29 October 2026

Committee Secretary
Senate Environment and Communications Legislation Committee
Via email ec.sen@aph.gov.au

Dear Committee,

Re: Online Safety Amendment (Digital Duty of Care) Bill 2026 inquiry.

Thank you for the opportunity to provide a submission on the Committee's inquiry into the *Online Safety Amendment (Digital Duty of Care) Bill 2026*.

The Alcohol and Drug Foundation (ADF) is Australia's leading alcohol and other drug (AOD) harm prevention organisation. We work nationally to prevent AOD-related harm through evidence-based policy development, education and community programs. A community-centred approach is at the heart of everything we do.

Executive summary

The ADF, and a number of sector partners, previously submitted to the Government's consultation on the bill's exposure draft. Collectively, we identified a range of concerns, including the potential of the proposed scheme to prevent access to essential public health and harm reduction information. The ADF is pleased that these concerns have been partially addressed in the present draft, including via the welcome exclusion of public health and harm reduction information from the definition of 'seriously harmful content'.

However, the ADF is concerned that scheme requires proactive measures to protect access to essential public health and harm reduction. We understand that these concerns are shared with a number of our AOD sector and allied public health and harm reduction sector allies. Our concerns and the ADF's recommendations to address them are outlined below.

Recommendation summary

That the bill be amended to:

1. Promote access to public health and harm reduction information.
2. Establish clear and effective appeal and complaints mechanisms.
3. Exclude public health and harm reduction organisations from the operation of the duty.
4. Strengthen data and privacy protections.
5. Embed public health expertise in the scheme and its implementation.

And that Government collaboratively develop

6. Complementary measures to support online safety.

Level 12
607 Bourke Street
Melbourne VIC 3000

PO Box 818
North Melbourne
VIC 3051

-
03 9611 6100
adf@adf.org.au
adf.org.au ABN 66 057 731 192

Accepting these recommendations will ensure that Australians are supported by a world leading, public health focussed online safety scheme.

A public health approach to online safety

Public health experts, clinicians, sociologists, and other experts increasingly recognise digital spaces as a 'setting' much like any other community space: places and social contexts in which 'people engage in daily activities in which environmental, organisational and personal factors interact to affect health and wellbeing'.[1-3] In this context, the regulation of digital spaces can have both a transformative and disruptive effect on the social, commercial and economic, and political determinants of our health.[4]

1. Promote access to public health and harm reduction information.

Digital regulation should not only focus on preventing online harms, but on creating the digital conditions that support health, equity and access to reliable public health information.[4]

The bill contains exemptions for material that is necessary for, or of assistance in, protecting or promoting public health and safety, and reducing harms to individuals. This supports the objective outlined in the explanatory memorandum for online safety to be achieved through target platform systems and processes "rather than to restrict the sharing of individual pieces of content".

The current experience shows that exemptions alone are unlikely to change what happens in practice: content moderation practices tend to reduce access to public health information through 'over-capture.[5] That is, content moderation, particularly AI-based moderation, frequently goes further than the law requires. The ADF and our colleagues across sectors have provided examples of over-capture to this Inquiry.

More proactive measures are needed to ensure that bill does not inadvertently continue or worsen current platform practice. This bill presents an opportunity to embed the proactivity required by creating an enforceable positive duty for online services to support access to legitimate public health and harm reduction information, underpinned by clearly defined terms and tests developed with relevant experts.

Recommendations

Rec 1(A): Create a positive duty for online services to support access to public health and harm reduction information, with that duty enforceable through the various functions of the eSafety Commissioner.

Rec 1(B): Define key terms and tests, consulting with public health and harm reduction experts.

2. Require clear and effective oversight mechanisms

Under the provisions proposed by the bill, the eSafety Commissioner is tasked with enforcement, including formal warnings, remedial directions, infringement notices, and civil penalties for breaches.

