

**Submission
No 22**

SEXUALISATION OF CHILDREN AND YOUNG PEOPLE

Organisation: Department of Family and Community Services
Name: Mr Michael Woodhouse
Position: Executive Director, Strategic Policy
Date Received: 5/02/2016



The Hon Brad Hazzard MP
Minister for Family and Community Services
Minister for Social Housing

Ms Melanie Gibbons MP

Chair, Joint Committee on Children and Young People
Parliament House
Macquarie Street
SYDNEY NSW 2000

Ref CSM15/3487

Dear Ms Gibbons,

Thank you for the invitation to make a submission to your Committee's inquiry into the sexualisation of children and young people. Please find attached a submission that has been prepared by my Department on behalf of the NSW Government.

The potential harms surrounding the sexualisation of children and young people, particularly in the context of changing media landscape are complex issues that the NSW Government is committed to responding appropriately to. Our vision is for all children and young people to be safe from harm and equipped with the skills they may need for healthy sexual development.

The attached submission provides some important context around this complex issue as well as information on NSW Government initiatives to tackle the potential harms associated with the sexualisation of children and young people.

I look forward to receiving the Committee's report in 2016. Should you wish to discuss this submission further please contact Michael Woodhouse, Executive Director, Strategic Policy on 02 9716 3421.

Yours sincerely

BRAD HAZZARD MP
Minister

NSW Government submission into the Inquiry into sexualisation of children and young people

February 2016

Contents

Contents	2
Introduction	3
How is ‘sexualisation of children’ defined?	4
What is the context?	6
Media consumption by children and young people	6
Impact on children and young people	8
Evidence base	8
Areas of concern	8
Body image and mental health issues	8
Gender roles and attitudes (including sexual violence)	9
Sexual and reproductive health	11
Regulatory measures	12
Commonwealth responsibilities	12
Classification and Censorship	12
Coregulatory and self regulatory arrangements	12
NSW responsibilities	13
Sale and Distribution	13
Crimes Act	14
Employment of children and young people	14
Measures to educate and assist children, young people and parents	16
Online safety	16
Healthy relationships, sexual development and safety information	17
Targeted work with specific groups of children and young people	19
Responding to child abuse	19

Introduction

Research and social inquiries in Australia and abroad indicate a growing concern around the sexualisation of children and young people, particularly linked to the role of the media. The focus of this concern centres on the potential risks associated with material that exposes children and young people to material for which they are not developmentally ready or objectifies children and young people¹.

This issue is happening in the context of major changes to how people use media. Children and young people today have far greater access to technology than previous generations. Children and young people have the opportunity to consume and generate media in a wide variety of ways, many of which are less able to be supervised.

Children and young people are also becoming sexually active at a younger age. The average age of first sexual intercourse in Australia has dropped from 18 years in 1950 to 16 years in 2005². In one study, the number of students who report having had three or more sexual partners rose from 20 per cent in 2002 to 30 per cent in 2008³. There are many causes of this trend and there is not evidence to suggest that it is directly caused by the use of media.

The term 'exposure' refers to children and young people being exposed to inappropriate sexualised content whether deliberately or otherwise. This may include online pornography, music videos, editorial material in magazines, access to R18+ computer games and films and access to user-generated sexual media by other children and young people.

Whether or not exposure to the particular content constitutes sexualisation will depend on the age and developmental stage of the child or young person who views it. It may consider sexualisation for an eight-year-old child to be exposed to sexually suggestive music videos but not necessarily so for a sixteen-year-old. Editorial advice in a teenage magazine about safe sex may be appropriate for an older teenager but not so for a younger child. The potential risks of premature and inappropriate exposure to sexualised content include early onset of sexual activity, unwanted sexual activity, changes in sexual behaviour and participation in risky online activities.

Objectification refers to children and young people being depicted or treated as sexual objects. This is often linked to advertising and marketing and the direct targeting of children and young people to adopt aspects of adult sexuality. It applies to both boys and girls and involves the promotion of stereotypical ideals of sexual attractiveness. This form of sexualisation might occur from marketing products to young children such as padded bras, the use of unrealistic images in advertising or children who appear in advertisements adopting sexually provocative poses. Potential impacts on the wellbeing of children and young people are body image dissatisfaction, eating disorders and mental health issues.

