



**National Council of
Women of New Zealand**

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Wahine O Aotearoa

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Submission to the Justice and Electoral Select Committee on the Harmful Digital Communications Bill 168-1

The National Council of Women of New Zealand (**NCWNZ**) is an umbrella organisation representing 30 organisations affiliated at national level and a further 40 organisations affiliated at branch level. It has 22 branches throughout the country attended by representatives of these organisations, as well as individual members. NCWNZ's function is to represent and promote the interests of New Zealand women through research, discussion and action.

This submission has been prepared by the NCWNZ Justice and Law Reform Standing Committee and the Parliamentary Watch Committee after consultation with the membership of NCWNZ.

Introduction

NCWNZ is concerned about the well being of women and young people and welcomes strategies to combat bullying or antagonistic behaviour which could impinge on an individual's welfare.

Responding members generally support the proposals in this bill, although a minority queried the requirement for creating another agency.

Comments on specific clauses

Part 1

Approved Agency and enforcement

Subpart 1 – Purpose, interpretation, the Crown, and communication principles

Clause 6

Communication Principles

Responding members generally supported the principles however there were some concerns as to the individual principles as follows:

Principle 1. There was comment that this principle is not in keeping with the Privacy Act 1993 which generally prohibits the disclosure of any personal information about an individual, regardless of whether such disclosure causes harm, and that "sensitive personal facts" should be clearly defined.

Principle 10. There was comment that the principle does not cover all of the grounds for unlawful discrimination as set out in the Human Rights Act 1993 such as promoting racial disharmony, sexual harassment and racial harassment.

Subpart 2 – Enforcement provisions

Approved agency

Clause 7(2)

There is concern that appropriate knowledge, skills and experience of the approved agency which might be considered for appointment, are inadequately defined.

Some responding members suggested that the education and experience of the appointees should be appropriate, such as a background in social sciences to reflect empathy and understanding of a wide range of people, the appointees should have good ethical standards, legal knowledge, expertise in mediation, social media and information technology and be free of prejudice.

There were also comments that the appointees should be from a good cross section of the community to ensure gender, age, socio-economic and cultural balance.

Clause 8

Functions and powers of Approved Agency

Many of the responding members commented that the Approved Agency should ensure that both the complainant and respondent receive a fair hearing with the reason for the decision being clearly communicated. There was a comment that the decisions should be published in a similar way to decisions by the Ombudsman.

There were also comments that reports containing statistical data, including gender disaggregated data, and outcomes should be published at least annually, available to the public and in a similar format to the reports produced by the Privacy Commissioner.

Several responding members suggested that the Approved Agency should provide information for educating the community in a similar way to the Retirement Commissioner. Requirements and consequences need to be clearly defined, communicated and enforced.

Offences

Clause 20

Liability of online content host for content posted by user

Most of the responding members support this proposal. Some members suggested that the responsibility must be placed on the online content host to ensure that the sites are safe.

There were comments by a few responding members that there is already existing redress available for criminal harassment under the Crimes Act 1961, lesser infringements could be dealt

with, as applicable, by the Privacy Commissioner, the Human Rights Commissioner or the Board of Trustees or school principal.

Conclusion

NCWNZ is in general agreement with the provisions of this Bill which addresses some of the issues faced by women and young people in this technological age.

Barbara Arnold
National President

Cleone Campbell
Justice & Law Reform SC Convenor