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S1 00:00	Hello, and welcome to another episode of the Moxie Podcast. This is episode 22, recorded on the 10th of December, 2014. A special thanks to Alcatel-Lucent, whose sponsorship helps to make this podcast possible. This is the companion web show to The Moxie Sessions, an Internet economy discussion group held once a month in Auckland, New Zealand. Our aim is to bring together a group of interesting people from a diverse range of backgrounds to talk about how New Zealand can take advantage of the Internet to improve its social and economic performance.
S1 00:33	I'm Andrew Patterson with you here in Auckland, and I'll introduce our guest panel shortly. But first, let me tell you a bit about our topic for this session. Cyberbullying has certainly become the dark side of social media. It continues to be a blight on the Internet landscape, causing suffering and harm for many people - particularly teenagers, but also adults. However, the problem is easier to identify than the solution. The New Zealand government has recently announced its intention to progress the Harmful Digital Communications bill in an effort to reduce cyberbullying and digital harassment, but there are already questions about how effective the legislation will be.
S1 01:14	So, what makes the online world different from the offline one? Are we taking the right approach or do we need alternative options? And are there real threats to free speech here? With me on the panel today to discuss this, I'm joined by Rick Shera, a leading New Zealand information technology and media lawyer, with a particular interest in Internet law and a partner at Auckland-based law firm Lownes Jordan. Vaughn Davis is founder and creative director of Auckland-based advertising and social media agency The Goat Farm, and host of Sunday Social on Radio Live. And Bevan Chuang, who was recently the victim of a high profile cyberbullying case here in New Zealand. Welcome to you all.
S2 01:55	Hello.
S3 01:56	Hello.
S4 01:56	Thank you.
S1 01:57	Firstly to you, Rick Shera, perhaps you could begin by outlining for us briefly what this Harmful Digital Communications bill that's being proposed by the New Zealand government is intended to achieve.
S3 02:10	It is intended to address online seriously emotionally harmful material. The way in which it will do that is to set up a sort of two stage or concurrent process. First part of that process would be an approved agency. So, that could be a government department or a NGO, which would have the responsibility to triage in hopefully Internet time, or reasonably quick time, complaints about harmful material which is posted online. So, it would do that by trying to mediate or persuade or cajole the parties to that complaint - the person who the information is about, and the person

who's put it up. And if that failed, it would then try to liaise with the online platform host to get the material taken down, on the basis that it would be a breach of the terms and service of those hosts. The second part of it is a more formal process in front of the District Court. And the District Court is being given a range of new powers, and indeed new criminal regime, with changes to the harassment act and to other laws.

S1 03:25 How effective do you believe it's going to be? Obviously, the legislation isn't in place yet. But I understand New Zealand is one of the few countries attempting to legislate in this area. Do you have any thoughts on the bill as it's being proposed at the moment, in terms of it's effectiveness?

S3 03:42 It's fair to say that countries all around the world that are struggling with this. Even since the New Zealand bill came into the [?] of timetable, Australia has got a new proposal for a similar - but in a very Australian way - different proposal, where they're going to have a regulator stamp their seal of authority or imprimatur on the Internet itself. It is a difficult one. It's clearly accepted by everybody who is in favour of this, but it is not going to be the be-all-and-end-all. It will be just a piece in the puzzle of how we address these things. But in my view, setting legislation and law is useful in the sense that it sets a bright line, as it were, for society's decision as to what is acceptable and what is not. So, whilst enforcement of these sorts of things will be difficult on a global Internet, the fact that we have a law which says, "Hey, we have decided, or parliament has decided, after hearing from people in a select committee process, that this is unacceptable in New Zealand society." That is useful of itself.

S1 04:57 Because at the moment, this area is fairly much kind of the Wild West almost.

S3 05:03 Well, I never liked that word Wild West because it does connote that there are no rules, and that is not correct. There are plenty of rules which apply on the Internet, just as they do in the offline world. Things like defamation, things like the Films, Videos, Publications, Classification Act in respect of objectionable material. We have a Harassment Act, although this Harmful Digital Communications bill will tweak that somewhat. So, there are a number of-- Fair Trading Act. There's all sorts of things which apply in the offline world, and equally apply online. The difference, I think, with this regime is that all of those rules require - in some sense - going to court, if the person who has put the material up is recalcitrant and doesn't do anything about it. The beauty of this or the proposal for this is that the approved agency will be able to act much more quickly than a court process.

