

Thursday, 16 May 2024

Mr Daniel Craig  
A/g Executive Director  
Office of Impact Analysis  
Department of the Prime Minister and Cabinet  
1 National Circuit  
BARTON ACT 2600

Email: [Helpdesk-OIA@pmc.gov.au](mailto:Helpdesk-OIA@pmc.gov.au)

Dear Mr Craig,

**Re: Impact Analysis – Second Pass Final Assessment (OIA23-05909)**

I am writing in relation to the attached Impact Analysis (IA) prepared for the *Online Safety Industry Standards for Relevant Electronic Services for Class 1A and 1B material*; and the *Online Safety Industry Standards for Designated Internet Services for Class 1A and 1B material* (the standards).

I am satisfied that the IA addresses the points raised in your letter of 1 May 2024. The revised IA addresses the feedback received from the Office of Impact Assessment (OIA) as detailed below:

- *Need for government intervention*

To provide further information regarding the need for government intervention, the IA now expressly states that the majority of class 1A and class 1B material (the subject matter of the standards) depicts actions related to illegal activity or criminal offences. For example, the production, distribution and possession of child abuse material are offences under certain Commonwealth and State and Territory legislation such as Division 273 of the Criminal Code Act 1995 (Cth) and section 51C and 51D of the Crimes Act 1958 (Vic). The standards operate to minimise the solicitation, generation and distribution of, as well as the access or exposure to this type of content on relevant electronic services and designated internet services.

- *Impacts – Regulatory Burden Estimate*

Further context has been provided about the regulatory burden and why it will have a disproportionate effect across industry participants. eSafety has expanded on the relevance of the relationship between the size (in terms of user numbers), activities and pre-existing safety measures deployed by services on the regulatory costs likely to be incurred. A clearer distinction has also been made by expanding the summary on the net benefits and distinguishing it from the regulatory burden estimates.

The table with the calculation error has been omitted from the final pass IA, due to amendments in methodology.

- *Consultation*

Following a discussion with the OIA regarding providing more detail on the consultation section, the IA has been amended to explain the importance of consultation in this context including to better understand the impact of the standards on service providers. Additional information has been added to address the limitations, barriers and further opportunities eSafety's consultation afforded and how stakeholder views have shaped option 3 – direct regulation in the form of industry standards.

- *Implementation and Evaluation*

The IA has been amended to include a more detailed implementation and evaluation plan. We have expanded our discussion on transitional arrangements and incorporated approaches to track compliance costs in the performance measures. Further detail has been provided relating to the risk categories including the likelihood and proposed treatment of the risk categories to expand on the risk management framework.

The regulatory costs on Australian businesses are estimated to be \$21 million per year (with compound growth) and is based on the number of services determined to be in scope of the policy options.

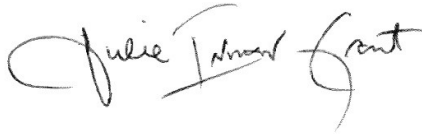
I am satisfied that the IA is now consistent with the six principles for Australian Government policy makers as specified in the *Australian Government Guide to Policy Impact Analysis*.

Accordingly, I submit the IA to the Office of Impact Analysis for formal final assessment.

I thank your office for working with eSafety throughout this process.

Should your office have any enquiries, please do not hesitate to contact Ms Maggie Law, Manager Industry Codes and Standards, via email at [maggie.law@esafety.gov.au](mailto:maggie.law@esafety.gov.au).

Yours sincerely,

A handwritten signature in black ink that reads "Julie Inman Grant". The signature is written in a cursive style with a large initial 'J'.

Julie Inman Grant  
eSafety Commissioner