As with the existing co-regulatory framework of industry codes, standards and reporting obligations that the digital duty of care is intended to replace,[6] this does not create transparency related to protecting, promoting, and reinstating health and safety content. Nor does it address current barriers to the timely resolution of often time-critical over-capture issues (such as the removal of urgent drug alerts or other essential public health information). As raised by a number of the ADF's sector partners, these are dealt with on a case-by-case basis among individual providers, meaning that access to essential information is delayed or interrupted, which creates serious individual and community health risks and missed opportunities.

The current system shows us that a safe online environment means a scheme that provides individuals and organisations with access to a timely arbitration or independent appeals/complaints mechanism, rather than on case-by-case appeals to online services, or reliance on the eSafety Commissioner's discretion to act.

Proactive, timely, explicit and systematic protection for access to public health and harm reduction information will ensure that the design, regulation and monitoring of digital spaces will occur to serve community needs, rather than of corporate interests.[4]

Recommendations

Rec 2(A): Create a clear, timely and accessible appeal and redress mechanism for the removal, restriction or shadow-banning of lawful public health and harm reduction content.

Rec 2(B): Require the eCommissioner to, with the AOD sector, co-design guidelines that apply to online services in moderating content, and in discharging their duty in such a way that is compatible with public health and harm reduction objectives.

Rec 2(C): Include transparency reporting requirements on minimum content standards and reporting related to public health and harm reduction material.

3. Prevent unnecessary impacts on public health and harm reduction organisations

AOD-related harm is a leading cause of illness injury and avoidable death in Australia, with an estimated total social and economic cost of alcohol, tobacco, opioids, cannabis, and methamphetamine of $264.4 billion in 2022-23.[7] As elsewhere in the world, Australians are turning to digital channels, search engines and AI tools for health information.[8, 9]

It is increasingly unlikely that AOD services, like any healthcare services, will operate entirely without AI somewhere in their technology, administrative or clinical ecosystem.[10] Extending the digital duty of care to these organisations is expected to create an additional administrative workload which is unnecessary, particularly for funded organisations where concerns regarding the quality and safety of online services is capable of being managed through contracting arrangements.

There are already many levers that can be used to ensure that content published by public health and harm reduction organisations is consistent with the duty to provide a safe online environment including, for funded organisations, government contracting levers. Applying additional duties to these organisations, such as risk assessment and compliance obligations, creates an additional, unnecessary layer of oversight and administrative burden that takes us away from our core business: providing high quality, evidence-based support to people who urgently need it.

Recommendations

Rec 3(A): Exempt public health and harm reduction organisations from the definition of an online service.

Rec 3(B): Where public health and harm reduction organisations are not exempted, scale risk assessment and compliance obligations to organisational size and resourcing. Resourcing for these organisations should be increased to enable them to undertake any new obligations.

4. Strengthen privacy and data protections

Privacy and data protection are essential components of a safe online environment, and anonymity is a longstanding pillar supporting effective access to public health and harm reduction contexts.

The scheme outlined in the bill relies on online services to determine whether material is excluded material (or not), and whether it encourages or instructs a serious Commonwealth offence. Because drug use is criminalised and stigmatised, information gathered and inferred from searches, group membership, messages (including private communications) or engagement with harm-reduction material may be particularly sensitive.

Coupled with the experience of many organisations on the operationalisation of the typically blunt tool of content moderation, this suggests that clearer privacy protections are required to avoid deterring people from accessing public health and harm reduction information.

Recommendations

Rec 4(A): Include privacy as an element of a "safe online environment" in which users are protected from unreasonable or disproportionate interference with their privacy.

Rec 4(B): Clarify privacy safeguarding requirements owed under the new duty.

5. Legislatively embed public health expertise in the scheme bill, and its implementation

Digital and online safety should not be considered simply as a technology, but as a new or emerging form of public health management across various digital forums, including those where public health and harm reduction information is shared. It is critical that the scheme includes structured mechanisms for the eSafety Commissioner to obtain and act on expertise and advice from public health bodies, community-controlled organisations, specialist non-government organisations, researchers, clinicians, and people with lived and living experience.

