Relationships AUSTRALIA

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30 October 2026

Committee Secretary
Senate Standing Committee on Environment and Communications

Submitted: by upload

Online Safety Amendment (Digital Duty of Care) Bill 2026

Thank you for the opportunity to make a submission on the Online Safety Amendment (Digital Duty of Care) Bill 2026 (the Bill).

Relationships Australia has previously expressed support for a comprehensive digital duty of care. We support measures to curtail commercial incentives to exploit online risks in ways that have caused, and continue to cause, serious and enduring harm to individuals, families and communities. Relationships Australia particularly welcomes the recognition, in the Bill, of Government's critical role in preventing and remediating psychosocial harm to children, and centring Australia's obligations under the Convention on the Rights of the Child.[1] The establishment of a statutory duty of care, anchored to reasonably foreseeable risks, is grounded in long-established legal orthodoxy about product safety and the scope of persons to whom duties should be owed by those in the businesses of making and marketing products.

Recommendations

Recommendation 1	That entities identified as carrying out – and hosting or otherwise enabling – online scams should also be subject to the Duty.
Recommendation 2	That the Bill be amended to better support integrated regulation.
Recommendation 3	That the Bill be amended to empower the Commonwealth Ombudsman to oversee the exercise of the Commissioner's coercive powers (see, eg, those set out in Division 2 of Part 1).
Recommendation 4	That the Commissioner be subject to an ongoing obligation to publish data about the effectiveness of the Duty, completed investigations using the Commissioner's investigatory powers, and penalties imposed for breaches of the Duty.
Recommendation 5	That Government consider providing greater detail about what decision-makers must consider when making delegated legislation under these provisions.
Recommendation 6	That the Bill be amended to impose on online service providers obligations to ensure that staff responding to users of their services, or people harmed by users of those services, are properly equipped

[1] See, eg, Explanatory Memorandum, p 17.

and supported to engage in such interactions, to ensure that fresh harm is not inflicted by these mechanisms.

Recommendation 7	The establishment of an industry ombudsman as a much needed adjunct to the complaints and dispute resolution mechanisms.
Recommendation 8	That the Bill create a statutory cause of action, enabling individuals to bring actions for compensation from online providers.
Recommendation 9	That civil penalties recovered through enforcement action under this Bill be invested back into the regulators to support their capacity to carry out the functions with which Parliament has charged them.
Recommendation 10	That the Bill be amended to provide for a statutory review one year after it comes into operation to promptly identify any unintended consequences, and every three years thereafter to ensure the Duty remains contemporary.
Recommendation 11	That the Bill be amended to make clear that the creators of an AI agent would be subject to the Duty in respect of the AI agent's activities.
Recommendation 12	That subsection 25D(1) be amended to include encouragement, promotion, incitement or instruction in violence based on a broader range of protected attributes.
Recommendation 13	That subsection 25D(1) be expanded to also expressly include domestic and family violence, child maltreatment, and abuse or mistreatment of older adults, as well as behaviours used to exert coercive control (such as covert surveillance).
Recommendation 14	That the Bill impose on online service providers an obligation to engage in workforce development in technology-facilitated abuse, including cyberstalking, surveillance and image-based abuse.
Recommendation 15	That the definition of seriously harmful material or conduct be expanded to include gambling advertising.
Recommendation 16	That paragraph 25E(1)(da) should be strengthened by insertion of a further paragraph referring to material or conduct that encourages, promotes or instructs children in gambling.
Recommendation 17	That the Bill be amended to formally require the Commissioner to consult with children and young people on their experiences online, as part of (a) developing legislative instruments and rules in the lead up to commencement of the Duty, and (b) monitoring the effectiveness of the Duty.
Recommendation 18	That consideration be given to whether some examples could usefully be included at section 27 to illustrate the breadth of the provision.

Recommendation 19	That the Bill be amended to require independent oversight and governance of the creation and use of sock puppet identities by the eSafety Commissioner, including through the use of warrants.
Recommendation 20	That detailed reports on the use of the powers in each year be provided to the Commonwealth Ombudsman as recommended in ***Recommendation 3.***
Recommendation 21	That the EM be amended to clarify why different approaches are taken in relation to the powers contained in sections 28A and section 205C.
Recommendation 22	That section 192M be clarified.
Recommendation 23	That the role of the adviser in section 201 be clarified.
Recommendation 24	That the Bill be amended to explicitly require reporting on the use of sock puppet identities by researchers, in addition to strengthening the reporting obligations of the Commissioner, as discussed above.

The work of Relationships Australia

Relationships Australia is an Australian federation of community-based, not-for-profit organisations with no religious affiliations, which have served families and communities for over 75 years. Our services are for all members of the community, regardless of religious belief, age, gender, sexual orientation, cultural background, lifestyle choices, or economic circumstances. Relationships Australia provides services for victim survivors and people who use domestic, family, sexual and other interpersonal violence, including abuse and neglect of older adults.

In 2024-25, Relationships Australia member organisations served more than 156,000 clients across more than 90 locations and 97 outreach locations. Our staff of over 2,000 offer more than 300 unique services/programs, and contribute to journal articles, conference presentations and submissions to parliamentary enquiries, all of which reflect and amplify what we learn from clients and through research projects,[2] to support legislative and policy development, and continuous improvement and innovation in service delivery. Our services include:

- Specialised Family Violence Services (including for children and young persons)[3]
- individual, couples, children's, and family counselling
- Children's Contact Services (services which provide supervised contact and changeovers for high risk families)

[2] Relationships Australia (2025) Annual Impact Report for Families and Children Activity Services. Accessible at https://www.relationships.org.au/wp-content/uploads/RA-Impact-Report-2024-25.pdf

[3] For example, Safe, Empowered and Re-connected, delivered by Relationships Australia Northern Territory and funded by the Department of Social Services: see Annual Impact Report, 2024-2025.

