



Internal Affairs briefing

Hon Jan Tinetti
Minister of Internal Affairs

Title: Information briefing: The Department's recommended approach to a review of the media content regulatory system

Date: 10 February 2021

Key issues

On 11 February 2021, you are meeting with the Minister for Broadcasting and Media, Hon Kris Faafoi, to discuss progressing a review of the media content regulatory system.

The media content regulatory system has two significant high-level problems:

- The regulatory system is not capable of adapting to changes in the way individuals rely on and interact with media content, resulting in unmitigated harms; and
- New Zealand broadcasters face a more complex regulatory environment than other media organisations.

To minimise the growing risk of harm to individuals, society and institutions from media content and to address the regulatory complexity broadcasters face, the Department recommends two complementary reviews:

- You could lead a harm-minimisation focused review of content regulation, with the aim of creating a single regulatory framework to address the harmful impacts of media content; and
- Hon Kris Faafoi could lead a review of the broadcasting regime to provide consistency with the proposed framework and to further support a socially responsible broadcasting sector.

This approach differs from the advice given to the previous Minister of Internal Affairs, however the scope of what is proposed is similar.

Action sought	Timeframe
Note that the Department recommends you lead a harm-focussed review of media content regulation and that you discuss this proposal at your meeting with Hon Kris Faafoi;	Before your 11 February 2021 meeting with Hon Kris Faafoi.
Note that broadcasting media content would be covered by the scope of a harm-focussed media content regulation review	
Note that the Department recommends you raise with Hon Kris Faafoi the option of him leading a separate review of the professional standards for domestic broadcast media; and	Both at the 11 February 2021 officials meeting, and after your meeting with Hon Kris Faafoi.
Discuss with officials your preferences for progressing a review the media content regulatory system.	

Contact for telephone discussions (if required)

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Cohesion reference	SS74WDQEK3HX-411838051-143			
Ministerial database reference	IA202100088			

Purpose

1. On 11 February 2021, you are meeting with the Minister for Broadcasting and Media, Hon Kris Faafoi, to discuss progressing a review of media content regulation¹.
2. This briefing sets out the Department's view on how to best approach a review on media content regulations and includes:
 - background information on the history of the proposed media content regulatory review (**Appendix A**); and
 - a diagram of the Department's proposed outcomes and approach to a review of the media content regulatory system (**Appendix B**) and talking points (**Appendix C**), to support discussing this position with Hon Kris Faafoi.

Background

There have been ongoing attempts to review New Zealand's existing media content regulatory system

3. Media content is defined in this briefing as any communication (for example broadcasts, publications,² and social media posts). The term media means how media content is made available (for example broadcasters, publishers, and online platforms).
4. New Zealand's current media content regulatory system is comprised of the Classification Act, the Broadcasting Act and voluntary self-regulation.³ Our existing regulatory system is outdated and based on the type of media by which content is made available. As a result, it addresses harm in a shrinking proportion of the media content consumed and provides little protection at all on the media types which pose the greatest risk for harmful content.
5. In February 2019, the previous Minister of Internal Affairs and the then Minister for Broadcasting, Communications and Digital Media, Hon Kris Faafoi, agreed to carry out a comprehensive reform of New Zealand's media content regulation system.
6. On 15 June 2020, the previous Minister of Internal Affairs and Hon Kris Faafoi agreed to defer Cabinet report back on a review of the media content regulatory system until early 2021. Further information on the history of the proposed review of the media content regulatory system is at Appendix A.

You and Hon Kris Faafoi have both indicated that you are interested in progressing a review of media content regulation


7. You have advised officials that a review of media content regulation that covers online harms is to be prioritised in the Internal Affairs work programme. Hon Kris Faafoi has indicated to Ministry for Culture and Heritage (MCH) officials that he expects advice on how to proceed with a review of the media content regulatory system by the end of February 2021.

¹ In this briefing we use the term regulation broadly to include consideration of options such as self-regulatory arrangements, including voluntary codes and memorandum of understandings.