This expertise and advice should inform development of guidelines and any related standards, rules or regulatory guidance including interpretation and practical application of the public-health, harm-reduction and public-interest exclusions and expectations for service risk assessments and mitigation measures. It should also inform complaints, escalation and review mechanisms where legitimate health material is removed, restricted, demonetised or made less discoverable, transparency reporting and research priorities, and any periodic evaluation of the scheme.

Recommendations

Rec 5(A): Amend the Bill to require the eSafety Commissioner to obtain public health, community-sector and lived and living experience advice when developing Digital Duty of Care guidelines and related instruments.

Rec 5(B): Establish a dedicated oversight body comprising diverse community groups.

6. Complementary measures to support online safety

The scale, reach and dynamism of online services, and the different ways they are incorporated into our lives, means that legislative controls on online safety are, in and of themselves, unlikely to achieve the objective of a safe online environment.

Complementary measures are needed to prevent harm and strengthen digital literacy, social connection and safe participation, while ensuring that people who experience harm can quickly access specialist support, recovery services, escalation and redress. A co-ordinated public health approach is also necessary to protect access to legitimate health and harm reduction information, respond to the unequal impacts of online harm across communities, build workforce capability, and generate evidence about emerging risks and unintended consequences.

Recommendations

Rec 6(A): As part of implementation, develop and fund a complementary public health response combining prevention, safe participation, early intervention, accessible off-ramp services for those who have experienced online harm, and effective redress.

Rec 6(B): Codesign complementary implementation measures with a range of community organisations and diverse interests.

Thank you for the opportunity to submit to this inquiry.

Sincerely,



Dr Erin Lalor
Chief Executive Officer
Alcohol and Drug Foundation

References

1. Nutbeam D, Kickbusch I. Health promotion glossary. Health promotion international. 1998;13(4):349–64
2. Stark-Blomeier AL, Albrecht J, Dockweiler C. Cyberspaces: Modifying the Digital Environment for Health Promotion and Prevention. In: Zeeb H, Maaß L, Schultz T, Haug U, Pigeot I, Schüz B, editors. Digital Public Health: Interdisciplinary Perspectives. Cham: Springer Nature Switzerland; 2025. p. 159–77.
3. Levin-Zamir D, Bertschi IC, McElhinney E, Rowlands G. Digital environment and social media as settings for health promotion. Handbook of settings-based health promotion: Springer; 2022. p. 205–24.
4. Organization WH. Addressing health determinants in a digital age: project report. World Health Organization. Regional Office for Europe; 2024.
5. Gillespie T. Do Not Recommend? Reduction as a Form of Content Moderation. Social Media + Society. 2022;8(3):20563051221117552https://journals.sagepub.com/doi/abs/10.1177/20563051221117552
6. Google. Content policies: Google Assistant; 2024 [updated 18 September 202421 September 2026]. Available from: https://developers.google.com/news/assistant/policies#dangerous-illegal21 September 2026.
7. Gadsden T, Jan S, Henderson A, B E. Updated Social and Economic Costs of Alcohol, Tobacco, and Drug Use in Australia, 2022/23. The George Institute,; 2023. https://www.georgeinstitute.org/sites/default/files/documents/cost-of-alcohol-drug-use-in-aus-report.pdf 29 September 2025.
8. Ayre J, Cvejic E, McCaffery KJ. Use of ChatGPT to obtain health information in Australia, 2024: insights from a nationally representative survey. Medical Journal of Australia. 2025;222(4):210–2https://onlinelibrary.wiley.com/doi/abs/10.5694/mja2.52598
9. Crespo-Gonzalez C, Benrimoj SI, Frommer M, Dineen-Griffin S. Navigating online health information: Insights into consumer influence and decision-making strategies-An overview of reviews. Digit Health. 2024;10:20552076241286815
10. Laranjo L, Tudor Car L, Payne RE, Neves AL, Kidd M, Jaime Miranda J. Artificial intelligence in primary care: innovation at a crossroads. The Lancet Primary Care. 2026;2(3)https://doi.org/10.1016/j.lanprc.2025.1000782026/09/27.