- Family Mental Health Support Services, headspace (youth mental health) services and other mental health (including suicide prevention) services and programs
- services designed for men, including programs to support parenting capacities and resources, Men's Behaviour Change Programs, and tailored programs such as the Respectful Relationships Program for Indigenous clients[4]
- a range of tailored services for older Australians, including senior relationship services, dispute resolution for older adults, dedicated case management and mediation services designed to address elder abuse, social connection services and mental health services in residential aged care
- family law counselling, mediation and dispute resolution, and post-separation services for parents and children
- therapeutic and case management services to applicants for Redress Support Services, Forgotten Australians, Forced Adoption Support Services, Intercountry Adoptee Family Support Service, and Post Adoption Support Services, and
- gambling help services.

This submission builds on analysis and recommendations presented in submissions that Relationships Australia has made in relation to:

- online safety (including the statutory review of the *Online Safety Act 2021*) and the National Classification Scheme
- protection of children from sexual abuse (eg on the Second Action Plan under the *National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030*)
- domestic, family and sexual violence (DFSV) and gender-based violence (GBV), including submissions about:
    - the Second Action Plan under the *National Plan to End Violence Against Women and Children 2022-203*
    - the *National Plan to End Abuse and Mistreatment of Older People 2026-2036*
    - the Inquiry by the Standing Committee on Social Policy and Legal Affairs into the relationship between DFV and suicide
    - the Criminal Code Amendment (Deepfake Sexual Material) Bill 2024, and
    - the inquiry of the Australian Law Reform Commission into justice responses to sexual violence (Issues Paper 49)
- violence based on other protected attributes (such as violence, abuse, neglect and exploitation based on age, disability and race), and
- harmful gambling (most recently, our submission to the inquiry of this Committee into the Interactive Gambling Amendment (Gambling Reform) Bill 2026).[5]

[4] This program, delivered by Relationships Australia Northern Territory in partnership with Darwin Indigenous Men's Service, helps Indigenous men to undertake an exploration of the meaning of respect.
[5] Submissions by Relationships Australia National Office are accessible at https://www.relationships.org.au/research/#advocacy

Framing principles of this submission

Principle 1 Human rights as the non-negotiable foundation of policy

Relationships Australia contextualises its services, research and advocacy within imperatives to strengthen connections between people, scaffolded by a robust commitment to human rights. Relationships Australia recognises the indivisibility and universality of human rights and the inherent and equal freedom and dignity of all. In our 2023 submission to the inquiry by the Parliamentary Joint Committee on Human Rights into Australia's human rights framework, we recommended that Government should introduce a Human Rights Act that provides a positive framework for recognition of human rights in Australia.

Relationships Australia supports measures to enhance the enjoyment of human rights in Australia, and restrictions on those rights which are reasonable, proportionate and no more restrictive than necessary to achieve legitimate policy objectives.

Children and young people as rights bearers

Relationships Australia has welcomed several recent Government initiatives supporting the rights, well-being and best interests of children and young people; in particular, recent amendments of the *Family Law Act 1975* and the recent reference to the Family Law Council.[6]

Relationships Australia's services engage directly with children and young people, and their families, to provide a range of supports, services and education programs. We provide specialist counselling and related services to children who have experienced a range of adverse child experiences. We operate headspace youth mental health services at several locations and deliver a range of other services dedicated to supporting children and young people in specialised circumstances and contexts; for example, children and young people who are carers, children in ADF families, and children who have experienced DFSV and other forms of child maltreatment.

Principle 2 – Lived and living expertise are prerequisites of effective policy

Centring lived expertise, through authentic co-design,[7] enhances the transparency and public accountability in policy and programme development, and the efficiency of government services, by supporting delivery of outcomes that are valued by service users, not just administrators. Further, where reform bears directly on people's lives and addresses recognised public health issues (which is how Relationships Australia characterises harms that are enabled or exacerbated by engaging online), rigorous scrutiny and testing of proposed amendments with the constituency is not merely a procedural nicety, but a substantive safeguard.

[6] Noting that the Australian Government has yet to respond to this report.

[7] For discussion of the abasement of the term 'co-design', particularly in First Nations policy, see eg Butler, T., Anderson, K., Black, O., Gall, A., Ngampromwongse, K., Murray, R., Mitchell, L., Wilkinson, K., Heris, C., Whop, L. J. (2025) Co-design Versus Faux-Design of Aboriginal and Torres Strait Islander Health Policy: A Critical Review.

Ongoing co-design will be necessary to continue to inform and refine the operation of the digital duty of care (the Duty).

Principle 3 An expanded understanding of diverse ways of being and knowing

Relationships Australia is committed to working with Aboriginal and Torres Strait Islander people, families and communities. Relationships Australia is also committed to enhancing the cultural responsiveness of our services to other culturally and linguistically marginalised individuals, families and communities. Our commitment to human rights necessarily includes a commitment to respecting epistemologies beyond conventional Western ways of being, thinking and doing.

Principle 4 Accessible and inclusive public institutions, regulation and service delivery are integral to enjoyment of human rights

Relationships Australia is committed to universal accessibility of services, as well as inclusive and culturally safe services. Our clients (and staff) experience stigma, marginalisation and exclusion arising from diverse circumstances and positionalities.

Fragmentation as a violation of human rights

The commitment of Relationships Australia to accessibility underpins our advocacy for legislation, systems and processes that lift from the shoulders of those least equipped to bear them the burdens of fragmented, siloed, complex and duplicative or inconsistent laws, policies, programmes, and administering entities. Forcing service users to shoulder the burden of fragmentation is the opposite of trauma-informed and person-centred, and undermines human rights. Silo-bound, fragmented legislation, policy and practices impose an overwhelming array of burdens on children and their families in vulnerable circumstances.

Complexity of regulation is a form of fragmentation and a barrier to inclusive policy

Relationships Australia welcomes the Government's acknowledgement that:

> *However, the way industry sections are defined and the need for section specific codes or standards in the Act creates additional regulatory complexity and cannot easily accommodate future technological changes and developments.* (Explanatory Memorandum, p 3)

Accordingly, we support the removal of existing Basic Online Safety Expectations and Online Safety Codes and Standards framework, and their replacement with a single duty of care. We also welcome the most recent amendments of the Bill to clarify the relationship between the content of the Duty and the National Classification Scheme.

