

Katherine Sessions

Office of the eSafety Commissioner

Kathy Janevska, Associate at MinterEllison, chats with **Katherine Sessions**, Safety by Design Lead and Assistant Manager – Industry Affairs and Engagement within the International Strategy and Futures Branch at the Office of the eSafety Commissioner about her career to celebrate International Women’s Day. Katherine started her career in private practice and after moving to the ACMA she was seconded to the ACCC for the Digital Platforms Inquiry. Katherine currently sits on the Board of CAMLA.

KATHY JANEVSKA: Hi Katherine – thank you so much for speaking with us. How did your career path lead you to the Office of the eSafety Commissioner?

KATHERINE SESSIONS: I started my legal career in private practice working in TMT. During this time, I had the opportunity to work closely with a variety of corporate stakeholders and to work across corporate and commercial litigation matters, all the way up to the Federal Court.

I’ve always been excited by the evolving online policy landscape. After working with ACMA and being selected for a secondment to ACCC for the Digital Platforms Inquiry, I knew that a regulatory shift was happening.

In my current role at eSafety I work on Tech Policy. I lead on our Safety by Design initiative, which places user safety at the centre of online platform and service development. It’s a key policy that underpins eSafety’s proactive change activities. This requires ongoing consideration of tech developments, ethics, human rights, and inclusivity, so it aligns well with my values.

KATHY: What developments in the online safety landscape are you excited to see come to fruition?

KATHERINE: I’m really excited about developments in technology, particularly those that allow immersive technologies to surface risks and mitigate harms before they occur. We’ve put out a public position statement on immersive technologies, which is available on the eSafety website.

In terms of legislative developments, Australia is really paving the way in online safety. The Australian Government introduced new legislative changes through the Online Safety Act 2021 Cth (OSA), which came into effect on 23 January.

This legislation enhances eSafety’s regulatory schemes for dealing with the cyberbullying of children, image-based abuse, and illegal or restricted online content, while also introducing a new scheme for dealing with adult cyber abuse.

Through a Ministerial instrument, the OSA also sets out key considerations for Basic Online Safety Expectations (BOSE) for a broad range of online services, outlining the fundamental safety practices expected of service providers. In 2022 our focus is on raising awareness of the BOSE among service providers, as well as consulting with stakeholders to develop regulatory guidance and to build their capacity to comply.

The OSA gives industry bodies or associations the opportunity to develop a new industry code, or set of codes, which would be registered by eSafety to regulate and prevent the spread of certain types of harmful online material.

KATHY: What is a highlight of your career so far?

KATHERINE: Shaping global Tech Policy. I’m always grateful that I have an opportunity to advocate for user safety while working directly with industry on the front lines of emerging tech. People are making huge investments into the virtual technologies as we continue to develop the future of the metaverse for not only gaming and social platforms, but for businesses to interact with their clients in the virtual world. Five years from now this will likely be commonplace as our offline and online worlds converge, so it is exciting to be involved in this technological revolution.

KATHY: What are some of the challenges we are facing with these new technologies?

KATHERINE: This is an entirely new era that we are moving into, completely uncharted territory, which will inevitably see new online harms emerge.

There are some real challenges with the way in which the technologies are developed and used. For example, developments in haptic gloves and haptic suits simulate a world of touch and sensation — hot and cold, rough and smooth, pleasure and pain – which could be used for nefarious purposes. More covert harms include deceptive designs, or ‘dark patterns’, which are tricks built into the interfaces of apps and websites designed to lead us towards actions we might not otherwise take.

There are also real challenges with balancing privacy, security and safety, which need to be considered in tandem.

Whilst there are a multitude of challenges and risks, I think it’s important to remember that there are also so many positive applications that this new technology brings users – for example, improving the quality of life and independence of people who are unable to access actual experiences for a variety of reasons, including disability, or remoteness.

KATHY: What about legal challenges?

KATHERINE: There are unprecedented jurisdictional challenges, as we move from a two-dimensional to a three-dimensional internet and new metaverse lands, such as The Sandbox, Decentraland, Meta etc, as well as the potential of Web 3.0 or the decentralised web.



We are starting to see some interesting litigation surrounding these new spaces, including some ground-breaking new virtual commerce lawsuits regarding NFTs and IP. In one of the first major metaverse legal proceedings, Nike has filed a lawsuit against StockX for using Nike marks in its sneaker NFTs. Hermès also recently sued a digital artist for infringing rights to its Birkin handbag through the issuance of ‘MetaBirkin’ NFTs.

There are also problems with new payment methods, moving beyond regulated currencies to cryptocurrencies and reliance on crypto wallets.

Without clear jurisdictional arrangements it is unclear how many of these new issues will be resolved. Will we continue to litigate offline, or will we participate in ‘virtual’ legal matters? Will there be a metaverse dispute solution? Watch this space...

KATHY: What’s the best work-related advice you’ve ever received?

KATHERINE: Sheryl Sandberg provides a great piece of advice, “It’s the ultimate luxury to combine passion and contribution. It’s also a very clear path to happiness.”

I feel deeply about equality of opportunity in a true sense, and I have an enormous amount of gratitude to the women before me who fought for equal rights and have afforded me this luxury.

KATHY: If you could have dinner with any woman – living or passed, real or fictional, who would it be and why?

KATHERINE: Hmm... that’s a tough one. Perhaps the Honourable Dame Quentin Bryce CVO AD, who has paved the way for many women in Australian law and public service.

KATHY: If there is one thing you would celebrate about International Women’s Day in your industry, specifically, what would it be?

KATHERINE: We have such a unique regulatory presence. Australia’s comms and media regulators, ACCC, ACMA, eSafety, OAIC and TIO, all have trailblazing women at the top of the leadership structure. These women are all strategic thinkers, who are solutions focused, and influencing the global landscape.

KATHY: Thanks so much for your time today, Katherine.

KATHERINE: No problem, my pleasure. Thank you!