² Publication includes films, videos, books and all forms of electronic communications.

³ The Digital Harmful Communications Act 2015 sits parallel to the media content regulatory system and regulates online communication, as defined in the Act's communication principles.

8. 9(2)(f)(iv)



9. 9(2)(g)(i)



The Department proposes that you lead a harm-focused content regulation review

10. The Department proposes you lead a review of media content regulation that aims to create a single regulatory framework for all media content, focused on minimising harm. The review would consider the merits of having a single Act for regulating media content for this purpose, and of a single point of regulatory responsibility for media content.

11. 9(2)(g)(i)

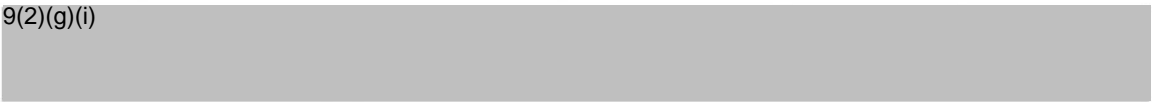


We consider an Internal Affairs-led content regulation review preferable to a joint media content and media conduct regulatory review


12. We previously recommended a fundamental review of media content and regulation of media content providers. Our recommended approach has evolved since the previous Minister of Internal Affairs and Hon Kris Faafoi jointly agreed to a review in February 2019.

13. This new advice reflects further analysis carried out in the aftermath of the 15 March 2019 Christchurch terror attacks, including analysis of the risk of harm from media content and the limits of current media content regulatory approaches in minimising this harm. This analysis reinforced that the media content delivered by the broadcasting sector poses a relatively low-risk to New Zealanders, and therefore, a more platform-neutral for a harm-focused review of media content regulation is required.

9(2)(g)(i)



14. 9(2)(g)(i)



⁴ This year's legislation Programme process invited bids for legislation planned for the next two years as well as for 2021.

9(2)(g)(i)

15.

16.

Joint reviews are more complex, we consider addressing unmitigated content harms is a high priority and should be the primary focus of a review

17. A joint media review of the regulation of all media content would not be able to prioritise addressing urgent harms in a timely manner. Such a review would likely require a minimum of two parliamentary terms, widest possible public consultation and debate, and significant resources that are not available. A review of this magnitude and duration risks becoming vulnerable to changes in Government priorities and focus.
18. Instead, the we consider it important that the review primarily focus on minimising harm relating to media content. We suggest that to achieve this effectively and sustainably, the scope of the review should initially include development of a framework for analysis that can be applied to all media types. This would enable identification of priority gaps and problem areas which we would propose be the main objectives to correct within the first phase of the review.
19. Proceeding with a primary focus of media content regulation to minimise harm would not require joint leadership of the review across the Internal Affairs and Broadcasting portfolios. While the Broadcasting Act does provide for broadcasting codes with a harm avoidance objective, these are in the context of, and subordinate to, the Act's overarching aim to support a thriving domestic broadcast media, through encouraging a socially responsible broadcasting industry.
20. A jointly led review would:
 - risk confusion and compromise of the harm minimisation objective with other facets of the broadcasting systems objectives;
 - give a different and disproportionate emphasis on an industry which provides only a small and decreasing share of the media content that New Zealanders interact with, and poses a comparatively low-risk of harm; and
 - have resourcing and process implications that may reduce the likelihood of delivering significant change within this parliamentary term (for example, less

flexibility with resourcing, and additional processes to provide clear agency and ministerial accountability).

21. While a joint review would have advantages in terms of ensuring consistency and alignment between any changes to the media content regulatory framework and the Broadcasting Act, those objectives can be managed by consultation and cooperation between agencies and do not require joint leadership.