Principle 5 Relational wellbeing is a public health outcome in its own right

Relationships are not merely a proxy for other wellbeing measures; they are a primary determinant of safety, health and social and economic participation. A whole of life course approach includes when people are children in a family, when they are out on their own and single, when they're in couples or other relationships, when they are parents of children and

adolescents. This is rarely a linear progression in contemporary Australia. Relational wellbeing across the lifecourse and through periods of transition is a prerequisite of population health.

Building capacity for safe and meaningful relationships starts at infancy and extends through early childhood and adolescence. Increased awareness and apparent prevalence of adolescents using violence in the home, and of children and young people engaging in sexual violence against other family members and their peers, underscore the importance of capacity building for relational health at this developmental stage.[8] Throughout early, middle and late adulthood, preventing relational distress and supporting relational health and skills development pays powerful dividends in scaffolding a flourishing, cohesive community, and permanently disrupting intergenerational cycles of dysfunction, violence, and exclusion.

Accordingly, Relationships Australia has previously recommended universally accessible relational wellbeing and social connection programmes as prevention of GBV, child maltreatment and abuse of older adults. It is also a key ingredient in social cohesion.

Principle 6 Social connection and relational wellbeing as a public health imperative

Loneliness is a complex social problem and a public health concern. Like poverty, it is a social determinant of health in its own right. It stems from dissatisfaction with our relationships, a lack of positive and respectful relationships, or both of these. It is often caused by experiences of exclusion due to structural and systemic social inequities that form obstacles to participation in social, economic, cultural and political life, as well as access to health and social care.[9] As a public health concern (Heinrich & Gullone, 2006; Mance, 2018; AIHW, 2019),[10] loneliness has

[8] See, eg, Fitz-Gibbon, K., Meyer, S., Boxall, H., Maher, J., & Roberts, S. (2022). Adolescent family violence in Australia: A national study of prevalence, history of childhood victimisation and impacts (Research report, 15/2022). ANROWS https://anrows-2019.s3.ap-southeast-2.amazonaws.com/wpcontent/uploads/2022/09/06192210/RP.20.03-RR1_FitzGibbon-AFVinAus.pdf

[9] See, eg, Hawkley, L C, Zheng, B, Song, X. Negative financial shock increases loneliness in older adults, 2006–2016: Reduced effect during the Great Recession (2008–2010), Social Science & Medicine, Volume 255, 2020, https://doi.org/10.1016/j.socscimed.2020.113000; Herchenroeder, L., Post, S. M., Stock, M. L., & Yeung, E. W. (2022). Loneliness and Alcohol-Related Problems among College Students Who Report Binge Drinking Behavior: The Moderating Role of Food and Alcohol Disturbance. *International Journal of Environmental Research and Public Health*, *19*(21), 13954. https://doi.org/10.3390/ijerph192113954; Johar, H., Atasoy, S., Beutel, M. *et al.* Gender-Differential Association Between Loneliness and Alcohol Consumption: a Pooled Analysis of 17,808 Individuals in the Multi-Cohort GESA Consortium. *Int J Ment Health Addiction* 23, 1–23 (2025). https://doi.org/10.1007/s11469-023-01121-y; Wakabayashi, M., Sugiyama, Y., Takada, M., Kinjo, A., Iso, H., & Tabuchi, T. (2022). Loneliness and Increased Hazardous Alcohol Use: Data from a Nationwide Internet Survey with 1-Year Follow-Up. *International Journal of Environmental Research and Public Health*, *19*(19), 12086. https://doi.org/10.3390/ijerph191912086; Wang J, Mann F, Lloyd-Evans B, Ma R, Johnson S. Associations between loneliness and perceived social support and outcomes of mental health problems: a systematic review. BMC Psychiatry. 2018 May 29;18(1):156. doi: 10.1186/s12888-018-1736-5. PMID: 29843662; PMCID: PMC5975705 .

[10] Heinrich L & Gullone E (2006). The clinical significance of loneliness: A literature review. Clinical Psychology Review 26:695–718; Holt-Lunstad J, Smith T, Baker M, Harris T & Stephenson D (2015). Loneliness and Social Isolation as Risk Factors for Mortality: A Meta-Analytic Review. Perspectives on Psychological Science 10:227–37; Mance, P. (2018). Is Australia experiencing an epidemic of loneliness? Findings from 16 waves of the Household

been linked to physical health risks such as being equivalent to smoking 15 cigarettes a day and an increased risk of heart disease.[11] Loneliness is a precursor to poorer mental health outcomes, including increased suicidality.[12]

Relationships Australia has a particular interest in addressing isolation and loneliness as a prerequisite to relational wellbeing across the lifecourse. We are invested in supporting respectful and sustainable relationships within families, and within and across communities. Relationships Australia is uniquely positioned to speak on isolation and loneliness as we have clinical experience supporting clients who experience loneliness. In our clinical practice and our advocacy, we apply a social model of loneliness which recognises systemic and structural barriers that inhibit people from making fulfilling social connections and from participating as fully as they would wish in all facets of our community.

Relationships Australia has conducted pioneering research into who experiences loneliness (eg Mance, 2018), and manages an independently evaluated social connection campaign, Neighbours Every Day.[13] This campaign is mentioned in the National Suicide Prevention Strategy 2025-2035[14] and has been recognised by the World Health Organization as a rare example, globally, of an effective evidence-based intervention to promote social connection

Income and Labour Dynamics Survey.
https://relationships.org.au/pdfs/copy_of_Anepidemicofloneliness20012017.pdf

[11] Valtorta, N., Kanaan, M., Gilbody, S., Ronzi, S., & Hanratty, B. (2016). Loneliness and social isolation as risk factors for coronary heart disease and stroke: systematic review and meta-analysis of longitudinal observational studies. Heart, 102(13), 1009-1016. See also Pressman S D, Cohen S, Miller G E, Barkin A, Rabin B S, Treanor J J. Loneliness, social network size, and immune response to influenza vaccination in college freshmen. Health Psychol. 2005 Jul;24(4):348. PMID: 15898866; Wootton, R. E., Greenstone, H. S. R., Abdellaoui, A., Denys, D., Verweij, K. J. H., Munafò, M. R., and Treur, J. L. (2021) Bidirectional effects between loneliness, smoking and alcohol use: evidence from a Mendelian randomization study. *Addiction*, 116: 400–406. https://doi.org/10.1111/add.15142