S1 06:00 So, online tools or reporting that showed the prevalence of complaints about other users is one idea that has been raised. It might help users in making choices about what communities to join. Another solution might be more public ratings of other users based on how often they're blocked or reported. Are those better approaches than, perhaps, legislation? Or are they complimentary options available as well, too?

S3 06:26 I think they're all complimentary. The carrot of the online rating system, or gamification in terms of instructing people as to what is and is not acceptable is a very good regime. But we do need something to catch the people that don't respond to those sorts of incentives. Netsafe already has a reporting facility that gets both telephone calls and reports through its orb, the online reporting button system. So, there are facilities out there, and of course most of the social media platforms have some form of blocking or reporting, and I just noticed in the press the other day that

Twitter is upping its game in this area, which is probably something that they needed to do.

S1 07:10	Bevan Chuang, can I bring you in here?
S2 07:12	Yes.
S1 07:13	You were the subject of a very high profile case of cyberbulling here in New Zealand. Firstly, as a victim of this abuse, how did this experience affect you?
S2 07:24	We can't get away from the social media at the moment. I think majority of us, in some form, will be engaging social media. So, to be completely turned off because you are afraid of what people's saying to you online, you feel like you're actually removing yourself from the world, in a way. It's also very personal, and I think people forget that when you're making a post, particularly if you're mentioning a person by actually tagging them or something, you're actually making a very personal attack on the person, even though I don't know who they are. I was watching Monica Lewinsky's 30 Under 30, and she was saying how, when that first happened to her, she felt like people were just walking up to her and punch her in the guts, and that's exactly how I felt. Because it was like, "Who on earth are you writing what you said?" The thing that allows me to think about this, "Okay, I have to shut this down immediately by turning it off," basically shutting the world behind. And then you've got friends who go, "Are you all right?" and then it became like, you've got people who are harassing you at one stage, and then the other people just want to know how you are. But that whole thing was really overwhelming for you to actually know what to do, so you just shut off completely, basically.
S1 08:51	One of the interesting observations you made was that nobody actually came and abused you to your face. This is the ability to hide behind the web effectively.
S2 09:01	Yeah. So, there are people who actually came up to my workplace, but they've never came up to me, but they've made comments to my colleague. But it is, people been just doing it behind the phones or the computer, and in a way I guess it's lucky that I've never have to confront them face-to-face, but the majority of them do tend to just want to do it behind the scene.
S1 09:23	How difficult was it for you dealing with the likes of Facebook and so forth, to try and remove material that was clearly damaging?
S2 09:33	I think everyone's experience is different, but, for me, Facebook was a little bit harder, that Facebook did not see some of these as a breach of their policies. And even when I had had really white supremacy sort of content there, they still didn't think it was breaching of their policy. Twitter was slightly better for me. I was able to block and report the person and have some accounts actually removed. Same with Instagram, it's been much better. But I heard a lot of people have different experience.
S1 10:09	Where do you believe the focus should be when it comes to educating people in this area?
S2 10:15	Well, the focus is actually about educating people that what they're doing can cause serious harm to a person. I know there's a lot of work done with students, where they can report to teachers and the parents, and parents sometimes step in and do what they need to do. A recent story of a lady who has been re-posting all the abuse that she has to mothers of those abuser, and the mother go, "Okay, I will do something about it." But the fact is that, if there are adults, we don't really have a way to stop

them as a target, because you don't have a parent or teacher to go to. So, it's about teaching them that little spirit of a moment little thing you type online can cause much more harm than a little joke kind of thing.

S1 11:14   At your lowest point through all of this, how low were you?

S2 11:19   I was really lucky that I've got friends who actually managed to remove me from a lot. So, I was actually off social media for about two weeks or so. I have people who, I don't know who defended me, by going up to some of the-- actually, because they're very known public personnel, they went up to them and put up this massive post about how their behaviour is really silly, and it's not very good look for the company as well. That had then retracted and then have gone with a bit of a backlash from people who said they would never go back to that shop. So, I was quite lucky that I've got people like that, who sees that the action itself is not right.

S1 12:07   Vaughn Davis, can I bring you in here? You've been researching this idea that perhaps we could intervene, in particularly suicide cases - which is obviously the most dramatic form of how this harmful interaction can affect people - by more active monitoring of Facebook. You've proposed an idea you've called a Red Flag, which aims to gather user data from Facebook, where people have, in fact, taken their own lives, and use it to try and see if it's possible to build a predictive model that might be useful in the future. Just explain briefly, how it would work, and what sort of a response you've had to the idea today.