The Broadcasting Act mixes content regulation and professional standards and is not a useful starting point to define the scope of a fundamental review

22. The primary drivers and purposes of the Classification Act and Broadcasting Act differ in focus, and so a review defined by those acts would involve different underpinning principles and outcomes. For example, a harms-focused approach (Classification Act) to content regulation would likely continue to rely mainly on proactive regulation to avoid exposure to serious harms. The regulation of media conduct (Broadcasting Act) would likely rely more on regulations that are responsive to consumer concerns and complaints. A joint review would involve compromise, including developing a single set of guiding principles, which would reduce the effectiveness of delivering the distinct objectives of each framework.
23. Furthermore, the broadcasting industry provides only a small and decreasing proportion of the media content that New Zealanders interact with. Furthermore, the broadcasting sector generally adheres to the socially responsibility principles espoused in the Broadcasting Act and poses a very low level of risk of harm to New Zealanders compared to other media types, such as online content-sharing platforms.
24. 9(2)(g)(i)

25. Instead, a harm-minimisation focus on a single regulatory framework for all media content would lead to more even, consistent and comprehensive outcomes, and could be incorporated into professional standards to support a socially responsible New Zealand media industry.

A review of content regulation would provide an opportunity to also review conduct regulation for domestic broadcast media

26. We recommend that you lead a review of media content regulation, with the opportunity to canvass with Hon Kris Faafoi the potential for him to lead a separate review of the framework governing broadcasting, in accordance with existing ministerial responsibilities.
27. The Acts for which you and Hon Kris Faafoi have responsibility in the media content regulatory system have different but complementary purposes. The Classification Act is focused on reducing harm through interaction with media content. In contrast, the Broadcasting Act's overarching aim is to support a thriving domestic broadcast media through encouraging a socially responsible broadcasting industry.

28. For example, one of the Broadcasting Standards is that reporting on controversial issues of public importance must be balanced. This Standard encourages the broadcasting industry to contribute to an informed citizenry, and therefore support the public good – a requirement that includes, but goes beyond, minimising harm from media content.
29. To minimise harm, the Classification Act places restrictions on what content is permitted and requires content warnings for film and video media. This restriction system is primarily proactive to minimise the risk of harm to New Zealanders.
30. The Broadcasting Act places conduct obligations on broadcasters to encourage responsible domestic broadcast media, including compliance with codes developed under the leadership of the Broadcasting Standards Authority. The subject matter of those codes, which are co-designed by broadcasters with public consultation, includes mitigation of harm through content warnings and guidelines about programming times. They do not, however, have the force of law.
31. The Broadcasting Act regime is primarily reactive as it relies on oversight by the public through a complaints mechanism. This allows the Broadcasting Act to be responsive to changing societal expectations.
32. The functions of the two Acts complement one another. While the Classification Act regulates access to harmful media content, the Broadcasting Act encourages a domestic broadcast media sector that champions public interest values.
33. The result is that harms not captured by the Classification Act are, in part, mitigated by the positive spill overs from the broadcasting sector. For example, the Broadcasting Act encourages broadcasters to help develop an informed citizenry, which helps to mitigate the effects of disinformation. This is not directly targeted by the Classification Act.

A review of media content regulation will affect the Broadcasting Act

34. The establishment of a single regulatory framework for media content would mean that the Broadcasting Act would no longer be the primary basis for regulating media content delivered by broadcasters in order to avoid or mitigate harm. This would involve amendments to the Broadcasting Act to avoid overlap in the regulation of media content.
35. While a single regulatory framework for media content would still allow the Broadcasting Act to regulate the conduct of broadcasters, because the Classification Act and Broadcasting Act serve complementary functions. Changes to the media content regulation will still have a less direct effect on the conduct regulations for broadcasters.

There are risks of separate reviews, which can be managed

36. Since the two regulatory frameworks are interconnected, conducting two separate reviews under different portfolios could risk creating inconsistencies in the system. The phasing of the two reviews will be important in creating coherence across the regulatory frameworks. Common issues and interdependencies can be managed by close consultation between the Department and MCH.
37. Conducting separate reviews will also lead to some stakeholders, such as broadcasters, being consulted by both the Department and MCH, which could create confusion and consultation fatigue for stakeholders. However, the broadcasting industry will have a

strong interest in any review of the media content regulatory system, therefore stakeholder frustration with repeated engagement is unlikely to be an issue.