[12] Calati, R., Ferrari, C., Brittner, M., Oasi, O., Olié, E., Carvalho, A. F., & Courtet, P. (2019). Suicidal thoughts and behaviors and social isolation: A narrative review of the literature. Journal of Affective Disorders, 245, 653-667; McClelland, H., Evans, J. J., Nowland, R., Ferguson, E., & O'Connor, R. C. (2020). Loneliness as a predictor of suicidal ideation and behaviour: a systematic review and meta-analysis of prospective studies. Journal of Affective Disorders, 274, 880-896; Mushtaq, R. (2014). Relationship Between Loneliness, Psychiatric Disorders and Physical Health ? A Review on the Psychological Aspects of Loneliness. Journal of Clinical and Diagnostic Research. The campaign Ending Loneliness Together has released a guide that explains how community organisations can use validated scales to measure loneliness: https://endingloneliness.com.au/wpcontent/uploads/2021/08/AGuideto-Measuring-Loneliness-for-Community-Organisations_Ending-LonelinessTogether.pdf

[13] See https://neighbourseveryday.org/ . See also the evaluation report by Cruwys, T. & Fong, P. (2020). Neighbour Day in the time of the COVID-19 pandemic: A Special Report 2020. Relationships Australia and The Australian National University; Fong, P., Cruwys, T., Robinson, S., Haslam, A., Mance. & Fisher, C. (2021). Evidence that loneliness can be reduced by a whole-of-community intervention to increase neighbourhood identification. *Social Science and Medicine.* Vol 27.

[14] National Suicide Prevention Office. The National Suicide Prevention Strategy 2025-2035. Canberra: 2025, p 35. Accessible at https://www.mentalhealthcommission.gov.au/sites/default/files/2025-02/the-national-suicide-prevention-strategy.pdf

and address social isolation.[15] Relationships Australia is also a founding member of Ending Loneliness Together.[16]

Principle 7 There is a moral imperative for intergenerational stewardship

Fairness to future generations should not be viewed through a reductionist fiscal lens. As acknowledged in Australia's First National Wellbeing Framework (2023):

> *Measures beyond Gross Domestic Product (GDP), employment and other traditional economic indicators capture what is important to people, communities, and the country both now and in the future.'*[17]

Relationships Australia takes seriously obligations of stewardship for future generations, which transcend the national balance sheet and require us to invest in social infrastructure - tangible and intangible. The proposed Duty is a welcome addition to that infrastructure.

Harm prevention and intergenerational stewardship

Relationships Australia welcomes the acknowledgement in the Explanatory Memorandum that:

> *Outside of unlawful or age-restricted material, the approach to regulating online spaces to date has largely been to address harms once they occur, with the onus on individuals to act by reporting harmful content or taking steps to keep themselves safe online.* (Explanatory Memorandum, p 10)

Prevention is key to intergenerational stewardship and equity, and universally accessible services are a prerequisite of effective prevention. Universally accessible services provide a 'soft', approachable, and non-stigmatising entry into services. We know that cost and stigma can be insurmountable obstacles, deterring people from help-seeking for a wide range of health and social issues, including cyber-bullying, 'sextortion', harmful use of alcohol and other drugs, harmful gambling, child maltreatment, and abuse and mistreatment of older adults.[18]

Overarching comments

In earlier days of the online environment, people who experienced harms were often told to just turn off their devices and disengage from the online world, including social media. Such advice has long been untenable. Opting out of the online environment means exclusion from vital government services, from employment, education, and from significant slices of public life. At the same time, the size and speed of dissemination of harmful content increases exponentially, and the behaviour of online providers – particularly in terms of monetising rage, contempt and extreme behaviours – has been largely unfettered, unchecked and unaccountable.

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[15] World Health Organization, 2025, From loneliness to social connection - charting a path to healthier societies: report of the WHO Commission on Social Connection. Geneva. CC BYNC-SA3.0 IGO.
[16] For more information, see https://endingloneliness.com.au/
[17] See https://treasury.gov.au/policy-topics/measuring-what-matters
[18] See also response to Q1.2.

Platforms have built a prosperous economy of polarisation by commodifying rage, hatred and contempt. Relationships Australia practitioners link 'manosphere' content and violent or degrading pornography to normalised choking, sexual coercion, reduced understanding of consent and hostility to women, in adult men as well as boys. Prevention cannot rest on individual education alone: it must address online environments, the algorithms that target young people's vulnerabilities, and commercial incentives to exploit those vulnerabilities for profit.

It is past time for governments internationally to change the terms of the social license from which these entities have so richly profited, and fulfill the most fundamental role of governments: to protect individuals and smaller community units from harms against which they are unequipped to guard.

All hazards approach

Relationships Australia supports an 'all hazards' approach to the scope of the Duty. Accordingly, and consistent with our arguments to reduce fragmentation, Relationships Australia has previously advocated that the Duty extend to advertising of gambling services. There is a well-established evidence base demonstrating that gambling causes harm in a degree that comfortably clears the 'serious harm' threshold for adults, as well as the 'harm' threshold for children. That evidence base has been canvassed by us, in detail, in previous submissions (most recently, our submission to this Committee's inquiry into amendments of the *Interactive Gambling Act 2001*). We recommend that people who have experienced gambling harms – including children - should have the benefit of the proposed statutory cause of action (see ***Recommendation 15***; as well as comments in the table below on sections 25D and 25E).

Similarly, entities identified as carrying out – and hosting or otherwise enabling - online scams should also be subject to the Duty (***Recommendation 1***). In March 2026, the National Anti-Scam Centre reported that

> *In 2025, Australians made a combined total of 481,523 reports across these institutions remaining relatively consistent with 2024 volumes. Of these 274,577 reported financial losses of over $2.18 billion (a slight increase of 7.8%). This compares with a combined total of 494,732 reports and combined reported losses of over $2.03 billion in 2024. There has been an 11.2% increase in reports with a loss from 2024.*[19]

This is an enormous amount of money draining out of Australian households during a cost of living crisis. Online service providers hosting scam advertising must be held accountable, including through the Duty.