S4 12:42   I will talk about that, but I maybe want to go a little bit broader first, and that's about the wider context of online bullying versus bullying in the real world. I think the popular conception certainly in the mainstream media is that, the Internet is a place where bad things happen, and bad things happen because the Internet is there. I don't know if there's necessarily any evidence to back that up. What the Internet does is actually quite a positive thing. It makes this behaviour more visible. And go back 20 years, if you were bullied, there might be bullies in your workplace, or in your social settings, or even within your family, and no one but the people involved would see that, and the problem would just continue.

S4 13:27   What's happening these days is that those same activities are happening in a much more public space, which gives us a few opportunities. It gives us the opportunity that this proposed law presents, which is one great avenue. It gives us the opportunity for the community itself to moderate, and Bevan talked about that, and it was a fantastic example of that. You can defend yourself, but that's far less powerful than your peer group doing the defending. And the final thing, and this is perhaps most powerful is, the opportunity for the social network itself to moderate. Because if you're an online bully or if you're into taking cheap shots at high profile people online, that voice is important to you. So, what that means is, the social network, Facebook, or Twitter, or whoever, Instagram, has a lot of power over you, because they have the power to take that voice away permanently or temporarily. That's a really powerful thing in terms of moderating your behaviour. So, while the popular conception is that the Internet and social media are a catalyst for this, or a cause, or a reason for it, I believe they're at best or at worst, just a setting for it, but at best an opportunity to do a lot of good around this problem that's always been with us. And that was kind of the setting for the project that we've been working on.

S4 14:52   So, project Red Flag, it's a funny project. It's one of those ones that's been in the PowerPoint stage for, what I as an advertising person think is a very long time. But the idea of the project, which was presented to Facebook almost two years ago now, is

that there's around a million suicides, and we are leaping straight to suicide, rather than less extreme examples of online behaviour. But there's around a million suicides worldwide, and roughly of those, 150,000 will be among Facebook users. And what that means is that you've got a heck of a lot of behavioural profile network data associated with those users. And we believe that gives us an opportunity to build a pretty robust predictive model around the likelihood of suicide in individuals. So, that's the first part of the project. So, this is in collaboration with Facebook, [?] Privacy Commission, to get all those pieces of the puzzles together.

S4 15:50   The second half of the project is a little more controversial, but I think it's something we have an obligation to at least investigate, that is if we know the people who are most predisposed, what should we do about it? There's all sorts of things you can do. And the ones that excite me the most are adjusting the way Facebook displays and promotes people's online activity, in order for Facebook to become something of a self-healing system. So, for example, if you're considered to be a risk-- Andrew, you can take the turn of being suicidal today. If Andrew's at risk, I'll make his content just a little bit more visible to all of his friends. So, more of his friends will see his content and more of his friends are likely to support him. So, that's the project in a nutshell. But it's just one execution in that wider belief I have that social media presents an opportunity to work towards positive mental health outcomes, rather than just a threat to people.

S1 16:50   And that's a good point, isn't it? Because we forget about the very open and transparent nature of the Internet, which can work to your advantage in situations like this. And if you do manage to pull this project off, this would be something of a first.

S4 17:06   Yeah, it would. There's been a lot of tinkering around the edges of this sort of stuff and has been characterised by two things. The first is a focus on semantic analysis, so what people say, the words they use, and trying to use that as an analogue for mood. And that only goes so far. "I'm feeling down," or, "I'm listening to The Smiths," or whatever it is that I'm doing. We're going much wider than that and looking at the metadata, so things like, when you post, how often do you post, the length of your post, how many spelling mistakes you make - I don't know, lots and lots of things. The second thing that characterises studies or attempts to counter this so far have been that they've all been opt in, and you can see why this is, for ethical reasons. But it's sort of that catch 22, I think it was specifically in the book. If you think that you're crazy, you're probably not crazy.

S1 18:02   Indeed [chuckles].

S3 18:04   I'd hate for my listening to The Smiths to be triggered as an adducer of my social and mental capability.

S4 18:13   It's always my go to example [laughter]. Insert Radiohead for The Smiths, I don't know.

S3 18:19   Okay [chuckles]. It's interesting, Vaughn, if I can just comment on one of the things that you said. The Internet is often described as a dual-purpose technology. It can be used for good and for bad, just like most technologies can. And the very things that you've pointed out as the positives are also part of the reason why I think most people have concluded now that we are in a new paradigm and we do need a new response to online harmful material, which is not the same as offline harmful material. And that's because the Internet, as you said Vaughn, is so good at providing

reach and spread and an intensity, and searchability of all of this material, and of course, because as we've all found out, it is permanent. There's no such thing as getting rid of material on the Internet, despite the court ruling in the EU on the right to be forgotten, which is a terrible misnomer, because of course, all we're doing is removing Google's links.

