July 2023

Submission on the Safer Online Services and Media Platforms Proposal

To the Department of Internal Affairs,

Te Hiringa Mahara, the Mental Health and Wellbeing Commission, welcomes the opportunity to submit feedback on the Safer Online Services and Media Platforms Proposal.

Te Hiringa Mahara is an independent Crown entity, with a legislated role to assess, report, and make recommendations on the mental health and wellbeing of people in Aotearoa, and the factors and approaches that affect them. We have a legislated role to advocate for the collective interests of people who experience mental distress or addiction (or both), and the persons (including family and whānau) who support them. We also have a legislated responsibility, when carrying out these functions, to have particular regard to the experience of, and outcomes for, Māori. These roles and responsibilities, and our recent work on understanding and highlighting the wellbeing of rangatahi Māori and young people[1], underpin our submission on this Proposal.

If further clarification on any of the points that follow is required, we would be happy to advise in writing or in person.

Our position

Te Hiringa Mahara is supportive of efforts to improve and develop approaches to regulate platforms that provide access to digital and traditional media content.

Rangatahi Māori and young people[2] in Aotearoa have amongst the highest rates of youth engagement in online media in the world. While this creates challenges to wellbeing[3], in the form of unsafe environments, exposure to discrimination and online violence, it also provides meaningful connection to whānau, hapū and iwi, peers, communities, information and worldviews, particularly for communities that are not geographically collocated. The draft proposal does not appear to impact this need for connection – it is vital that any changes proposed do not impede or erode the opportunities for connection.

Rangatahi Māori and young people have told us they want both a youth-focused and intersectional approach to any proposed changes, which recognises that online services and media platforms carry both benefits and harms.[4] These views underpin all aspects of this submission, and their words are included here verbatim, where relevant.

> Social media is treated by older generations as a separate entity from reality, when in fact it has become a part of our social fabric. This makes it hard to have these conversations with older generations
>
> - Whāraurau Youth Advisors

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[1] https://www.mhwc.govt.nz/assets/Youth-wellbeing-/Youth-Wellbeing-Insights-Report-Full.pdf
[2] "Young people" used throughout this submission will include both rangatahi Māori and other non-Māori young people. "Rangatahi Māori" will be used specifically for content that only applies to rangatahi Māori.
[3] https://www.mhwc.govt.nz/our-work/he-ara-oranga-wellbeing-outcomes-framework/
[4] https://www.mhwc.govt.nz/assets/Youth-wellbeing-/Youth-Wellbeing-Insights-Report-Full.pdf

The Proposal must have a significant Māori presence within all levels of regulatory body to comply with Te Tiriti o Waitangi obligations, along with adequate partnership arrangements, designed by Māori for Māori, that uphold rangatiratanga.

Te Hiringa Mahara supports the Proposal's intention to continue work that incorporates treaty provisions into the legislation, the regulator and agrees that the new framework must meet needs of Māori and recognise Te Ao Māori worldview perspectives.

To do so, it is critical that the process of developing the framework includes further ongoing consultation and partnership with tangata whenua. This should ensure inclusive decision-making and regulatory policy that supports Māori self-determination and wellbeing, as identified and informed by Māori.

> People with power aren't listening to the people of the land. We just can't keep going the way we are, consumption, diet, tools, the way we live – it's embedded
>
> - Māoriland

To deliver these aims at a more operational level, a significant Māori presence within the regulatory body, in the capacity of a formal Māori advisory structure to support its work, should be mandatory. In addition, this should be supported by appropriate partnership arrangements, designed by Māori for Māori, to apply a tikanga-centred approach, fulfil iwi aspirations, and meet Te Tiriti o Waitangi obligations.

These improvements are necessary to ensure that the regulator's work is inclusive of Te Ao Māori worldviews, since the Regulated Platforms will not be legally required to give direct effect to Te Tiriti o Waitangi obligations.

Educational guidance needs to be appropriate to different groups, particularly for rangatahi Māori and young people, in comparison to older adults.

It is important that education not be solely focused on young people – navigating online environments is something all parts of society could learn to do better. As is understanding how the online world affects our relationships, mental health and wellbeing.

When designing any educational material, it is imperative to consider the unique experiences, uses and levels of understanding of the groups it is intended to reach.[5] A one-size fits all approach is unlikely to be successful – engagement with the communities will be necessary to develop education and practical tools that are equitable, accessible, intuitive and effective. This will also assist in bridging the gaps that cause intergenerational divide.

It is likely that the establishment of a regulator, and the planning and delivery of its work, will take some time. Given this, we recommend that creating educational guidance as a form of prevention and mitigation of harm should be prioritised immediately, while the regulation work continues.