Integrated regulation

Government investment in enforcement of the Duty could be optimally leveraged by integrated regulation on the online world. At present, Government expenditure is splintered across

[19] National Anti-Scam Centre (2026). Targeting scams, p 4. Accessible at https://www.nasc.gov.au/system/files/targeting-scams-report-2025.pdf

multiple agencies, including the ACCC, ACMA, ASIC, eSafety Commissioner, AFP, and AUSTRAC (as the AML/CTF regulator). Fragmentation hinders timeliness, agility and coordination of discharge of functions. Relationships Australia recommends that the Bill be amended to better support integrated regulation (***Recommendation 2***). Resourcing for such regulation could be derived by more effective taxation structures applying to online actors which profit from Australians.

Regulatory oversight

The Bill confers extensive regulation powers and functions on the eSafety Commissioner. Relationships Australia has some concerns that the Bill's proposed mechanisms to provide transparency and accountability for the exercise of those powers are not proportionate to the potential effects of the Bill on limiting important rights and freedoms. For example, section 205M requires the eSafety Commissioner to provide an annual report

> *…summarising in general terms the Commissioner's activities under section 205J* [sock puppet activities] *during the previous financial year*[20]

We respectfully suggest that this obligation provides insufficient accountability for the use of a covert enforcement power which can lead to the imposition of sanctions. As a complement to our recommendation for integrated regulation, Relationships Australia recommends that the Bill be amended to empower the Commonwealth Ombudsman to oversee the exercise of the Commissioner's coercive powers (see, eg, those set out in Division 2 of Part 1). (***Recommendation 3)*** The Ombudsman currently oversees the use of covert, intrusive and coercive powers by Commonwealth agencies and, in 2025-2026, undertook 164 inspections across 24 agencies reviewing 15 regimes using covert, coercive and intrusive powers.[21]

More broadly, and consistent with recommendations which Relationships Australia has made in other submissions about regulators, we recommend that the Commissioner be subject to an ongoing obligation to publish data about the effectiveness of the Duty, completed investigations using the Commissioner's investigatory powers, and penalties imposed for breaches of the Duty. (***Recommendation 4***) Such data, collected by a taxpayer funded agency, should be regarded as a shared public resource.

Fragmentation and delegated legislation

Relationships Australia wishes to record our continuing concern at the extent to which the practical scope and operation of primary legislation is increasingly shaped by the use of delegated legislation.

It is not difficult to see how this distribution of the regulatory framework across instruments may generate confusion, for industry, for regulators and, most importantly, for the people the

[20] Explanatory Memorandum, p 99.
[21] See Commonwealth Ombudsman (2026) 2025-2026 Annual Report, p 11. The Report is accessible at https://www.ombudsman.gov.au/__data/assets/pdf_file/0017/331334/Commonwealth-Ombudsman-Annual-Report-2025-26.pdf

framework is designed to protect. We recognise why governments adopt this approach: delegated legislation affords greater flexibility, and allows frameworks to adapt without requiring every operational detail to be settled at the point a Bill is introduced and passed. These are legitimate considerations. However, they come at a cost to transparency, parliamentary scrutiny, and the coherence and accessibility of the law.

Accordingly, Relationships Australia welcomes the repeal of the Basic Online Safety Expectations, and the multiple industry codes and standards. Nevertheless, the Bill contemplates the making of multiple delegated instruments (including legislative instruments and legislative rules), by both the Minister and the Commissioner. We are concerned that important elements of implementing the Duty may not receive the benefit of Parliamentary scrutiny.

For example, in relation to the use of 'sock puppets' pursuant to Part 14, the Explanatory Memorandum states that:

> *Where a data access scheme places requirements on approved researchers, the Government expects that a researcher will not contravene the scheme. Redress mechanisms will likely be limited within the eSafety Commissioner's remit. As such, revocation of an approval under a scheme, or even suspension from a scheme, will be the ultimate mechanisms available within the Commissioner's remit to address contravention of the scheme. This is likely to be proportionate to any potential contravention. The* ***details of this will be fleshed out in the Minister's legislative rules****.* (EM, pp 95-96; emphasis added)

Many of the provisions establishing the power to make delegated legislation for the purposes of the Duty give little or no guidance as to what the decision-maker must or may take into account when exercising the power, throwing into doubt the evidence basis for policy-making. This could undermine public confidence in the integrity of the Act.[22] Examples include:

- subsection 25C(2) – Minister may make a legislative instrument determining an online service to be, or not to be, a social media service for the purposes of section 25C
- subsection 25G(2) - Minister may, by legislative instrument, determine that a design feature of an online service has negative behavioural impacts; the Explanatory Memorandum notes that 'This will allow the Minister to capture additional social media services which are not to operate for children in Australia under the age of 16, if they incorporate features that have negative behavioural impacts' (p 62); we are concerned, too, that there is no statutory definition of 'negative behavioural impacts' to guide the Minister in the exercise of this power
- paragraph 27(2)(f) provides that the Commissioner may prescribe additional requirements relating to the manner and form of the risk assessment, any detail to be included, standards, benchmarks or other metrics to be used in conducting the

[22] For an example of a power that does provide detail, see section 26A (Determining what is appropriate and effective).

assessment, and additional matters. The EM states (at p 74) that this is intended to allow the Commissioner to determine appropriate forms of risk assessment for different online services

- subsection 27(3) provides that risk assessments must be completed at least annually, or at shorter intervals as determined by the Commissioner
- section 27A empowers the Minister to make a legislative instrument that requires a specified online service to provide users of the service in Australia with a specified user empowerment tool and states that the online service or user empowerment tool may (without limitation) be specified by reference to any matter
- section 192L empowers the Commissioner to make a legislative instrument requiring a person responsible for an online service in a class of online services to ensure that information, or kinds of information, about operations or activities relating to the online safety of users of the service in Australia is published on a website maintained by or on behalf of the person or service; subsection (2) sets out an inclusive list ('without limitation') of what may be required in such a notice while subsection (3) sets out a 'without limitation' list of how classes of online services may be specified for the purposes of the provision. Subsection (4) provides that the Commissioner may only make a determination if satisfied that doing so would improve or promote either or both of transparency or accountability regarding the safety of online services for Australians and industry best practice.