S4 19:23	It's a trivial example, but an Instagram of your tattoo is forever, but your tattoo can be removed.
S3 19:30	Yeah, exactly. So, I mean, it's a strange paradigm we live in where the Internet, which was supposed to be this ephemeral instantaneous mechanism is more permanent than the offline world.
S1 19:41	Indeed, just picking up on that point, as you've mentioned, Rick Shera, obviously the online world is a relatively recent occurrence, and clearly it needs to establish new norms and new community standards. Human interactions have changed, obviously because of social media, and we need to figure out how to deal with that. How much do you believe education is really the answer and the law should be the final deterrent?
S3 20:06	I think both have got to go hand-in-hand. As I said before, the law provides some degree of recognition of society's determination of what is acceptable and what is not, but education is clearly a fundamental piece. And it's not education in terms of educating what the law is, heaven forbid. It's more education around what is socially and ethically acceptable online. And I think there is a lot to be done in schools right from the start, right from the time that the three year old gets his hand on the iPad, to educate children as to the impact of what they're doing online, whether it be for their own privacy, or for the harm that they can cause others.
S1 20:56	Bevan Chuang, just back to you, that earlier discussion we talked about the fact that people are prepared to say things online that they wouldn't say to your face. I do find this intriguing in the sense that social behaviour, we should think about as being as valid in the online world as it is for face-to-face.
S2 21:15	Yes.
S1 21:15	We should just basically conduct ourselves the same way, so did you form any view about what is it that is this recessive gene in people that they feel that they have to take on a different persona?
S2 21:30	I don't think they're a different persona, per se, but they're more open to say things in the spirit of the moment things. So, it's like, I see something, I have to go and talk about it, so that's what social media is about, isn't it? It's about that immediate intense gratification of sharing your thoughts, your feeling, your everything. And they feel that it's the same thing when they talk about another person. Whereas, if you were to meet me, you might be scared of a lot of other things, like how I'm going to react. I might hit you and whatever, and whether or not you actually have the courage to actually say that in front of a person. Or maybe, it's been a little while since whatever you saw, and then when you meet the person, it's been a bit of a delay, so you might not have such a strong feeling. But I think it's that, "I've got to talk about it right now." Well, no, we don't really have to, actually. So, I think that's what seems to give people the power.
S4 22:33	That reluctance to say things to people's face is not just negative, either. If I were to talk down Queen Street with a nice new orange t-shirt, no one's going to mention it,

but if I put a photo of myself in that nice new orange t-shirt on Facebook, I'm going to get lots of likes and comments. It's not just about holding back on negative comments, it's about holding back on comments, in general. I think, generally speaking, we are more communicative online.

S1 22:59 So, if we think about this education objective Vaughn, where should that emphasis be based? We've talked about obviously the need for it to be in schools, but equally, as Bevan has spoken about, this is as common in the adult world as well, too. Obviously, not simply the issue around teenagers.

S3 23:18 Absolutely. We've got lots of examples in New Zealand where these so-called social engineering campaigns through mass media are proved to be really effective, and you've seen this in areas like domestic violence, although the effectiveness of that is questionable, I guess. But drink driving, or wearing your seat belt, or slowing down, all that sort of thing. That kind of advertising does work, especially when it gives us language to use in those tricky situations, like "Monique thinks you're dumb," or, "No bearsies for you." There's no reason why that sort of top down mass market approach couldn't work for online behaviour. I don't know if it's anyone's job to actually do that sort of work. Rick might have an opinion on that.

S4 24:04 NetSafe is underfunded as it is - Chairman of NetSafe putting in a plug for more funding. It has done a few bits and pieces. We did a video a few years ago on bullying and so on, which went down fairly well. There's been a few other bits and pieces around-- and I know some of the overseas countries, the UK and Australia in particular spring to mind, have got some quite good online resources, in terms of education for both adults and children. So, there is some things being done, but yeah, a mass market approach, if it can be resourced, would, of course, add to that.

S1 24:41 And do you think also this idea of highlighting impacts - and Bevan Chuang, full marks to you for being prepared to engage in your experience - but clearly, when people understand from people like you just how harmful this can be, that that in itself can be a very powerful learning tool.