> And the older generations who are supposed to be imparting lessons about safety and boundaries and limits of online spaces and stuff

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[5] https://www.mhwc.govt.nz/assets/Youth-wellbeing-/Koi-Tu-Literature-Review-for-Te-Hiringa-Mahara-May-2023.pdf

> like that, can't do so because they lack the understanding and familiarity with any of the topics
>
> -   Hui for rainbow young people
>
> All this raru in the world. There needs to be a trusted voice. 10-20 years ago, kids weren't exposed to that stuff. Kids are like, "I don't have the skills and tools to change this". Navigating that is tricky
>
> -   Māoriland

Moreover, rangatahi Māori and young people have reiterated that there is a need to empower our rangatahi Māori and young people to think critically about all online content, particularly since it can be a strong source and outlet of information.[6] This is in line with the current work of the Office of the Prime Minister's Chief Science Advisor and should be considered during future development of any educational guidance.

> We need to teach our young people how to have that critical lens early on. Teach young people to weigh up information and its validity. That's not a skill that's necessarily taught. There's a lot of misinformation out there that could be really damaging.
>
> -   Whāraurau Youth Advisors
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> And that's not often looked into, because it's like, "Oh well, my kids are on social media, they know what they're doing," but they could be getting horrendously bullied or stalked, or messaging people that you probably wouldn't want them to message.
>
> -   Voyce Whakaronga Mai

The definition of "harmful content" is helpfully broad, however there needs to be further clarification of the scope of what it covers, along with how exactly this will be ascertained or measured.

If a subjective approach is applied to all types of experiences of harm from online content, Te Hiringa Mahara recommends that there is clarity on whether the "nature" of harm will be considered, how it will be evaluated and whether any mechanisms will be set in place to ensure a lived experience perspective is applied at all times. This will be particularly important to address the varying levels of risk experienced by some groups more than others, as mentioned in the proposal. People experiencing mental distress have shared with us concerns about feeling particularly targeted by misinformation and disinformation online, and that responding to these experiences is important. Hence, we recommend further engagement with people who experienced mental distress and addiction. We also understand that this could also be further supplemented in the future by the government work to be undertaken in that area.

Additionally, we heard from our rangatahi Māori and young people that it is not always the severity of content that makes it harmful, rather, in some cases, it is the overwhelming

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[6] https://www.mhwc.govt.nz/assets/Youth-wellbeing-/Koi-Tu-Literature-Review-for-Te-Hiringa-Mahara-May-2023.pdf

volume of 'less harmful' content that can cause harm to an individual.[7] Te Hiringa Mahara recommends that this is considered through the proactive mitigation strategies of regulating algorithms.

The Proposal needs additional focus on primary prevention or how platforms are accountable, as well as the existing focus on the response to harm caused.

We heard from rangatahi Māori and young people about the importance of holding social media providers responsible and accountable in regulating content published online - particularly for their adherence to both self-imposed and government-imposed policies.[8]

Additionally, further enhancement in content monitoring by Māori for Māori that applies a Te Ao Māori lens to keep our rangatahi Māori and whānau safe from racism and discrimination is required to properly address Māori specific experiences.[9]

> It's ultimately up to Meta, Twitter, TikTok to make those structural decisions, which don't protect rainbow people, people of colour, disabled people and all the intersecting groups within.
>
> - Hui for rainbow young people
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> Social media [providers] will remove some things but you can report someone being racist or threatening people and it just says, 'there is no issue here' and then just leaves it … [companies] say 'we do not allow bullying, we do not allow this', but they do. And if they're going to put that 'this is our policy', they need to follow through with their policy.
>
> - Voyce Whakarongo Mai

Current mechanisms have failed to keep many rangatahi Māori and young people safe. Further clarification is required to establish how exactly providers will be held responsible if there is a breach of policy, rather than the onus falling more on content creators or content viewers/social media users.

> People online [are] being more radicalised to hate and target trans people and rainbow people in general … a lot of those keywords are the same, it also means that sometimes young people who are looking for things around being trans or being rainbow are exposed to that sort of content as well
>
> - Hui for rainbow young people

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[7] https://www.mhwc.govt.nz/assets/Youth-wellbeing-/Youth-Wellbeing-Insights-Report-Full.pdf
[8] https://www.mhwc.govt.nz/assets/Youth-wellbeing-/Youth-Wellbeing-Insights-Report-Full.pdf
[9] https://www.mhwc.govt.nz/assets/Youth-wellbeing-/Youth-Wellbeing-Insights-Report-Full.pdf

In summary

Te Hiringa Mahara recommends that the Proposals take a strong wellbeing-focused approach, to balance both the harms and benefits that online services and social media provide. This should include:

- A strong Te Ao Māori perspective must be embedded throughout all stages of the framework, and at all levels of the regulatory body, to ensure that the regulator centers and meets its obligations under Te Tiriti o Waitangi.
- Adequate partnership arrangements, designed by Māori for Māori, to uphold tino rangatiratanga through the regulator's work.
- Educational guidance developed with the unique experiences of users considered, for both younger and older users, to avoid repetition of what is already present and to encourage measurable effectiveness. We also recommended this is prioritised for immediate action, as the ongoing policy and establishment work progresses.
- A more in-depth explanation on the mechanisms used to ascertain and measure harm.
- Further transparency on how providers will be held accountable if breaches occur.