



**NEW ZEALAND**

Affiliated with the International Federation of Business & Professional Women

**BPW**  
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New Zealand Federation of Business  
and Professional Women Incorporated

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21 February 2014

To the Committee Secretariat, Justice & Electoral Committee  
Parliament Buildings  
**Wellington**

Online:

**Re: Submission on Harmful Digital Communications Bill 2013**

**Submission:**

This submission is from the NZ Federation of Business and Professional Women (BPW NZ) Inc.

**Our Organisation**

Our organisation's aims are to link professional and business women throughout the world, to provide support, to lobby for change and to promote the ongoing advancement of women. We work for equal opportunities and status for all women in economic, civil and political life and the removal of discrimination in all countries. We promote our aims and organise our operating structure without distinction as to race, language or religion.

Our structure is comprised of a National Executive, 14 branches and a number of individual members in areas where there is no branch. We are an apolitical organization.

**International Status:**

BPW International has General Consultative Status at the United Nations through the UN Economic & Social Council (ECOSOC). This enables BPW International to appoint official representatives to UN agencies worldwide and to accredit members to attend specific UN meetings.

BPW International's President is the Gender Specialist with the International Organization of Employers (IOE) and we bring the voice of women to business as an expert resource on gender diversity.

BPW International upholds the outcomes of the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee at state party level. BPW International upholds the outcome documents of the annual UN Commission on the Status of Women (CSW) which evaluates progress, identifies challenges, sets global standards and formulates policies to promote gender equality and women's empowerment worldwide.

Our interest in this Bill is because we are committed to advocating for the well-being of women and their families. During the past decade, advances in information technology have facilitated a global communications network that transcends national and international boundaries. It has an impact on private attitudes and behaviour, especially of children and young adults and we are concerned these advances made with technology over the past decades have opened up a whole new world of opportunities and challenges that put women and their families at risk. Research suggests this is a growing problem and we as a country need to be in a position that is not reactive but proactive as this is effecting more and more of our young people via the internet and that one in five adolescents experience some form of cyber-bullying or harassment.

We are committed to working for women and girls reinforcing the need for New Zealand to implement the Concluding Observations of CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women) which refer to harassment of women and girls.

## 1.0 General Comments:

- 1.1 BPW NZ wants to congratulate the Justice and Electoral Select Committee on this Bill which recognizes the seriousness of Harmful Digital Communications, by ensuring harmful communications are covered by the law; by providing a range of accessible legal options for people who experience harmful digital communications. We support the Bill in principle and would like to see it implemented as soon as possible.
- 1.2 BPW NZ also notes a number of overseas jurisdictions are moving to criminalise communications causing serious distress and mental harm (e.g., The United Kingdom, Australia and the United States). We support this international trend and congratulate our government for tabling such a comprehensive Bill.

We quote the BPW International XXVII International Congress Helsinki Finland Resolution:

***“Sexual exploitation of young women and girls (and boys/young men) through mobile phones & internet interactive mediums***

*Mindful* that action to stop and prevent violence against women and girls is a BPW International priority policy;

*Mindful* that women take the major responsibility for family wellbeing and health including the protection of their children;

*Mindful* that the aim of BPW is to support the development of girls and women to their full potential and to achieve equity and justice for them:

*Recognising* that the workplace and educational institutions are environments where sexual harassment and bullying is often situated

**BPW International:**

*Notes with concern the significant and growing emotional and mental assault occurring in many countries across the globe through the targeting of girls and young women (and boys/young men) through the misuse of modern forms of technology such as mobile phones, social networking sites and other online media*

*Notes with grave concern the potential of these technologies being misused to sexually exploit women and girls by people who, for example, share images of these women/girls without their consent and in contexts for which they were not intended. This can amount to sexual abuse and exploitation, and is an assault on the emotional and mental health of the victims, leaving them feeling isolated, shamed, and besieged. This can cause serious long-term damage to the emotional, mental health and personal safety of those affected, including through self-harm and suicide;*

*Notes that schools, tertiary education institutions and the workplace are all environments where this abuse occurs and notes the effects of the abuse of increased anxiety and depression, diminished self-esteem and fearfulness due to the intimidation undermining the capacity of victims to achieve their potential in education and careers.*

*BPW International resolves to address this issue as a policy priority by including the misuse of technology for sexual violence against women and girls in the work of the BPW International Health Committee and End Violence against Women and Girls Campaign by:*