S2 24:59 But I also, as we talked about it earlier with Vaughn and Rick, about actually because it is so transparent - because it's so public - that I actually opt to publicly re-post some of these things so that people can actually see what are the comments that I'm getting. I think that the better thing for these bullies is actually because it is written black and white somewhere, I can take a screen cap of it, and ultimately, they are responsible for that kind of comment. People do see those, and, "Okay, this person continues to do this," and perhaps that could be blocked, or something could be done about this person. Just like the mother have done with the comments that she got from the young boy. It is hard, I think, for people to stand up and talk about it. Majority of people would probably retract and just feel really uncomfortable. But I think some people who are brave enough should actually stand up and talk to people and say, "Look, this is not okay." Then, as a community, or society, we can really condemn such behaviour.

S1 26:08 Indeed.

S3 26:08 Using the Internet to regulate the Internet, as Vaughn says, and Bevan says, is a great idea, and there was a classic example of that the other day where someone's come up with the idea of taking screenshots of abusive material online and then sending them to the people's mothers.

S2 26:27	Yes, that was that woman. That was amazing, actually [chuckles].
S3 26:32	Which was a brilliant idea, I think. And then I think there's been some comments back from the mothers, criticising their sons or daughters as to their online behaviour. So, again, there are all sorts of possibilities here with the Internet. It's designed to create these possibilities.
S4 26:48	There's no reason why, in the same way that we like a post on Twitter or Facebook, there couldn't be a little toggle where we could put a little black sticker on it, and if there was enough black stickers on it, that makes peoples posts less visible. And for someone who gets off on having their voice heard, which is most of us online, having your posts less buoyant in the news feed, be it Twitter or Facebook, that's a pretty harsh punishment.
S1 27:14	Good point. This has been obviously the success of Trade Me and even Uber, of course, which is using this way of how you score each other, and that becomes the regulatory tool around which this can happen. Just in the remaining minutes, I could perhaps give each of you a chance to conclude with your final thoughts, and maybe some of the action points that you think we should be thinking about, around this issue, from this particular point. Rick Shera, let's start with you.
S3 27:46	I think, just to place a somewhat legalistic view, that the Harmful Digital Communications bill provides both an opportunity for the discussion, and also hopefully, in its outcome, if it gets passed, a regime which won't provide the full answers, and no one expects that. But it will provide some degree of assistance in this area for the most [?] of cases. And I think, just to hark back to one of your first comments Andrew about freedom of speech and so on, the Harmful Digital Communications bill will actually not impact free speech. In fact, the bar that is being set under that legislation will be quite high, and I think people will be disappointed as to how hard it is to get something through the legislation as it's proposed at the moment. So, I'm looking forward to seeing that. We've got a new minister in charge of that bill, Amy Adams, who's expanded to Justice and the Communications portfolios, so both of those portfolios are highly relevant, and I'm looking forward to the discussion on it.
S1 28:49	Thank you. Vaughn Davis?
S4 28:50	I think, for me, the focus will continue to be exposing the enormous potential for positive outcomes through social media and the Internet, acknowledging that harmful stuff happens, but working hard to convince people that there's a huge potential to help people.
S1 29:14	Good point, and effectively, your example around the Red Flag project is a really good example of how data can be used for positive outcomes as well. Bevan Chuang, final word to you.
S4 29:28	I think for people who have been attacked, don't see yourself as a victim, definitely a champion. Not even a survivor, but a champion. To actually get your community together and tell the bully that the actions are not okay and that the society condemns it. So, I think that's probably a better approach than feeling upset about it. Do talk to people, try not to go and Google search any of the material online, particularly directed at you, because that'S just not very good for your mental health.

S1 29:59	Indeed. My thanks to our panelists, Rick Shera, Vaughn Davis, and Bevan Chuang, and I'll just get each of our panelists to indicate how people can connect with you if they're interested in following through with this story. Bevan?
S2 30:13	So, I am obviously on social media. I am on Twitter, @MsBevanChuang, and I've got a blog, bevanchuang.wordpress.com, which from time to time I talk about things like that.
S1 30:25	Great, and Vaughn Davis?
S4 30:27	Well, listen to Radio Live Sunday night 7:00 PM, Sunday Social, or on twitter @vaughndavis.
S1 30:33	All right, and Rick Shera?
S3 30:35	Connect with me on Twitter @lawgeeknz or via our website, www.lojo.co.nz.
S1 30:43	Excellent, thanks again to our panelists, Rick, Vaughn, and Bevan, and our thanks also to our sponsor Alkatel-Lucent for their support of this podcast series. I'm Andrew Patterson, thanks for joining us for this Moxie podcast.