¹ Parliament of Western Australia, Joint Standing Committee on the Commissioner for Children and Young People, Sexualisation of Children -The Commissioner for Children and Young People's 2013 report on the Sexualisation of Children, Report No.3, 2014

² Parliament of Australia, Senate Standing Committee on Environment, Communications and the Arts, Sexualisation of Children in the Contemporary Media (June 2008) [6.35].

³ Australian Government, National Survey of Australian Secondary Students, 2008

Not all material covering the sexuality of children and young people is negative or seen as sexualisation. Appropriate content in the media contributes to the healthy sexual development of children and young people. Possessing such information allows children and young people to reject inappropriate advances and information.

Young people who are well-informed about sex and relationships are:

- more likely to delay the onset of sexual activity until they feel ready ⁴
- more likely to have safe sex ⁵
- less likely to be sexually abused ⁶

Social media can play a role in supporting healthy sexual development for example:

- Children and young people who experience discrimination due to physical or mental ill health, sexuality or homelessness have identified social network services as critical to feeling acceptable and belonging⁷
- In a study of young gay, lesbian, bisexual and transgender young people, 85 per cent had used social media to *explore their sexual and/or gender identity, and described it as a place where they 'can find friends they can trust' (49 per cent) or a place where they 'feel accepted' (78 per cent)*⁸.

How is 'sexualisation of children' defined?

To date, there is no agreed standard definition of the term 'sexualisation of children'. The range of definitions on what should be considered as sexualisation of children is a reflection of the range of views around this issue.

For example some parents consider children copying 'sexy' dance moves or wearing makeup as just innocent fun, while others consider it to be distasteful.⁹

The Western Australian Commissioner for Children and Young People's 2012 commissioned literature review into this issue, defined 'sexualisation of children' as:

"...children are depicted or treated as sexual objects or that sexuality is being inappropriately imposed on children through media, marketing or products directed at them that encourage them to act in adult sexual ways"

⁴ Senderowitz, J. and D. Kirby. 2006. Standards for curriculum-based reproductive health and HIV education programs. USA: Family Health International.

⁵ Goldman, J. D. G. 2010. Responding to parental objections to school sexuality education: a selection of 12 objections. *Sex Education* 8 (4):415-438.

⁶ Finkelhor, D. 2007. Prevention of sexual abuse through educational programs directed toward children. *Pediatrics* 120 (3):640-645.

⁷ Third A & Richardson . 2009, *Analysing the Impacts of Social Networking for Young People Living with Chronic Illness, a Serious Condition or a Disability: An Evaluation of the Livewire Online Community*, Murdoch University (Report prepared for the Starlight Children's Foundation), Perth.

⁸ Robinson KH, Bansel P, Denson N, Ovenden G & Davies C 2014b, *Growing Up Queer: Issues Facing Young Australians Who Are Gender Variant and Sexuality Diverse*, Young and Well Cooperative Research Centre, Melbourne: p31

⁹ See Scottish Parliament, Equal Opportunities Committee, External Research on Sexualised Goods Aimed at Children SP Paper 374 (2010). The subjective nature of judgements in this area is well demonstrated by a recent 'media storm' in Queensland.: <http://www.goldcoastbulletin.com.au/lifestyle/provocative-haven-magazine-front-cover-prompts-outrage-over-hyper-sexualising-young-girl/story-fnj94iqm-1226819403725>

This is seen as a helpful definition as it focuses on the issues of objectification and exposure. Most of the literature recognises that objectification and exposure are the processes by which material contributes to harm.

The 2008 Australian Senate Inquiry into *Sexualisation of Children in the Contemporary Media* noted that many submissions to its inquiry 'generalised across the whole period of childhood from pre-school to adolescence'¹⁰, drawing specific distinctions between the meaning of sexualisation for young people in their mid-teens as opposed to younger children:

“the whole question of inappropriate or premature sexualisation has quite different meanings for young people in their mid-teens exploring their own emerging sexuality and younger children of primary school age being introduced to sex-related roles or attitudes wholly irrelevant to their stage of physical or emotional development”¹¹.

