution of applications, or the manufacturing and supply of equipment (such as tracking devices or applications). While CSEM may be clearly identifiable within the classification system, tailored behaviours intended to intimidate and threaten any particular child or adult (such as via social messaging or media sites), or the use of technology for abusive purposes (such as tracking or impersonation) is not.

The draft Codes should apply a human rights and intersectional lens to harm, and to depictions of crime and violence.

While these Codes - if restricted to the provisions of the Online Safety Act - are limited in their ability to address individual instances of family and domestic violence, they should be able to more effectively address materials that depict or promote hate crimes, misogyny and violence against women and children. Harms done to women and children do not happen in a vacuum, but against a backdrop of power imbalances and inequality, and gender inequality is the main driver of gender-based violence.¹ Multiple oppressions combine to increase the magnitude of potential harms, including in relation to race, ability, ethnicity, sexuality and gender identity.

Online material that promotes hate crimes and violence against women and children should be considered of a higher magnitude of potential societal harm than many other violent and criminal acts. As the limiting of depictions of drug use is considered appropriate based on public health concerns, so should the depiction or incitement of violence against women given its massive disease burden. In 2018, for women aged 15 to 44 years, intimate partner violence was ranked as the fourth leading risk factor for total disease burden.²

The increased magnitude of harms - and, indeed, criminality - associated with hate crimes (including gender-based violence) needs to at the very least be acknowledged in the discussion around risk assessments in the Head Terms. Research has shown that hate crime victimisation is harmful for victims and those who share the victim's identity, as well as harmful for the broader community.³

The draft Codes should take the opportunity to educate and provide guidance with respect to the intersection of technology abuse and domestic and family violence.

While we understand that the enforceability of these codes operates within the limited remit of the Online Safety Act, and apply only with respect to classifications 1A and 1B, in our view there is nothing to preclude them serving a broader educative role and provide general guidance.

While non-consensual image-based abuse and cyberbullying - which form only some types of technology abuse perpetrated by domestic and family abusers - can be referenced to other parts of the Act, the safety of women and children more generally who are known to be most vulnerable to technology abuse should be a cohesive theme throughout all educative and guidance materials relating to the Act. Technology providers must be encouraged by all available means to have in place mechanisms to respond to and protect victims of domestic and family violence.

¹ Our Watch, [Prevention Handbook](#), Australian Government.

² AIHW (Australian Institute of Health and Welfare) (2021) [Australian Burden of Disease Study: Impact and causes of illness and death in Australia 2018](#), Australian Government.

³ Chloe Keel, Rebecca Wickes & Kathryn Benier (2022) The vicarious effects of hate: inter-ethnic hate crime in the neighborhood and its consequences for exclusion and anticipated rejection, *Ethnic and Racial Studies*, 45:7, 1283-1303, DOI: 10.1080/01419870.2021.1930094.

Complementary codes need to be developed

Complementary codes need to be developed as provided under the Act (for example s.138 (3)(l) to (q)), specifically to include reference to gender-based and domestic and family violence, not limited by the classification system, and in consultation with domestic and family violence specialist services. Telecommunication companies, among others, are doing valuable work in developing shared approaches - for example, Telstra, Optus, TPG Telecom, Vocus Group and Aussie Broadband have [pledged to continually improve their support of domestic and family violence \(DFV\) victim-survivors](#) - but more can be done to drive change across the online sector, in a way that fair and consistent and is underpinned by the regulatory framework.

Thank you again for consulting on the codes. We would very much welcome the opportunity to be involved on a continuing basis, and see great value in this work evolving to be more inclusive of the unique needs and circumstances of women and children escaping violence.

Your sincerely

Signed



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