Executive Summary
June 2023

Safer Online Services and
Media Platforms

Adapted in 2023 by Accessible Formats Service, Blind Low Vision NZ, Auckland

# Executive Summary 2023Safer Online Services andMedia Platforms

## Snapshot of the proposals

The discussion document seeks feedback on a possible approach to regulate platforms that provide access to digital and traditional media content.

The proposals outlined in this executive summary and full discussion document contain high-level information about how this might be implemented. There is more detail to be developed, and we will need to draw on evidence of what works from other countries, as well as the values and needs of New Zealanders. We want feedback on what the best approach is to keep people safe and preserve their rights, and whether some areas need looser or stricter requirements.

This feedback will shape further decisions about the approach, the legislation, and the development of a regulator to implement the changes.

Read on to find out more or click the links below to navigate around the document

* [What's the problem with the current system?](#what)
* [Our proposed solution](#weareproposing)
* [How would the proposed solution address harmful content on platforms](#howwouldthe)
* [Here's what we think this new approach would achieve](#objective)

## We want your feedback

We want to know if our proposals are on the right track. You can provide your feedback by reading this document and letting us know what you think by email, post, or our online submission form.

We are interested in your feedback on any part of the proposals and will use this to help shape policy proposals for the Government to consider. We will also test final proposals with experts and representatives from community groups, civil society, existing regulators, and platforms.

We'll also hold webinars in June 2023 to give people the opportunity to ask us questions about the proposals. This would be helpful for anyone that wants to clarify aspects of the proposals before submitting feedback. Information on how to sign up for these webinars is available on the consultation webpage.

* **Email:** sosmp\_consultation@dia.govt.nz
* **Post:**
Safer Online Services and Media Platforms Consultation
Department of Internal Affairs
PO Box 805
Wellington 6140

**Online:** Through our online feedback form

## What's the problem with the current system?

Everyone consumes or uses content, like books, films, and radio to social media, blogs, and everything in between.

However, our rapidly evolving and growing environment means that New Zealand's existing regulatory systems for content are no longer as responsive or effective as we would like them to be.

Because of this, New Zealanders are being exposed to harmful content and its wider impacts more than ever before.

The discussion document suggests a solution that introduces more robust consumer protection measures that protects New Zealanders while maintaining the existing freedoms we enjoy.

It is important that we act now. If we do nothing, New Zealand is at risk of falling behind the protections that other like-minded nations providing. The proposals in the discussion document are aligned to the changes being made in other countries to better protect their citizens and their human rights.

## Unsafe content takes many shapes and forms, and has the potential to harm individuals, communities, and New Zealand society

In a June 2022 research report from the Classification Office, 83% of respondents reported being concerned about harmful or inappropriate content on social media, video-sharing sites, or other websites (Te Mana Whakaatu Classification Office, What We're Watching: New Zealanders' views about what we see on screen and online, 2022).

### Child protection and consumer safety is not as effective as it should be

During our community engagement, we heard widespread concerns about the harm some content is causing children and young people. Many of these concerns were about social media and other online platforms, but we also heard concerns about other types of platforms such as broadcasters. This risky content includes age-inappropriate material, bullying and harassment, and promotion of self-harming behaviours. Instances of harmful content on mainstream social media sites, such as influencers promoting dangerous disordered eating to teenage girls, have become too common. Internet NZ's 2022 Internet Insights report also found that respondents were most concerned about the internet enabling young children to access inappropriate content (Internet NZ, New Zealand's Internet Insights 2022).

There have been well-documented cases where young people have been seriously harmed by distressing material that has been actively recommended to them by platforms. (In this discussion document we use the word "platforms" to refer to providers of content and services–for example, social media companies or broadcasters.)

Consumer safety protections on media and online platforms are not as strong as they are for many other services that New Zealanders use, and they are not consistent across all platforms. Most platforms set standards for the content they will carry, but the standards do not always reflect the expectations of the society they are operating in. These standards are also not always met. It can be very hard to resolve a complaint when a platform does not deliver on its commitments to its users.

### Behaviour that is illegal is sometimes tolerated online

Our current system has legal powers to deal with the most awful and illegal material like child sexual exploitation and promotion of terrorism, regardless of whether it is delivered online or through traditional forms of media such as printed publications. But sometimes content that includes other illegal actions (such as threatening to injure) can be taken less seriously or even amplified online.