38. Furthermore, if separate reviews were to run concurrently, the Department and MCH could seek to arrange stakeholder consultation close together to avoid drawing out this process for this group of stakeholders.

Next Steps

39. There will be opportunity to discuss this briefing's advice at your 11 February 2021 meeting with officials.
40. On 11 February 2021, you will meet with Hon Kris Faafoi to discuss a review of the media content regulatory system.
41. After your meeting with Hon Kris Faafoi, officials will be available to discuss your preferred approach to a review of the media content regulatory system.
42. Once you have indicated your preferred approach, the Department will prepare a briefing on how to progress it. This will include:
- the proposed scope;
 - guiding principles;
 - options for phasing the review;
 - an analysis of identified harms that could be addressed;
 - high-level timeframe; and
 - a stakeholder engagement plan.
43. In the instance that you and Hon Kris Faafoi decide to conduct a joint media content review, this work will be joint with MCH.
44. We will provide you with an information briefing on international policy initiatives to regulate online content by 18 February 2021.
45. You are due to jointly report back to Cabinet, with Hon Kris Faafoi, in early 2021, on the proposed terms of reference, engagement approach and timeline of a media content review. When needed, we will support you to deliver this report-back.

Recommendations

We recommend that you:

- a) **Note** that there is growing risk of harm to New Zealanders from media content that the current regulatory system is not able to respond to;
- b) **Note** that due to time constraints, the Department has informed MCH of the proposed advice but have been unable to undertake consultation;
- c) **Note** that the Department recommends you lead a harm-focussed review of media content regulation and that you discuss this proposal with Minister for Broadcasting and Media, Hon Kris Faafoi;
- d) **Note** that broadcasting media content would be covered by the scope of a harm-focussed media content regulation review;
- e) **Note** that the Department recommends you raise with Hon Kris Faafoi, that a harm-focused review of media conduct would not preclude him the option of leading a separate review of *conduct* regulation for broadcasters; and
- f) **Discuss** with officials your preferences for progressing the media content review.



Michael Woodside
Policy Director



Hon Jan Tinetti
Minister of Internal Affairs


10 / 02 / 2021

Appendix A: History of the proposed review of the media content regulatory system

1. Our existing regulatory system addresses harm in a shrinking proportion of the media consumed and provides little protection at all regarding the media types which pose the greatest risk for harmful content.
2. Broad reviews of the system have been attempted since 2008 but have not progressed due to shifting government priorities. This has meant that work in this area has been reactive and limited to addressing specific issues or “gaps” identified in the system as they become priorities.
3. Most recently, in February 2019, the previous Minister of Internal Affairs and the then Minister for Broadcasting, Communications and Digital Media, Hon Kris Faafoi, agreed to carry out a comprehensive reform of New Zealand’s media content regulation system.
4. The review was put on hold following the 15 March 2019 Christchurch terror attacks and the prioritisation of regulatory changes in response, and then remained on hold due to the need to prioritise immediate COVID-19 response and recovery work across government.
5. On 15 June 2020, the previous Minister of Internal Affairs and Hon Kris Faafoi agreed to defer Cabinet report back on the media content review until early 2021.
6. Since July 2020, officials from the Department and MCH have been working together to develop our respective positions on the purpose and scope of a review and to understand each other’s perspective.

