



## Netsafe response to consultation on the Aotearoa New Zealand Public Media Bill – 8 September 2022

1. Netsafe is New Zealand's independent, non-profit online safety organisation and is the Approved Agency under the Harmful Digital Communications Act 2015 (HDCA). One of the purposes of the HDCA is to deter, prevent, and mitigate harm caused to individuals by digital communications. Netsafe's functions as the Approved Agency are set out in section 8 of the HDCA. Those functions include:

- a. to receive and assess complaints about harm caused to individuals by digital communications
- b. to investigate complaints
- c. to use advice, negotiation, mediation, and persuasion (as appropriate) to resolve complaints
- d. to establish and maintain relationships with domestic and foreign service providers, online content hosts, and agencies (as appropriate) to achieve the purpose of this Act
- e. to provide education and advice on policies for online safety and conduct on the Internet:

### Definition of "broadcasting"

2. Given the fact radio and television are now consumed in many instances online, "broadcasting" seems a narrow term to be using in the context of this legislation. It is unclear whether the obligations and objectives in the Bill apply equally to ANZPM's online presence, content and activities. Netsafe would want to ensure that ANZPM's online content and activities are clearly covered by the aims and objectives of the Bill whether through the definition of "broadcasting" or otherwise.

### Obligation towards Children and to other vulnerable groups

3. Netsafe notes there is no explicit obligation on ANZPM to ensure the interests of children and other vulnerable groups in society are protected in the course of ANZPM's activities. The provisions on vulnerable or underrepresented groups appear weak (e.g. clause 12(1)(h) and 13(1)(d)). Netsafe would like to see a stronger obligation on ANZPM to ensure that its content and activities promote and protect the interests of children and other vulnerable groups when using ANZPM platforms or consuming ANZPM content (e.g. accessing ANZPM websites, or consuming or participating in online content).

### Definition of media entities

4. In clause 17(1) of the Bill ANZPM will have an obligation to collaborate with "other media entities". "Media entity" is not defined in the Bill so it is not clear exactly what type of entity will be included within the obligation. Netsafe notes that one of its functions as the Approved Agency under the HDCA is "to establish and maintain relationships with domestic service providers, online content hosts and agencies (as appropriate) to achieve the purpose of the [HDCA]". Given the likely nature and scope of ANZPM's online presence, digital content and activities, and the way ANZPM's content and services may be used by New Zealanders (e.g. online audience participation by way of comments sections) and the potential for online harms this may entail, Netsafe may seek to establish and maintain a relationship with ANZPM to achieve the purpose of the HDCA. Netsafe would like to ensure that ANZPM will have a reciprocal obligation to collaborate with agencies, including Netsafe, whose mission it is to prevent online harms.

We think this could be achieved by making clearer which agencies are intended to be caught by the term “media entity”.

#### Misinformation

5. Netsafe supports the clearly stated objective in clause 11(2)(k) for ANZPM to “counter misinformation” given the potential for misinformation to cause harm to individuals and the growing threat misinformation presents to New Zealand society more generally. However, there is no further provision in the Bill on exactly how this is to be achieved or how success will be measured. Indeed that comment applies to ANZPM’s objectives more broadly. Other than Board oversight and the production of an annual report the accountability and enforcement provisions of this Bill appear weak.