## Our current legislation is outdated and doesn't protect consumers how it should

Our main pieces of legislation are over 30 years old: the Films, Videos and Publications (Classification Act) 1993 and the Broadcasting Act 1989. Many parts of those laws are still relevant, for example codes of broadcasting practice and tools to protect children from age-inappropriate content on television. But they do not have the reach and tools to deal with the online world.

The current system is difficult to navigate and has big gaps. New Zealanders must figure out which of five industry complaint bodies to go to if they feel content is unsafe or breaches the conditions of the platform it is on. On top of that, not all forms of content are covered by those bodies. The system is also very reactive because it relies mainly on complaints about individual pieces of content. For most forms of content, we do not have the tools and powers to ensure that platforms are doing what they should to manage the risks of harmful content.

It is important that our laws reflect our digitalised environment, including clear avenues where consumers can influence the content they see and respond to content they feel is harmful. While the development of this legislation rests with government, the implementation and practice sit with platforms. These safety practices need clear oversight to ensure effective and appropriate implementation.

You can read more about our current media and content environment on page 76 in the full discussion document.

## Who currently deals with harmful content?

We've illustrated below the main players in the current system with responsibilities for dealing with harmful content. There are many agencies involved in managing the same area. Some areas are not consistently regulated at all, for example, social media and other online platforms are not required under New Zealand law to meet safety standards on their services. Other parts of the wider media industry rely on voluntary compliance, such as the New Zealand Media Council and Netsafe's Code of Practice for Online Safety and Harms.

### The following organisations have responsibilities for safety across the media and digital environment



**TN:** The logos shown above are listed on the following page.

* Te Tari Taiwhenua Internal Affairs
* Te Mana Whakaatu Classification Office
* New Zealand Media Council
* New Zealand Customs Service Te Mana Ārai o Aotearoa
* Advertising Standards Authority
* New Zealand Police Ngā Pirihimana o Aotearoa
* Broadcasting Standards Authority Te Mana Whanonga Kaipāho
* Film & Video Labelling Body
* NZ Tech
* Netsafe

### Online harms are also managed under other systems, such as:

* Harmful Digital Communications Act 2015
* Unsolicited Electronic Messaging Act 2007 (spam)
* Cyber-security and cyber-crime
* Commerce (scams) and intellectual property
* Privacy

## We are proposing a new way to regulate social media and traditional media platforms

We think it makes sense to focus on platforms that pose the biggest risk, and ensure regulatory responses are proportionate.

We're proposing a new approach to regulating online platforms and other forms of media, like news, in New Zealand. Under the proposals, online and other media platforms would be brought into one cohesive framework with consistent safety standards. We want to make sure that platforms are safe for users, but we don't want to over-regulate them. We'll do this by creating codes of practice that set out specific safety obligations for larger or riskier platforms. These codes will be enforceable and approved by an independent regulator. The codes will cover things like how platforms should respond to complaints and what information they should provide to users.

Regulatory efforts will focus on the areas of highest risk, such as harm to children or content that promotes terrorism. Some platforms, like social media and video-sharing services, will need to make changes to their services because they're not currently regulated in New Zealand. We also believe that education and awareness-raising are important, so further investment in programmes would be needed to help people decide what content is safe for them and understand the risks of using and sharing online content. We believe this approach will create a safer online environment without being unnecessarily difficult for platforms.

### What is a code?

When we talk about a code, or code of practice, we mean a set of standards or requirements that platforms would have to meet to be responsible providers of access to digital and traditional media content.

### A new industry regulator that is independent from government would provide a clear "home" for consumer safety on online and media platforms

We are proposing a new independent regulator, separate from the government, to promote safety on online and media platforms. This new regulator would work with platforms to create a safer environment and would require larger or high-risk platforms to comply with codes of practice. The codes would set out the standards and processes platforms need to manage risks to consumer safety, such as protecting children and dealing with illegal material.

Platforms will need to have operating policies in place to meet these requirements but will have flexibility to decide how to achieve them. Industry groups will develop the codes with input from and approval by the regulator. This approach leaves editorial decision-making in the hands of platforms while ensuring users have greater transparency and protection.