We acknowledge that reshaping whole-of-government drafting practice is beyond the remit of any single portfolio. Nonetheless, we encourage the Committee to note this concern, and we urge that, in the finalisation of the Bill and the making of instruments under it, the reduction of complexity and fragmentation be treated as a guiding objective – by locating substantive obligations and prohibitions in primary legislation wherever practicable, and by ensuring that where legislative instruments are used, their relationship to the Act is clear and readily navigable. We further recommend that Government consider providing greater detail about what decision-makers must consider when making delegated legislation under these provisions (***Recommendation 5***).

Remedies for end users

Relationships Australia welcomes the amendments which strengthen complaints and dispute resolution mechanisms available to end users of online services (including by allowing individuals who are not users of a service, but have had content about them shared on the platform, to make a complaint under section 27G). We consider, however, that these should be further strengthened, as described below.

Workforce development in online services

Each interaction with a complaints or dispute resolution mechanism must be person-centred and trauma-informed. To enable this, Relationships Australia recommends that the Bill be amended to impose on online service providers obligations to ensure that staff responding to

users of their services, or people harmed by users of those services, are properly equipped and supported to engage in such interactions, to ensure that fresh harm is not inflicted by these mechanisms. (***Recommendation 6***)

Industry ombudsman

Relationships Australia recommends the establishment of an industry ombudsman as a much needed adjunct, particularly given the increased workload of the eSafety Commissioner. (***Recommendation 7***)

Statutory cause of action

Relationships Australia welcomes the substantial increase in the penalties provided for by the Act, which better align with the gravity of harms caused and the commercial incentives that would otherwise encourage persistent breaches of the Duty.

To complement these amendments, Relationships Australia recommends that the Bill create a statutory cause of action, enabling individuals to bring actions for compensation from online providers. (***Recommendation 8***) We consider this is a reasonable complement to the functions of the regulator, and would recognise the nature and severity of harms experienced by individuals (including harms to reputation and livelihood), while empowering harmed individuals to take their own action for breach of the Duty, independent of any regulatory sanction and existing private law remedies.[23]

Implementation and resourcing of the regulator

The Bill contemplates substantial increases in both the range of functions and the volume of the workload of the eSafety Commissioner. The effectiveness of the Duty will rely on sufficient resources being made available to the entity charged with upholding it. Regulators are too often expected to oversee vast and well-resourced industrial sectors on a pittance.

Under-resourced regulators become ritualistic, complacent or captured, and strong statutory powers languish unused, depriving the community of the benefits Parliament intended. This is true across a range of sectors. Relationships Australia has, accordingly, consistently recommended that the Office of the eSafety Commissioner and the ACMA be sufficiently resourced and empowered to take meaningful deterrent and punitive action against those profiting from attitudes that normalise gender-based violence.

The measure of Government's commitment to a safe online environment will be seen in its resourcing of the regulator. Relationships Australia **recommends** that civil penalties recovered through enforcement action under this Bill be invested back into the regulators to support their capacity to carry out the functions with which Parliament has charged them. (***Recommendation 9***).

[23] We note media reports that Minter Ellison has filed a class action against Meta in relation to children and young people who allege that they have been harmed by addictive design features and exposure to harmful content: see https://time.com/article/2026/10/22/australia-class-action-meta-social-media-harm-children/

Role of the eSafety Commissioner

Relationships Australia has concerns that the eSafety Commissioner is being charged with exercising powers and functions that range from educational and public health messaging to the use of coercive powers, including through covert operations, without the usual oversight and safeguards that apply to such powers.[24] This array of roles, with their potential to infringe on important human rights, requires robust transparency and accountability measures, and careful delineation of different aspects of the Commissioner's roles. As currently framed, we are concerned that the transparency and accountability mechanisms are insufficient, and that the integrity of the Commissioner's role is not being supported by scrutiny and oversight measures that, in the long run, will maintain public confidence. For these reasons, we have recommended several enhancements to the Bill (including conferring oversight powers on the Commonwealth Ombudsman, the creation of an industry ombudsman, and enhanced reporting and data sharing requirements – see **Recommendations 3, 4 and 7**).

Post-implementation statutory review

The effectiveness of the Duty, and whether it is having unintended consequences, must be the subject of regular statutory review. The online environment, and the nature of harms that it enables, are dynamic, and so must be the Duty. Similar to our recommendations in our submission on amendments of the *Interactive Gambling Act 2001*, Relationships Australia recommends that the Bill be amended to provide for a statutory review one year after it comes into operation to promptly identify any unintended consequences, and every three years thereafter to ensure the Duty remains contemporary. The terms of reference for the review must, *inter alia*, require the statutory reviewer to consider whether, to the extent the Duty restricts the exercise of human rights, those restrictions are reasonable, proportionate and effective in achieving their objectives. (***Recommendation 10)***

Comments on specific provisions of the Bill

Provision/s	**Comment**
Subsection 25B(2) – who is responsible for an online service	Relationships Australia is concerned that this provision may not be sufficiently broad as to enable the Duty to apply where an AI agent creates, and/or is the 'person who exercises the greatest degree of day-to-day control over', the service. Relationships Australia recommends that the Bill be amended to make clear that the creators of such an AI agent would be subject to the Duty in respect of the AI agent's activities. (***Recommendation 11***)
Subsection 25D(1) – definition of seriously harmful material or conduct	Paragraph 25D(1)(h) provides that material or conduct that encourages, promotes, incites or instructs gender-based violence is seriously harmful for the purposes of the Duty. Given the notorious online prevalence of violent expressions of hatred based on other

[24] For example, the Commissioner's powers to compel information and undertake enforcement action using pseudonymous accounts.