The Senate Inquiry also considered the American Psychological Association (APA) definition of sexualisation which outlines that sexualisation of children and young people occurs when one of four conditions is present:

- a person's value comes only from his or her sexual appeal or behaviour, to the exclusion of other characteristics
- a person is held to a standard that equates physical attractiveness with being sexy
- a person is sexually objectified (made into a thing for others' sexual use, rather than seen as a person with the capacity for independent action and decision making) and/or
- sexuality is inappropriately imposed upon a person.¹²

The Senate Standing Committee described the APA definition as broad¹³, but did not present or argue an alternative definition. Instead, the Committee stated that it viewed sexualisation as:

“...a continuum from the explicit targeting of children with images, attitudes and content that inappropriately and prematurely seek to impose a sexual identity on a child, through the presentation of one-dimensional and stereotypical images of children and young people, predominantly girls, in content, products and advertising directed at them,...where products, advertising and other materials made for and directed at adults are readily accessed by children and reinforce the sexualising messages they are receiving.”¹⁴

Previous commissioned reports for Government inquiries includes sexualisation of children in a broader sense, to include media and marketing that is directed at older teenagers and adults where children and young people are still exposed, resulting in sexualisation becoming the background¹⁵ and wallpaper¹⁶ to their lives.

¹⁰ Commonwealth Parliament, Senate Standing Committee on Environment, Communication and the Arts, Inquiry into Sexualisation of Children in the Contemporary Media (2008) [1.46].

¹¹ Ibid [1.47]

¹² American Psychological Association, Report of the APA Taskforce on the Sexualization of Girls (2007, republished 2010), see: <http://www.apa.org/pi/women/programs/girls/report-full.pdf>

¹³ Commonwealth Parliament, Senate Standing Committee on Environment, Communication and the Arts, Inquiry into Sexualisation of Children in the Contemporary Media (2008) [1.25].

¹⁴ Ibid [1.28].

¹⁵ Commonwealth Parliament, Senate Standing Committee on Environment, Communication and the Arts, Inquiry into Sexualisation of Children in the Contemporary Media (2008).

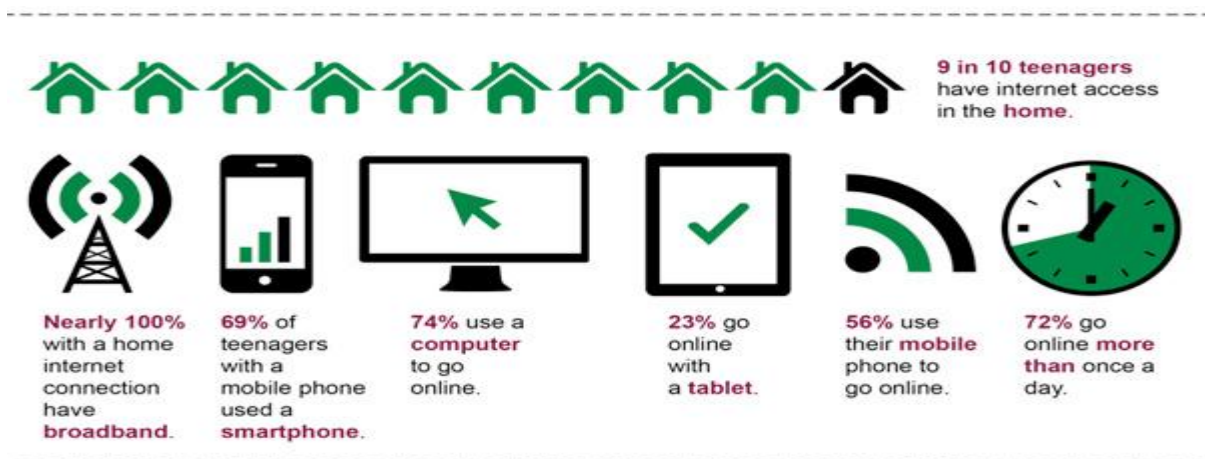
¹⁶ Department for Education UK, Letting Children be Children: Report of an Independent Review of the Commercialisation and Sexualisation of Childhood (2011) ('the Bailey Review').

What is the context?

