

6th December 2021

Attorney-General's Department
4 National Circuit
Barton ACT 2600

To: Attorney-General's Department – Consultation Hub

Re: Online Privacy Bill Exposure Draft

Suicide Prevention Australia welcomes the opportunity to provide input into the Privacy Legislation Amendment (Enhancing Online Privacy and Other Measures) Bill 2021. We strongly support the introduction of an Online Privacy code (OP code). However, we have concerns about unintended impacts on the online support communities hosted by some of our members.

Suicide Prevention Australia is the national peak body for suicide prevention, we have over 400 members including the largest, and many of the smallest, suicide prevention and mental health organisations across Australia.

Some of our members host online support communities that include, or may be specifically for, children and young people. Such forums provide a supportive and safe space where young people are able to read what others are saying about similar situations, ask questions, and connect. As such they potentially fall under the definition of “social media services”.

Our understanding is that the OP code is not intended to apply to not-for-profit organisations. The Explanatory Paper states that:

“It is proposed that the OP code will apply to the following categories of *private sector organisation* that are already subject to the Privacy Act...” [italics added]

However, the Bill in its current form could potentially apply to not-for-profit entities, as they are not excluded from the definition of OP Organisation under section 6W.

We are concerned that some of the proposed requirements of the OP Code, while appropriate in a private sector context, are unnecessary and detrimental in a not-for-profit support service context. For example, the requirements to verify the age of individuals who use the service, or obtain parental consent for those under 16, may result in young people not using the service. There is often stigma around seeking help for mental health or suicide concerns, and questions about personal data such as age, or requiring parental consent, can be a barrier to service usage which results in young people not accessing the support these online communities can provide.



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Even if it is argued that other sections of the legislation exclude online support communities, it is not sufficiently clear that this is the case. The resulting ambiguity would mean that not-for-profit entities would be compelled to apply the code to mitigate the risk of penalties.

For these reasons we recommend that not-for-profit entities be explicitly excluded from the definition of OP Organisations in section 6W. We suggest the inclusion of a subsection similar to the following:

“However, an organisation is not an OP organisation for the purposes of subsections (1) - (4) if the organisation is a not-for-profit entity.”

An alternative to excluding not-for-profit entities would be to exclude from the operation of the code online communities that are primarily for the purpose of providing mental health and suicide prevention support. This would require the legislation to define this kind of online community, making the legislation more complex, but would have the advantage of being a more targeted exclusion.

Thank you again for the opportunity to provide input into Online Privacy Bill Exposure Draft. If you have any questions or would like further information, please contact Chris Stone, Policy Manager, on 0401-737-148 or by email: chriss@suicidepreventionaust.org.

Yours sincerely,



Nieves Murray
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Suicide Prevention Australia