

5 April 2023

Queensland Department of Justice and Attorney-General

Via email: FCCActReview@justice.qld.gov.au

Re: Review of the Family and Child Commission Act 2014

The eSafety Commissioner (eSafety) welcomes the opportunity to provide a submission to the Queensland Department of Justice and Attorney-General's review of the effectiveness of the *Family and Child Commission Act 2014*.

As Australia's regulator for online safety, eSafety's core objective is to minimise harm to Australians online. We share a common goal with the Queensland Family and Child Commission (QFCC) to promote the safety and best interests of children and ensure they have access to responsive services and support.

eSafety's engagement with QFCC

We note that the Terms of Reference for the review includes an examination of the powers and functions of the QFCC and its coordination with other entities.

Over the past several years, eSafety has been in contact with the QFCC and has engaged face-to-face on several occasions. eSafety last met the QFCC in September 2022 for an update on current work priorities and areas of mutual interest. There was significant sharing of learning from both agencies regarding our respective youth advisory councils.

eSafety and the QFCC also both sit on a quarterly cyberbullying roundtable facilitated by Kids Helpline for the purpose of information sharing and trying to problem solve current issues around cyberbullying.

These engagements have been beneficial in developing a holistic and coordinated response by government agencies to ensure the best interests of families and children. We would welcome ongoing engagement with the QFCC to bolster our work activities and continue producing positive outcomes.

Establishment of an eSafeQ Commissioner in Queensland

Regarding the Queensland Sentencing Advisory Council's recommendation for establishing an eSafeQ Commissioner in Queensland (Recommendation 11), we would firstly welcome the full detail of the proposed scope, functions and powers that would be provided for such a position, noting the risks of duplication and fragmentation with eSafety's work.

Since being formed in July 2015 (as the then Children's eSafety Commissioner), we have been leading the national response to online safety in Australia. This includes coordinating, educating and advising on online safety issues amongst government, industry and the broader community. We develop resources and programs that are made specifically for

family and children, and we regularly engage with this community through our public consultation and research work programs.

Our legislative powers have also strengthened and expanded over this time. Under the *Online Safety Act 2021* eSafety administers four regulatory complaints and investigations schemes, including cyberbullying of children, cyber abuse of adults, the non-consensual sharing of intimate images, and illegal or restricted online content. We have powers to regulate online services' broader systems and processes, including through the development of new [industry codes](#) to combat illegal and restricted content and through the Australian Government's [Basic Online Safety Expectations](#).

We also have a memorandum of understanding (MoU) with Queensland Police Force to address how and under what circumstances eSafety will flag potential threats to families and children, such as where a matter reported to us as image-based abuse appears to involve grooming, or where child sexual exploitation material depicts an identifiable child or offender.

Pending details about the scope of the proposal, we are concerned that having online safety Commissioners at both the Federal and State level could result in a number of issues, including inefficiencies, duplication of efforts, burden for regulated entities, and confusion for the wider public about where to go when needing help.

eSafety has been tasked with primary responsibility to drive a nationally coordinated and consistent approach to online safety. The borderless nature of the internet and the Commonwealth's involvement in various international treaties in this area, reinforced by constitutional powers, necessitate a national leadership role, representing the interests of all the states and territories. For example, eSafety interfaces with international hotlines, regulatory bodies, NGOs, online services and overseas government agencies focused on online safety. In addition, providing a single place to go for online safety resources and reporting minimises the potential for confusion and provides online services with a single and direct point of contact.

Leveraging our suite of legislative powers and existing resources and research, we would welcome further discussions with the Queensland Department of Justice and Attorney-General on how we can best coordinate responses to online safety issues between Federal and State levels.

Yours faithfully,



Julie Inman Grant

eSafety Commissioner