- advocating for the eradication of sexual abuse and intimidation of women and girls through the abuse of interactive technology as a standard requirement of educational and workplace safety,*
- working through UN Representatives to promote the inclusion of “sexual violence and modern technology” in UN debates and resolutions on violence against women and girls, and to monitor responses to the problem through the UN system.*
- Empowering affiliates worldwide by providing concise, accurate information on this issue, and a “toolkit” of guidelines and strategies for individual clubs and members to pursue action and advocacy at national levels.”*

**(2011)**

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**1.3** With new advances in technologies, which are far more intrusive and more pervasive thus causing greater harm by individuals, it is imperative we make amendments to all relevant pieces of Legislation,

- Summary Offices Act 1981,
- Crimes Act 1961,
- Harassment Act 1997,
- Human Rights Act 1993
- Privacy Act 1993

to ensure they apply to all forms of digital communications.

**1.4** BPW NZ supports the introduction of a new civil enforcement regime, but would like to see some structure and governance around the make-up of the agency. We agree there needs to be an organization that will receive the complaint and investigate to ensure it meets the threshold and deemed not to be trivial, frivolous or vexatious in nature. This will provide a

quicker response to the harm caused by harmful digital communications. Something at present which is held up in the justice process.

- 1.5 With the introduction of this new civil enforcement regime we would like to see some sound policies put in place on frequency of reporting and information gathering. We believe that quarterly reports should be able to expose trends; but a comprehensive annual report distributed to the Department of Justice, Women's Affairs, Education and Ministry of Social Development, with a review in two years. We would also like to see this information separated by gender.
- 1.6 BPW NZ welcomes the creation of the 10 communication principals which will set the parameters for the approved agency to work within. This agency needs to have the necessary experience, skills and knowledge to carry out the functions required; we see this as an organization better led by the Crown because of the interagency liaisons necessary to investigate such crimes. This is not just a New Zealand problem; this is experienced internationally.
- 1.7 The Bill needs to be implemented and resources put in place to effectively monitor all harmful digital communication; cyber-bullying, digital harassment sent through e-mails, texts, blogs, forums and social media sites such as Facebook and Twitter.
- 1.8 BPW NZ welcomes the creation of new criminal offences to deal with the most serious harmful digital communications but feels it doesn't go far enough to deter this type of behavior.
- 1.9 BPW NZ is concerned with some aspects of the Bill and the impact on human rights. This is discussed further in Section 3. However, we would not want these concerns to override the importance of the protective work contained in this Bill.

## **2 Comments specific to penalties for Harmful Digital Communications Bill**

- 2.1 BPW NZ welcomes under the Bill the ability to charge:
  - a natural person a sum that does not exceed \$5,000
  - or a body corporate a sum that does not exceed \$20,000.

Whilst these sums are not insignificant we believe they do not go far enough to recognize the significance of the offence. Failure to comply with a court order in this particular instance is further attributing to the victims persecution.

- 2.2 BPW NZ welcomes the amendments to the Crimes Act 1961; of inciting a person to commit suicide but has not been attempted (this will complement the existing offence under the Crime Act 1961 where suicide has been attempted). We are pleased to see this now carries a penalty of a term of imprisonment not exceeding three years.
- 2.3 BPW NZ would like to congratulate the NZ Parliament on addressing this Bill in its totality ensuring that the effects and impact of implementing this Bill are consistent and compliant.

- 2.4** BPW NZ would also like to see more funds invested in; the development of new resources for the education of our children and young adults: in the promotion of support initiatives for those more susceptible

We quote an excerpt from the of Concluding Observations of CEDAW, 27 July 2012

*Para. 21: The committee urges the state party:*

*(b) To systematically collect data on harmful practices, including cyberbullying targeting teenage girls, and to implement measures, such as awareness campaigns in schools, to prevent such practices;*

- 2.5** Our young are far too trusting when engaging in the new technologies available to them; whilst they grasp these initiatives quickly they are slow to see the potential dangers they maybe exposing themselves to. Cyber-bullying is an anonymous way to persecute and victimize a person without the need to engage face to face. We need the necessary resources and skills to effectively investigate all reported cases and prosecute.
- 2.6** We are committed to working for women and girls and reinforcing the need for New Zealand to implement Legislation which refers to the protection of women and children from all forms of Harmful Digital Communications.