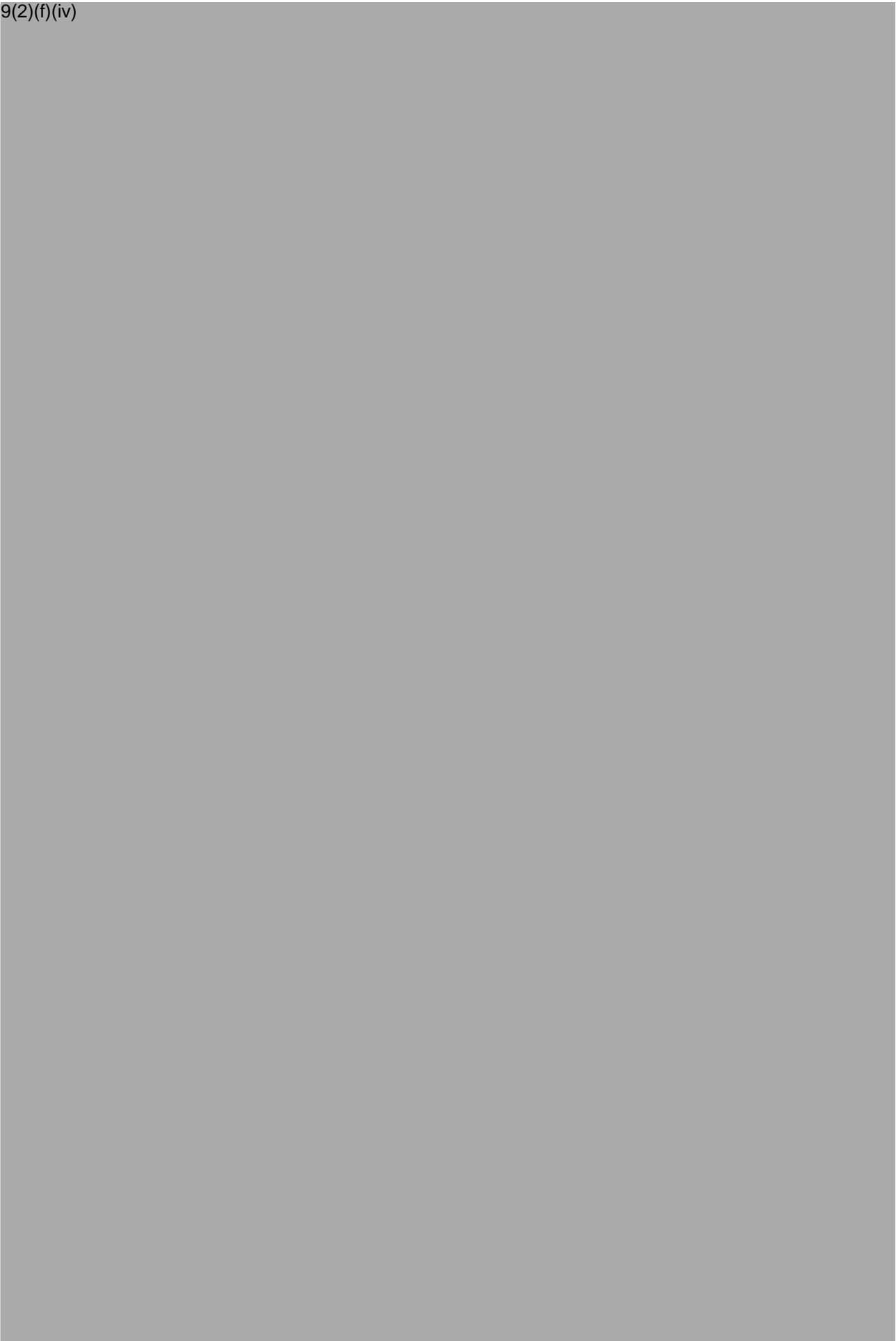
Appendix B: Diagram to support your meeting with Hon Kris Faafoi

9(2)(f)(iv)



Appendix C: Talking points

9(2)(f)(iv)





Internal Affairs briefing

Hon Jan Tinetti
Minister of Internal Affairs

Title: International proposals for comprehensive online content regulatory frameworks

Date: 19 February 2020

Key issues

You previously requested information on international approaches to regulating online content. Internationally, governments are seeking to modernise their media content regulatory regimes to mitigate the risk of harm posed by online media content. Recently, there has been a proliferation of international proposals for developing new comprehensive regulatory frameworks for online content, particularly across Europe. These proposals place greater accountability on online platforms for the user-generated content they host.