### Platforms would be supported by the new regulator to be compliant

The existing system has processes in place to ensure that broadcasters like TV and radio, and other traditional media comply with existing codes. These are a mixture of government and industry-led regulations. Social media does not have similar compliance requirements in New Zealand.

The new regulator would make sure social media platforms follow codes to keep people safe. Media services like TV and radio broadcasters would also need to follow new codes tailored to their industry. The regulator would have the power to check information from platforms to make sure they follow the codes and could issue penalties for serious failures of compliance. This would ensure everyone is playing by the same rules and that consumer safety is prioritised. There will probably be some deliberate non-compliance by smaller players, but we expect the biggest platforms to participate willingly–including the biggest social media companies.

The proposals reflect those of comparable countries which makes it easier for a regulator to enforce and for platforms to follow the rules. The discussion document also asks for your opinion on whether more measures are needed to make sure everyone follows the rules.

### We're not proposing to change definitions of what is legal or illegal

We are not proposing any changes to definitions of what is considered illegal in New Zealand. The system would retain powers of censorship for the most extreme types of content (called "objectionable" material). This material is already illegal, and it will remain illegal to produce, publish, possess and share. Criminal and civil penalties would still apply, and prosecutions could continue to be undertaken by government agencies such as Police, Customs, or Internal Affairs.

The regulator would also have powers to require illegal material to be removed quickly from public availability in New Zealand. These powers exist already for objectionable material. We are proposing that the regulator should also have powers to deal with content that is illegal for other reasons, such as harassment or threats to kill. We seek your feedback on what other kinds of illegal material the regulator should have powers to deal with. The regulator would have no powers to moderate or require takedown of legal content, or to punish those who post legal content.

Many New Zealanders won't notice much of a change from the status quo, especially if they don't currently experience harm from the content they are exposed to. What will be different is that a new regulator will be taking a more proactive and consistent approach to consumer protection, especially for children.

As a result, New Zealanders will have a better online experience. Unintentional exposure to the most harmful content on online platforms should be far less common. New Zealanders will be provided with more relevant information on risks, keeping them better informed about the content they choose to consume. It will be easier for New Zealand consumers to get help or make a complaint, when this becomes necessary.

You can read more about the proposals on page 22 in the full discussion document.

## Example: How would the system deal with content promoting dangerous disordered eating?

Alongside growing use of social media platforms, we have seen an increase in content that promotes dangerous disordered eating habits. Recommendation systems have promoted this content to vulnerable users. This content can have devastating impacts on their physical and mental wellbeing and often encourages self-harm. Content like this can be especially harmful to young people.

### What user support would be available?

* Users could access industry or government-provided safety information so they can decide whether they want to see that content or not
* Government could support education initiatives for the public, through stand-alone activities or through the school curriculum, about the risks from content that promotes disordered eating, how best to keep safe, and how to support those suffering from an eating disorder
* Education for creators about the risks involved in creating content that promotes disordered eating

### What could users expect to see from Regulated Platforms?

* Restricted promotion of content encouraging disordered eating behaviours to children and young people. The regulator would oversee platforms' compliance with this
* More consistent application of platforms' terms of service. Platforms would also have to resolve complaints about this harmful material if it was not allowed
* Proactive mitigation strategies to reduce the risks from material that promotes dangerous disordered eating. For example, stronger recommendation systems and algorithms

### A prescriptive alternative (not recommended under these proposals)

* The Government could restrict access to content that promotes serious injury to a person. This could mean that platforms would be required by law to block access to this content. We are not recommending this type of response.

## The objective and outcomes of a new regulatory framework

The objective of this review of New Zealand's regulatory system for media and online platforms (the Review) is to enhance protection for New Zealanders by reducing their exposure to harmful content, regardless of delivery method. The aim is to provide better protection for vulnerable groups and achieve better consumer protection for all New Zealanders.

To accomplish this objective, the system must incorporate safety measures into platforms' management systems and processes. Transparency and proportionality are critical, and decisions must align with New Zealand's democratic values and human rights.

The government's role should be limited to dealing with illegal material, and a regulator will take a more proactive approach to consumer protection.

The proposals will not expand the scope of what is considered illegal material, and the emphasis on consumer safety supports rights such as freedom from discrimination. The proposals provide a familiar approach and a consistent standard, which should level the playing field for platforms.

**End of Executive Summary 2023 Safer Online Services and Media Platforms**