	protected attributes (including age, disability[25] and race), Relationships Australia recommends that subsection 25D(1) be amended to include encouragement, promotion, incitement or instruction in violence based on these attributes. (***Recommendation 12***) Relationships Australia acknowledges that subsection 25D(1) already covers a range of activities that fall within the ambit of technology-facilitated abuse (in particular, paragraph (h)). We recommend that subsection (1) be expanded to also expressly include domestic and family violence, child maltreatment and abuse or mistreatment of older adults, as well as behaviours used to exert coercive control (such as covert surveillance). (***Recommendation 13***) Such expansion would align with other Government initiatives to prevent and disrupt DFV and coercive control. Relationships Australia further recommends that the Bill impose on online service providers an obligation to engage in workforce development in technology-facilitated abuse, including cyberstalking, surveillance and image-based abuse. (***Recommendation 14***) As noted above, Relationships Australia (together with many others) has previously drawn to the attention of this Committee the serious harms experienced by adults who engage in harmful gambling. Indeed, the Government has accepted this evidence, which sits behind a range of reforms, including the establishment of the National Self-Exclusion Register (BetStop). In view of this large and consistent evidence base, Relationships Australia recommends that the definition of seriously harmful material or conduct be expanded to include gambling advertising. (***Recommendation 15)*** This would strongly align with the recommendations made in the Murphy Report, *You Win Some, You Lose More*.[26]
Subsection 25E(1) – definition of material or conduct	Relationships Australia welcomes Parliament's intent to protect children from material and conduct which harms them, including by impeding safe and healthy developmental outcomes, such as

[25] Such an expansion would be consistent with Australia's treaty obligations; noting, for example, the references in the Statement of Compatibility with Human Rights and the Supplementary Explanatory Memorandum, to the Convention on the Rights of Persons with Disability, the International Covenant on Civil and Political Rights (see especially Article 20(2) and Article 26.

[26] Accessible at https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/Onlinegamblingimpacts/Report

that is harmful to children	the capacity to enjoy safe and healthy relationships across the lifecourse. In our submission on the Second Action Plan under the *Plan to End Violence Against Women and Children*, we explained that Relationships Australia practitioners are increasingly concerned about the rapid evolution of technology-facilitated abuse and harmful online influences which are adversely affecting young people. Our practitioners see young people harmed by: • exposure to, as well as creation and use of deepfakes and AI-generated sexual imagery (including imagery generated by 'nudify' apps) • dating apps and online relationships (including with AI 'companions' and 'cam girls'/online sex workers) – we are concerned that the absence of natural friction, conflict, negotiation and repair in these relationships, create unrealistic expectations of real-life relationships, intimacy and sex, and • use of technology to stalk and surveille (including through the Internet of Things). Children and young people are engaging with adults online, using dating apps to seek connection or explore sexuality, being exposed to grooming dynamics, and continuing to use unsafe platforms because they are perceived as the only available space for validation, belonging or sexual identity exploration. These examples highlight that online risk-taking should not be understood simply as recklessness; it often reflects loneliness, shame, discrimination, trauma, unmet developmental needs or lack of safe alternatives. This underpins our advocacy for evidence-based interventions that promote and support social connection. We also strongly support the inclusion of paragraph 25E(1)(da). We recommend that the provision should be strengthened by insertion of a further paragraph referring to material or conduct that encourages, promotes or instructs children in gambling. (***Recommendation 16***) Gambling and gaming operators groom children for future gambling through simulated gambling, loot boxes, dark patterns, ubiquitous advertising and data grabs, falling within the scope of negative behavioural impacts on children and young people. The Australia Institute has reported that almost 30% of 12-17 year olds

	start gambling well before they are legally permitted to do so, and spend around $18.4 million per year on gambling activities.[27] That is a lot of money that gambling services are extracting from the bank accounts of people to whom they are not legally allowed to sell. The Australian community does not tolerate such profiteering from children by alcohol or tobacco companies, and there is extensive evidence that Australian adults (including those who gamble themselves) find the reach of gambling advertising into children's minds equally intolerable.[28] Adult clients consistently tell our practitioners that they progressed from micro-spending online games to experiencing gambling harm. Our practitioners also report that parents increasingly seek help for children whose gaming and screen time damages relationships, school attendance and mental health, underscoring the harm being experienced by children at the hands of gambling service providers using sophisticated techniques to manipulate and prey on children. Accordingly, Relationships Australia contends that material and conduct promoting gambling or simulated gambling comfortably clears the threshold of 'harmful' for the purposes of the Duty. Such expansion of the definition of material or conduct that is harmful to children would readily complement the *Interactive Gambling Amendment (Gambling Reform) Act 2026*, reinforcing the Government's efforts to protect children from gambling harms. Finally, Relationships Australia recommends that the Bill be amended to formally require the Commissioner to consult with children and young people on their experiences online, as part of (a) developing legislative instruments and rules in the lead up to commencement of the Duty, and (b) monitoring the effectiveness of the Duty. (***Recommendation 17***) This is consistent with our recommendations in other submissions to establish specialist Youth Advisory Groups and centre children's voices in service design, and supports Australia's compliance with the Convention on the Rights of the Child, Article 12.

[27] The Australia Institute notes that these figures are an estimate, and likely an under-estimate, as the research relied on self-reporting of engaging in an unlawful activity: see p 10. Accessible at https://cdn.australiainstitute.org.au/2025/04/18003809/P1786-Teenage-gambling-in-Australia-Web.pdf

[28] See, eg, Australian Gambling Research Centre (2023) Gambling participation, experience of harm and community views: An overview. Melbourne: Australian Gambling Research Centre: Australian Institute of Family Studies; Australian Gambling Research Centre (2023) Community attitudes towards sports and race betting advertising in Australia. Melbourne: Australian Gambling Research Centre: Australian Institute of Family Studies (Advertising attitudes snapshot).

