



Terms of reference for the review of the Online Safety Act 2018 and associated laws in relation to online harms and cyber abuse

Reference

1. I, Graham Leung, Attorney General of Fiji refer to the Fiji Law Reform Commission the subject of online harms and cyber abuse and for that purpose the *Online Safety Act 2018* and associated legislation including the *Telecommunications Act 2008*, *Child Care and Protection Act 2024*, *Child Justice Act 2024*, *Criminal Procedure Act 2009* and the *Crimes Act 2009* for consideration of the reform of the law in accordance with section 5(2)(a) and (b) of the *Fiji Law Reform Commission Act 1979*.
2. The Fiji Law Reform Commission, the Online Safety Commission and the Office of the Attorney General will jointly undertake a comprehensive review of existing laws and consider reform of the law for the subject of online harms and cyber abuse.
3. The Fiji Law Reform Commission shall conduct its review by undertaking community consultations, online platform providers and telecommunication services, online safety regulators in comparable jurisdictions, targeted stakeholder meetings, consult non-government organisations that have expert knowledge and expertise in online safety.

Part A - Gap Analysis and Review

4. The Fiji Law Reform Commission is tasked with a review into the following matters concerning the *Online Safety Act 2018*:

Gap Analysis

- (a) to identify any existing laws of Fiji that require strengthening to operate with the same level of effectiveness found in comparable laws in the areas of platform accountability, investigatory powers, content removal obligations;
- (b) to conduct an analysis of any inconsistencies or gaps between the *Online Safety Act 2018* and comparable laws including the *Online Safety Act 2021* (Cth), the *Harmful Digital Communications Act 2015* (NZ) and the *Online Safety Act 2023* (UK);

- (c) to consider whether the *Online Safety Act 2018* should be amended, modified or significantly expanded to improve online safety, address harms arising from cyber abuse and promote online safety;

Review of the Online Safety Act 2018

- (d) to determine if the objectives outlined in section 4 of the Act are adequate to address fully the range of cyber abuses, to adequately regulate and enforce the online safety expectations of the community and to promote online safety;
- (e) to explore whether the scope of the Act should be extended:
 - i. to cover a greater scope of online harms and cyber abuse;
 - ii. to address hate crimes online that are intended to harass and to cause another person alarm and distress based on certain characteristics or membership of a group;
 - iii. to confer a wider and stronger range of regulatory powers on the Online Safety Commission;
 - iv. to provide for a range of investigative and enforcement powers targeted to online harms and cyber abuses; and
 - v. to impose civil or criminal penalties that promote the accountability of digital service providers;
 - vi. to provide child specific access to justice pathways to bring complaints and commence proceedings in a safe and supportive way;
 - vii. to facilitate and promote cross-border cooperation with online safety agencies and law enforcement agencies;
 - viii. to address gender based cyber abuse and any other emerging forms of online harms;
- (f) to address digital platform accountability by imposing statutory obligations for the proactive detection and removal of harmful content consistent with comparable laws such as the *Online Safety Act 2023 (UK)*;
- (g) to explore the imposition of a statutory duty of care on internet service providers that promotes greater responsibility for the prevention of online harms;
- (h) to address any operational challenges encountered by the Online Safety Commission since its commencement in 2018;
- (i) to address the integration of the proposed jurisdiction of the Online Safety Commission with existing jurisdiction of law enforcement agencies; and
- (j) to address any related matters;

Proposed Amendments to Telecommunications Act 2008

- (k) to determine if any new offences or other amendments are required to address the specific issue of the cyber abuse of children.

Part B – Online Safety – Online Harms and Cyber Abuse

- 5. The Fiji Law Reform Commission is tasked with a review into the following matters concerning the Telecommunications Act 2008:

Online harms and cyber abuse using a telecommunication service

- (a) to consider the suitability of the Division 5 of Part 3 of the Telecommunications Act 2008 in terms of the protection of children and consumers generally from cyber abuses and online harms;
- (b) to consider any particular regulatory models that are suitable to address the specific dynamics of domestic violence and abuse of children;
- (c) to assess and compare regulatory powers and enforcement mechanisms available in comparable jurisdictions in relation to online service providers;
- (d) to consider any amendments, modifications or new provisions required to support interjurisdictional operations with other law enforcement agencies and that align with Fiji's obligations under the Budapest Convention on Cybercrime;
- (e) to address any other related matters.

- 6. The Fiji Law Reform Commission is tasked with a review into the following matters concerning the *Child Care and Protection Act 2024*:

- (f) to consider any possible amendments, modifications or additional provisions that may be required to address the cyber abuse of children in relation to child protection;
- (g) to address any other related matters.

- 7. The Fiji Law Reform Commission is tasked with a review into the following matters concerning the Child Justice Act 2024, Criminal Procedure Act 2009 and Crimes Act 2009:

Online harms and cyber abuse review of the Child Justice Act 2024, Criminal Procedure Act 2009 and Crimes Act 2009

- (h) to consider any possible amendments, modifications or additional provisions that may be required to address the online harms and cyber abuse of children;

- (j) to consider the appropriate models for a trauma informed and child sensitive criminal procedure for the prosecution of offences for online harms and cyber abuse of children;
- (k) to address any other related matters.

Final Report

- 8. A two-part Final Report is to be presented to the Attorney-General with:
 - (a) A report on Part A of the reference by 7th April 2025 ; and
 - (b) A report on Part B of the reference by 1 July 2025.

Issued this 14 March 2025.



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