International regulatory frameworks for online content offer opportunities for lessons and alignment. However, regulating online content is complex and since most of these proposals have not been enacted yet, it is likely that the effectiveness of different approaches and any unintended consequences will not be known for some time.

Action sought

Note that you requested information from officials on recent international proposal to regulate online content; and

Note that other jurisdictions' regulatory frameworks for online content offer opportunities for lessons in best practice and alignment.

Timeframe

At your convenience

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
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Lucy Gentles	Policy Analyst	9(2)(a)	

Return electronic document to:	9(2)(a)
Cohesion reference	SS74WDQEK3HX-411838051-160
Ministerial database reference	IA202100242

Purpose

1. In December you requested from officials, information on international policy initiatives to comprehensively regulate online content.

There is growing international concern over the risk of harm posed by online media content

2. Similar to NZ, other jurisdictions are also grappling with outdated media content regulatory systems that do not have the flexibility to respond to new forms of media and the risk of harm they pose. Previously, the dominant view has been that user-generated content should be largely left unregulated to protect freedom of expression. This view holds that freedom of expression needs to be given paramount protection to reap the benefits of the internet's user participation framework. These benefits include increasing public access to information, allowing public political discussion to occur at national and global levels, and giving greater political voice to marginalised group.
3. Recent high-profile cases of serious harm arising from content hosted on online social networks have propelled growing international debate over the responsibilities of online platforms and governments to regulate harmful online content. These high-profile cases include the streaming of the 15 March 2019 Christchurch Terror Attack, allegations of foreign election interference, COVID-19 misinformation, the 2021 storming of the United States Capitol and violations of data privacy
4. There is also growing recognition that characteristics of the online environment amplify the volume, speed, and reach of harmful media content, which increases the risk of online media content causing harm to individuals, society and democratic institutions compared to traditional media. These characteristics of the online environment include:
 - **People are less inhibited when communicating** online leading them to be more likely to create and share harmful media content. This is because social and cultural constraints on speech do not operate online to the extent they do offline. Contributing to this disinhibition effect is the relative anonymity of online content creators and sharers. In addition, the decoupling of content creators and content distributors weakens accountability, contributing to the disinhibition effect;
 - **Social bots and fake profiles**¹ are being used amplify the spread of harmful content; and
 - **Social interests and commercial incentives are in conflict** - the business incentives of online platforms are, in some cases, misaligned with protecting users and the broader public from harm. The business models of online platforms are structured around maximising audience engagement for advertising revenue. For this reason, recommendation systems² usually prioritise pages which are visited most often and have the greatest time spent on them. Content that elicits an emotional response, such as outrage, disgust and anger

¹ Social bots automatically produce, share, and like content on media platforms. Fake profiles are operated manually, and in some cases by paid workers.

² Recommendation systems on online platforms refer to the ordering or visibility of content to users.

are more likely to be engaged with and therefore this type of content is given more visibility on platforms.

Overseas Governments are considering more comprehensive regulatory frameworks for online content, in response to the risk this content poses

5. Against this backdrop of serious societal harm arising from online media content and greater insight into the online environment propensity to spread harmful media content, there have been several recent regulatory proposals for comprehensive frameworks for online content across Europe. **Appendix B** outlines and compares several international policy initiatives to regulate online content, which place greater accountability on online platforms.