### **3.0 Comments specific to human rights issues**

- 3.1** BPW NZ is concerned the current Bill is consistent with the New Zealand Bill of Human Rights Act 1990 and that the rights and freedoms of an individual to express an opinion are consistent with what is reflected in the Act.
- 3.2** Our Federation is pleased to see that references to use of electronic communications will be included in the Human Rights Act 1993, so that it prohibits broadcasts that cause racial disharmony, and expands it to include sexual harassment. Should a person participate in a forum for the exchange of these ideas and information referring to sections 61 – 63 of the Human Rights Act 1993.
- 3.3** Our Federation has grave concerns for the rights of victims of these offences and urges the government look to investigate a paper on the Ethical dimensions of the Information Society that is coming out from the World Summit on Information Society Forum 2013 and 2013 World Summit on Information Society + 10 Event.

We quote:

*“The international and interdisciplinary reflection and debate on the ethical challenges of emerging technologies and the information society continues. Such reflection and debate tends today to have a multitiered dimension that connects to policy and advisory bodies, with particular attention to the participation of developing countries and sensitivities to their needs. Among themes of particular relevance in examining the interface between information technologies, social transformation and governance are the relation between human rights and ethical principles for the information society; the challenges of interculturality in information ethics; the possible tensions between freedom of expression and moral harm; issues of privacy and security; issues of free access to public and governmental information; and the fundamental question of personal and collective identities in a digital world by:*

- *In order to support equitable participation of all stakeholders, efforts should be made, including through UNESCO programmes where appropriate, to build or strengthen regional and national capacity in to analyse, discuss and respond to the ethical challenges of the information society.*
- *Awareness should be raised of the ethical implications of the information society, particularly among young people, along with life-long education initiatives to equip all citizens with the skills and competence to participate actively and knowledgeably in the information society. New info-ethical and info-civic pedagogical paradigms, including but not limited to e-learning, could be envisaged in this regard to support new modes of global citizenship fully integrating digital media and virtual political spaces;*
- *Freedom of expression should be affirmed as a fundamental right and as the basis for reflection on its responsible use in the context of broader consideration of freedom of access to information, particularly public and governmental and of the right to communication in a framework of cultural sensitivity, tolerance, and dialogue;*

*Consideration should be given to the ethical principles that bear on technological and social issues in the information society and underlie specific regulatory frameworks, whether or not such principles are enshrined in existing normative instruments or codes of conduct. Of particular importance in this regard is the analysis of gaps and lags that hamper policy in the face of the ethical challenges of the information society, with a view to supporting policy-makers and stakeholders in moving in synchrony with technological advance rather than reacting after the fact.*

## 4.0 Summary

- 4.1** It is evident from research literature that as many as one in 10 New Zealanders has personal experience of harmful communications on the internet. These statistics highlight the vulnerable of our young. They adapt so quickly to new technology without the insight as to the danger they are opening themselves up to. In 2007 it was estimated one in five adolescents experienced some form of cyber-bullying or harassment that year.
- 4.2** BPW NZ acknowledges the work done by Netsafe in helping people deal with these issues by providing tools to protect themselves online, however it is not enough when you see schools moving to implement policies to deal with cyber-bullying.
- 4.3** BPW NZ would like to see the issues of gender be clearly identified within all Policy documents that shape prevention and intervention strategies with regards to the introduction of this Bill. The separation of reporting and prosecutions associated with harmful digital communications would also be more pertinent when drawing upon information which will better protect the community. We would like a full review to be undertaken every two years after the implementation of this Bill to ensure it is meeting the original intent of the Bill
- 4.4** We need more resources to be expended to ensure our women, children and families feel safe and the threat of their exploitation in this arena is minimized if not eradicated. Public awareness of these issues needs to be done in a sensitive way to ensure the fullest participation of the community. Community engagement and reporting of these crimes have got to be made a priority and resources expended so these programs can be put into place.

**4.5** We need the schools to have access to resources that can help them to implement programs to combat cyber-bullying. Education needs to be delivered to all ages in the community; it is as much about recognizing the signs as to knowing how to keep you safe online. Technology evolves so quickly we need to be more proactive than reactive. We need to be engaging not only nationally but globally to ensure there is a free exchange of information and learning from overseas experiences.

**4.6** BPW NZ would like to congratulate this government for tabling this piece of legislation, as it is the responsibility of this government to pass legislation that protects its community.

Thank you for the opportunity to speak to our submission and we hope that our comments are of use to you.

*On behalf of*  
***New Zealand Federation of Business and Professional Women Inc.***



**Carolyn Savage**  
**President**



**Vicky Mee**  
**Vice President, Issues**