Section 27 (Risk assessments)	Relationships Australia acknowledges the value in not taking a prescriptive approach to enumerating the kinds of risks which must be assessed in fulfilment of the Duty. However, we recommend consideration of whether some examples could usefully be included to illustrate the breadth of the provision (***Recommendation 18***). In the absence of such examples, risks such as harm to relational wellbeing, social isolation, coercive control and displacement of offline relationships may be discounted, undermining the effectiveness of the Duty.
Part 14 (Research and data access) – enabling researchers and the eSafety Commissioner to use 'sock puppet' identities	Relationships Australia acknowledges the utility of these provisions in enabling timely, effective research into compliance with the Duty and its overall effectiveness. We are, however, concerned by the current framing of these provisions in respect of the eSafety Commissioner. As we understand the Bill, the Commissioner could rely on these provisions to support enforcement under the compliance and investigations provisions. We note, too, the abrogations from the privilege against self-exposure to penalties contained in the Bill,[29] as well as the quite light obligation imposed on the eSafety Commissioner to provide 'summaries' of the use of sock puppet identities under Part 14 (see preceding comments). Taken together, there is considerable scope for function creep beyond Parliament's intention and exceeding proportionate action to achieve a legitimate policy objective. Relationships Australia considers that the use, by a regulator, of 'sock puppet' powers is akin to the use of covert powers by law enforcement and intelligence agencies.[30] This is presumably the grounds for including subclause 205K(3) (requiring the eSafety Commissioner to consult with the Commissioner of the AFP in determining policies for the exercise of the 'sock puppet' powers). We therefore recommend that the Bill be amended to require independent oversight and governance of the creation and use of sock puppet identities by the eSafety Commissioner, including through the use of warrants. (***Recommendation 19)*** We further recommend that detailed reports on the use of the powers in each year be provided to the Commonwealth Ombudsman as recommended in ***Recommendation 3***. (***Recommendation 20)***

[29] For example, sections 192K and 205 of the Bill; EM p 91. We acknowledge Government's view that 'abrogation of the privilege against self-incrimination is balanced by protection for individuals from the use of any information obtained as evidence against them in civil or criminal proceedings, save for the offences specified above' (EM, p 95).

[30] As recognised in the Explanatory Memorandum at p 99.

	Such provisions would support the integrity of the *Online Safety Act 2021* and provide reassurance for stakeholders concerned about potential overreach and unjustifiable compromises of human rights.
Relationship between sections 28A (power to require information about functions and parameters of design features) and 205C (sock puppet and data access schemes)	Relationships Australia notes that while the Explanatory Memorandum (at p 79) states that 'it is not intended that an online service be required to hand over their algorithm to the Commissioner but rather provide information that describes the functions as required by the Commissioner', algorithms may be required by the eSafety Commissioner is exercising powers under Part 14, which states that 'Examples of the types of information that could be included in the rules could include … the decision-making algorithms of a feature, system or process of an online service'. Relationships Australia recommends that the EM be amended to clarify why different approaches are taken in relation to these powers. (***Recommendation 21)***
Section 192M (compliance with section 192L)	Section 192M imposes a civil penalty for failure to comply with a legislative instrument made by the Commissioner pursuant to section 192L (requiring a person responsible for an online service to publish certain information). Consistent with other civil penalty provisions in the Bill, the maximum penalty is 6,000 penalty units. However, section 192M appears to limit the section 192L obligation by reference to the extent to which a person is 'capable' of compliance. It is unclear whether lack of capability is intended to be a defence, and what matters might be brought to bear to demonstrate capability (and, indeed, who bears the onus of demonstrating capability or lack of capability). Relationships Australia recommends that section 192M be clarified. (***Recommendation 22)***
Part 1, Division 2 (compliance and investigations)	Division 2 confers on the Commissioner a range of powers to compel information, in private (see section 201), and in the absence of a privilege against self-incrimination (section 205). Non-compliance is an offence attracting a civil penalty up to 1,000 units or 12 months imprisonment. It appears that the threshold for exercising these powers is simply that the Commissioner 'has reason to believe that a person is capable of giving information or evidence, producing documents or answering questions' relating to investigation and compliance. This threshold seems lower than the thresholds that must be met by other Commonwealth agencies exercising powers to compel information (see, eg, section 28 of the *Australian Crime Commission Act 2002*). Further, while a person being compelled by the Commissioner is entitled to have an adviser present (section 201), the role of an adviser remains undefined; it

	is unclear the extent to which an adviser may intervene to support and advise the person. We have recommended above at **Recommendation 3** that the Bill be amended to empower oversight by the Commonwealth Ombudsman. We further recommend that the role of the adviser be clarified. (***Recommendation 23)***
Section 205M (Commissioner to report annually on use of sock puppet identities)	To enhance the integrity and public acceptance of the Duty, Relationships Australia recommends that the Bill be amended to explicitly require reporting on the use of sock puppet identities by researchers, in addition to strengthening the reporting obligations of the Commissioner, as discussed above. (***Recommendation 24)***

Conclusion

The past two decades have seen unfettered incursion, into every aspect of daily life, of online products. These products have increasingly been designed to cause harm by, among other things, fostering addictive, maladaptive and anti-social attitudes and behaviours. This is not a case of a neutral or benign product being misused; it is a case of a malign product being used exactly as intended. The harms inflicted can be grievous. Children, as well as adults, have died as a result of diverse predatory online business models which have enabled the accumulation of tremendous wealth without the inconvenience of regulation requiring even the most basic safety features.

Providers of online 'services' have enjoyed unfettered opportunities to prey upon, manipulate and weaponise children and their exploratory impulses, and to nurture and monetise hatred and violence. It is no affront to free speech to impose parameters that require purveyors of these services to recognise and comply with a duty of care grounded in orthodox legal and public health principles and supported by sensible safeguards against overreach.

The international social experiment of an unregulated internet has failed us. Imposing a positive duty of care on purveyors of content and material that has been shown to cause harm, including loss of life, is overdue.

Relationships Australia accordingly commends the creation of a digital duty of care, and the reinforcement of measures to prevent and disrupt technology-facilitated abuse. We have made some recommendations to ensure that the Commissioner can discharge their functions more effectively (eg through appropriate resourcing) and with safeguards proportionate to the breadth of those functions (eg oversight of coercive powers by the Commonwealth Ombudsman). Other recommendations further empower end users; such as establishment of an industry ombudsman to deal with complaints and administer dispute resolution, as well as a statutory cause of action. We consider that, taken together, these recommendations will strengthen the Bill and enhance public confidence in the Duty.

Thank you again for the opportunity to comment on the Bill; we look forward to continuing to work with Government and the Commissioner to promote a flourishing and diverse online

environment in which the undoubted benefits of online products and services can be enjoyed by everyone. Should you wish for any further information on Relationships Australia's views, or on our work more broadly, please do not hesitate to contact me at ntebbey@relationships.org.au, or our National Policy Manager, Dr Susan Cochrane, at scochrane@relationships.org.au .

Kind regards



Nick Tebbey
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