While these overseas policy initiatives offer learning opportunities, the success of these regulatory frameworks remains to be seen

6. Overseas online content policy initiatives provide useful models for considering greater regulatory and non-regulatory responses to the increase risk of harm online media content poses to New Zealanders.
7. Despite recent regulatory initiatives, comprehensive regulation of online content is still an unprecedented feat, and the effectiveness and unintended consequences of these overseas regulatory frameworks are still unknown. Regulating online content is complex:
 - the borderless nature of the online environment poses compliance challenges;
 - the scale of online content makes it administratively challenging to apply rules consistently and quickly; and
 - online content-sharing platforms resemble public spheres – they are the primary point of access to information, political discussion and political organisation for many people – as a result there are intricate challenges to prohibiting certain types of content whilst preserving freedom of expression.
8. However, there is opportunity to manage these complexities through aligning any potential regulatory framework for online content with that of other jurisdictions, thereby increasing the efficiency and effectiveness of regulation. For example, aligning online content regulations with other jurisdictions' existing regulations may increase compliance as regulated entities already have policies in place to adhere to similar regulatory requirements.
9. However, there is a trade-off between the benefits of a more efficient regime through regulatory alignment and being able to tailor a response to New Zealand circumstances. For example, New Zealand values and norms differ to those held in other countries and as a result, aligning our regulatory framework for online content may mean compromises regarding normative decisions over what speech is permissible.

Other jurisdictions' approaches to regulating online content will be considered in the media content regulatory review

10. We will consider international regulatory frameworks for online content in our advice on the proposed media content regulatory review. As international proposals for

comprehensive regulatory frameworks progress, we will assess the desirability in copying and aligning our recommendations with these approaches.

Recommendations

11. We recommend that you:

- a) **Note** that you requested information from officials on recent international proposal to regulate online content;
- b) **note** that other jurisdictions' regulatory frameworks for online content offer opportunities for lessons in best practice and alignment;
- c) **note** that regulating online platforms is complex and there are intricate challenges to making online platforms accountable for the content they host while still protecting the freedom of expression of users; and
- d) **note** that international approaches to comprehensively regulating online content will be considered as part of the media content regulatory review.

Nick Law
Policy Manager

Hon Jan Tinetti
Minister of Internal Affairs

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Appendix A: Significant international policy initiatives to regulate online content

12. This appendix outlines recent international proposed and enacted comprehensive regulatory frameworks for online content, which impose greater accountability on platforms for the content they host. These selected proposed and enacted frameworks are the German Network Enforcement Act, UK Online Safety Bill, The EU Digital Services Act, and the Irish Online Safety and Media Regulation Bill.

Overseas proposed and enacted regulatory policies of online content vary in scope and design

13. There exists a vast breadth of design consideration for creating a regulatory framework for online content. The selected proposed and enacted frameworks for online content in this appendix vary in scope and design. For example, regulatory frameworks can be outcome-focused (i.e. requirements are to remove specified content), or procedural-focused (i.e. requirements are to have processes in place to reduce harm and/or illegal content (e.g. having a point of contact to regulators, enforcing their own terms of services, having a robust complaints system and transparency reporting on content moderation)).
14. The range of regulatory design features across different international proposed and enacted frameworks are outlined in the table below.

Comparison of international proposed and enacted regulations on online content

Regulatory design features and timing	German Network Enforcement Act	UK Online Safety Bill	The EU Digital Services Act	Irish Online Safety and Media Regulation Bill
Regulatory framework covers	Online content only	Online content only	Online content only	Both traditional media and online content are covered
Content covered	Illegal	Broader set of harm	Illegal	Broader set of harms
Procedural or outcomes focused	Outcome	Both	Procedural	Procedural
Codes of Practice are set by	No codes	Regulator Ministerial sign-out will be required for codes covering child sexual exploitation and terrorism material	European Commission (executive branch of the EU)	Regulator

Regulatory design features and timing	German Network Enforcement Act	UK Online Safety Bill	The EU Digital Services Act	Irish Online Safety and Media Regulation Bill
Platforms in scope	Commercial online social networks with at least 2 million members	Hosts of user-generated content, including online interaction, which can be accessed by users in the UK and search engines. Differentiated obligations on platforms based on the risk of harm	Any service provided to a resident in the EU Differentiated obligations on platforms based on the size of the platform	All services that facilitate the dissemination of or access to user-generated content are potentially in scope
Timing	Passed in June 2017	Legislation expected to come into effect 2021	Legislation expected to come into effect 2024	Not announced

