



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

PROOF

BILLS

**Enhancing Online Safety for
Children Amendment Bill 2017**

Second Reading

SPEECH

Monday, 19 June 2017

BY AUTHORITY OF THE SENATE

SPEECH

<p>Date Monday, 19 June 2017 Page 33 Questioner Speaker Fawcett, Sen David</p>	<p>Source Senate Proof Yes Responder Question No.</p>
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Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (13:29): Mr Acting Deputy President Marshall, it is not often that I find you speechless in this place, but clearly Senator Leyonhjelm's contribution there—with his tongue firmly in cheek—has left you speechless! For those children who are in the gallery watching, the good senator was expressing his dismay at what he sees as too much government control, as opposed to not enough, which may have been the surface interpretation of what he was saying. At a principal level, I too agree in the concept of small government.

Opposition senators interjecting—

Senator FAWCETT: Thank you, to the members opposite. They are my cheer squad today, which is wonderful. On this bill, the government is committed to helping women who have had intimate images shared online without their consent. Clearly, those things are a crass intrusion into the privacy of anyone. We do not wish to see that kind of conduct expanded and damaging more people. Since October 2007, the Office of Children's eSafety Commissioner has received some 370 complaints concerning the non-consensual sharing of intimate images. We hear of a range of sources of that, whether it is teenagers engaging in this activity with sexting or, more troubling, adults engaging in the sharing of images, particularly of younger people, as part of grooming or other activities, which lead to harm for people. So the government introduced the Enhancing Online Safety for Children Amendment Bill into the parliament on 9 February 2017 to expand the general functions of the Children's eSafety Commissioner for online safety for children to online safety for all Australians.

It does strike me that this is a topic which Australians need to be aware of, because, as we have dealt with various parts of security legislation in the country, people have been concerned about some of the information, for example, around metadata that may be retained by telcos. It strikes me as odd that people are prepared to place online through Facebook or other platforms far more information than they would ever dream of providing or would like to have available to government or to telcos through things like the metadata bill, which is actually quite a limited set of information. Almost without thinking, many people share not only images but other private information to an extraordinary level of detail with some social media platforms. In contrast, metadata is quite a limited set of information and has been a key part of investigations that have helped to break up child pornography rings, organised crime and terrorism. Almost every successful prosecution in recent years in Australia and overseas has included things like metadata. So I just contrast the concern people have for a limited dataset with what they put on online. It is important, as we look at online safety, that people consider the extent of information which they share through social media.

The eSafety Commissioner, Ms Inman Grant, commenced on 16 January this year and is working to put in place a number of practical measures to combat the non-consensual sharing of intimate images. This is commonly referred to as revenge porn or image based abuse, and it will be subject to the passage of this legislation. It will include an online complaints portal for revenge porn, which will be launched later this year. This bill is before the parliament now. I ask members here to keep in mind the fact that there have been numerous calls from women support services to take immediate action in relation to the non-consensual sharing of images because of the harm that is done to them emotionally and professionally in some cases. In terms of the information, once it is online it remains there essentially forever and a day, which can damage an individual. To this end, the Enhancing Online Safety (Intimate Images and Other Measures) Legislative Rules 2017 will confer an additional function on the children's eSafety Commissioner to undertake work that will improve the online safety for all Australians at risk of having intimate images of themselves shared without their consent.

The legislative rules will allow the commissioner to access the election commitment funding, which was some \$4.8 million over three years, to develop and implement a national complaints portal for victims of non-consensual sharing of intimate images. Likewise, the legislative rules will also permit the commissioner to develop a seniors digital learning portal and outreach program, and this will focus on increasing the digital literacy and online safety skills of older Australians. That is important not only in the area of intimate images.

We now see many senior Australians actively taking up digital platforms for a range of things—from staying in contact with people on social media through to banking, bill paying and other activities. Through my own extended network—both family and others—I know the number of times these people are targeted by criminals who would seek to compromise the security of older citizens in our society by essentially rorting from them information about their accounts, their computers and their iPads so that they can defraud them of identity or money. So it is an important aspect of our work with the community to make sure older Australians also are increasingly aware of not only the advantages of the digital environment but also some of the pitfalls and to make sure they have the skills and knowledge required to remain safe in this environment. The legislative rules are an interim measure in advance of this bill's passage through the parliament, and that is in response to those calls for more immediate action to address the risk.

A new study by RMIT released in May shows that nearly one in five Australians will have fallen victim to this kind of abuse. This rate increases to one in three Australians when we look at the 16- to 19-year-old age group and it increases yet again to one in two Australians when we look at disabled people and Indigenous populations within Australia. So the study shows that this kind of abuse goes well beyond what may be classically considered to be revenge porn when a relationship has gone sour. Intimate images are being used to control, abuse or humiliate people in a range of different ways. Disturbingly, the study also shows that the perpetrators of the abuse are, more often than not, friends, acquaintances or family members rather than jilted ex-partners.

As I touched on at the start, this is not a victimless crime. The most intimate images, or footage, of victims that were never intended to be shared are posted and proliferated without consent and, frequently, with malicious intent. This form of abuse—and it is abuse—has a psychological toll on its victims, with some 75 per cent of victims suffering from moderate to severe anxiety or depression. There are so many examples where we can see the debilitating effect of anxiety and depression, particularly on young people or those who already feel marginalised in our society. If this has such a high correlation of occurrence, then it is clearly an area that we wish to reduce the incidence of. Also perhaps, in terms of people understanding how they interact with digital platforms in the era of mobile phones and the ease of making digital images—whether they be stills or video—this encourages people to exercise more caution and discretion as to when, or indeed if, they make such images in the first place knowing that in the digital environment the potential for these to be shared and then essentially never erased is increasing all the time.

The study also called for greater support for victims. If you look at the United Kingdom, it has a revenge porn helpline so that people can seek support when they have suffered this kind of abuse, and the Australian government is looking to put in place a number of initiatives to address the issue of the lack of support that people caught in this environment need.

During the 2016 election campaign the government announced that it would provide an additional \$10 million to support victims of domestic violence, including those who have had their intimate images shared without consent, and this also goes to improving research and education to counter the risk of technology-facilitated abuse—although I would come back to the very simple premise that if you do not wish such images to be shared then do not participate in making them in the first place. I am a great believer in personal responsibility in such things, so if you think that this is something that would be shattering to your life then I would encourage you not to allow these images to be made in the first place.

This research and education measure is being funded through the \$100 million Third Action Plan to reduce violence against women and their children, noting that that plan covers a far wider range of violence against women and children than just the online part. Funding is being provided to the Office of the eSafety Commissioner to develop a complaints portal, which will be launched later this year, to allow victims to report cases of non-consensual sharing of intimate images and to access immediate and tangible support.

On 23 November the government announced that it would conduct a public consultation process on a proposed civil penalty regime, targeted at both perpetrators and sites that host intimate images and videos without consent, which would provide the eCommissioner with more powers to facilitate the rapid removal of such images. This is the topic of a discussion paper that was released by the Department of Communications and the Arts in May this year, with the consultation period running for six weeks until the end of this month. The eCommissioner welcomes feedback and is looking for a whole range of groups and stakeholders in this space to give feedback throughout this process. Face-to-face workshops will also be held to engage all relevant organisations and individuals.

The government is looking to take action now through legislative rules and through this legislation to build a more permanent framework. I reiterate that we are looking to engage with a range of stakeholders, and the opportunity to contribute to the discussion paper is open until the end of June. Whilst the government will play its part, including through research, education and potential penalties, I conclude my remarks on this bill by highlighting the element of personal responsibility, which is: if you do not wish intimate images to be shared then be mindful of the fact that in this day and age anything that is recorded with a smart phone or other device has the potential to go anywhere—so exercise judgement and discernment.