The German Network Enforcement Act (enacted legislation)

15. Germany passed the Network Enforcement Act (NetzDG) in June 2017, which makes commercial social networks with at least two million users, liable for hate speech that violates German law. The NetzDG Act followed rampant online hate speech during the European migrant crisis³, which was linked to hate crimes in the physical world. The German Government initially sought to encourage social media companies to voluntarily apply German hate speech laws on their platforms. However, the German Government ultimately determined that the voluntary efforts of social media companies were inadequate, and sanctions were needed to enforce platforms compliance with German hate speech laws.⁴
16. Online platforms in scope must set up user-friendly complaint mechanisms to report illegal hate speech. Online platforms face significant fines if they do not remove manifestly illegal content within twenty-four hours of notice and other illegal content with a week of notice.
17. NetzDG has drawn criticism for its potential to stifle free speech, including from the former United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression. The main criticism is that it bestows significant control on private companies over decisions affecting free speech – as companies must make determinations over what is illegal content without law enforcement. This has led to concern that NetzDG will lead to excessive removal of

³ The European migrant crisis (also known as the refugee crisis).

⁴ David Kaye, Speech Police: The Global Struggle to Govern the Internet, 51-58.

content by private companies to avoid the possibility of being sanctioned. However, the extent of the law's impact on freedom of expression is not yet clear.

The United Kingdom's (UK) Online Safety Bill (proposed legislation)

18. On 15 December 2020, the UK released its Full Government Response to the Online Harms White Paper and has since announced an Online Safety Bill will be introduced in 2021. The Response paper builds on the Online Harms White Paper published in April 2019, which proposed a comprehensive regulatory framework, addressing a spectrum of online harms from illegal to legal but harmful content.
19. The Bill proposes a new regulatory system for online content, which creates a duty of care on online platform operators to protect their users. Platforms in scope are hosts of user-generated content which can be accessed by users in the UK; and/or facilitate public or private online interaction between service users, one or more of whom is in the UK; and search engines.
20. The "duty of care" framework is aimed to be proportionate and risk-based, ensuring companies in scope have the appropriate systems and processes in place to respond to harmful content and activity, while protecting users' rights. The regulatory framework will be set out and overseen by its existing communications regulator (Ofcom),⁵ which will be given broad powers, including the ability to enforce fines of up to £18 million or 10% annual turnover.
21. The regulatory framework will have a two-tiered approach, imposing additional requirements on the most high-risk, high-reach services (category 1), to the requirements of most services (category 2).

The European Union (EU) Digital Services Act (proposed legislation)

22. The EU Digital Services Act proposes to impose a uniform set of obligations on all online platform operators. These obligations are procedural rather than outcome focused, for example social media companies must have a complaints system. Platforms only have obligations to remove illegal content once they have knowledge of it on their platform.
23. Platforms with more than 45 million EU users (10% of the EU population) have additional requirements to smaller platforms.

The Irish Online Safety and Media Regulation Bill (proposed legislation)

24. The Irish Online Safety and Media Regulation Bill proposes:
 - to replace the existing broadcasting regulator with a new regulatory agency that will have responsibility for both traditional and new media;
 - to update and align the way traditional television broadcasting and video-on-demand services are regulated; and
 - to establish a regulatory framework to control the spread and amplification of defined categories of harmful online content.
25. The regulator will be given the power to set codes to govern the standards and practice of regulated entities.

⁵ Ministerial sign-out will be required for codes covering child sexual exploitation and terrorism material.

26. The Bill covers defined categories of harmful online content, which are:
- content which it is a criminal offence to share;
 - serious cyberbullying material;
 - material promoting eating disorders; and
 - material promoting self-harm and suicide.

Other judications where online regulation is on the policy agenda

27. Australia – Online Safety Bill.
28. Canada – Broadcasting and Telecommunications Legislative Review.
29. France – Fighting Hate on the Internet Bill.

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