Media consumption by children and young people

Children and young people have far greater access to technology and technological platforms than previous generations. Rapid changes in technology and media consumption have resulted in a wider range of content being available to the general population. Traditional social activities, such as attending a cinema, watching television, reading magazines or playing a computer game, have declined in favour of activities involving smart devices that easily enable internet access in settings with less supervision.

The following infographic provides an overview on the growing consumption of a variety of communication and technological activities. The data presented is based on 2013 statistics and may have changed since.



Australian Communications and Media Authority (ACMA) research on children aged 8 to 17, has found that as children become older, online activities become central to social interaction, education, knowledge gathering and exposure to new experiences - it becomes an integral part of their lives.¹⁷ During December 2013:

- 72 per cent accessed the internet more than once a day, compared to 47 per cent during December 2009. The majority of teenagers were considered intensive users of the internet.
- 55 per cent performed four or more different types of activities compared to 37 per cent in 2009 - an increase of 51 per cent from 345,000 to 522,000 teenagers.¹⁸

The increased portability of devices means children and young people's use of social and other media is less able to be supervised than in previous generations. During the December quarter of 2013, Australian teenagers used the internet from a range of locations, including school (59 per cent), a friend's house (40 per cent), and wireless hotspots (20 per cent), their workplace (24 per cent) or a library (21 per cent). The use of wireless hotspots for teenagers to access the internet has seen substantial growth. In the four years to December 2013, the number of teenagers who accessed the internet from wireless hotspots increased by 176 per cent to reach 229,000.

¹⁷ ACMA, Like, post, share: Young Australians' experience of social media (Qualitative research report), August 2011.

¹⁸ ACMA, Aussie teens online, July 2014 http://www.acma.gov.au/theACMA/engage-blogs/engage-blogs/Research-snapshots/Aussie-teens-online#_edn9 Accessed 14 January 2016.

Due to the advances in mobile technology, the number of teenagers using the internet via mobile phones has more than tripled in the four years from December 2009 to reach 639,000 users during December 2013. The number of teenagers using portable devices to access the internet is also reflected in the 23 per cent using tablet computers (258,000) to go online during December 2013.

Since December 2009, the proportion of teenage internet users has declined by four percentage points at home and by six percentage points at library locations while it has increased by 11 percentage points at work and by 13 percentage points at wireless hotspot locations.

Impact on children and young people

Evidence base

The evidence base on the impact of exposure and objectification is relatively weak.

There is not enough evidence to show that exposure or objectification directly cause harm. It is accepted that exposure and objectification is likely to be a contributory factor, along with other factors (such as family, school, peers) that influence the associated behaviours. This does not mean this issue does not warrant further investigation or research. In the 2008 Senate inquiry, the committee stated that:

“If we wait until there is absolute 100 per cent proof and nobody can possibly argue anymore that there is no harm to children, the amount of harm that could possibly be done to children in the meantime is immeasurable... a precautionary principle needs to be applied in favour of protecting children from things that are harmful”¹⁹.

There is limited research that provides the perspective of children on this issue. We know very little about how and why children and young people of different ages consume different material and how they interpret it. Without the perspectives of children, assumptions can be made based on anecdotal evidence from a solely adult perspective. The Senate Inquiry commented that many submissions appeared to assume that 'because an adult is angered, offended or embarrassed by a billboard advertising ... then the child interprets the material in the same way and is harmed by it'²⁰.

Areas of concern

Body image and mental health issues

Material that objectifies children and young people is seen as a contributing factor to body image concerns. The promotion of stereotypical ideals of sexual attractiveness (ie, slender women and muscular men) and the use of unrealistic images (for example models who are digitally altered or too skinny) in advertising can contribute to body image dissatisfaction. The Australian Office for Youth who found that:

There is sufficient and consistent research to confidently say that cultural ideals portrayed and promoted by the mass media, advertising and fashion industries play an important role in the development of body dissatisfaction, particularly among females. However, the research findings are not universally consistent in demonstrating causal links. Rather than playing a direct role, it may be that the messages and pictures of beauty created by the media, fashion and advertising industries act as a background to more influential messages that are given to people by their friends and family.²¹

Body image problems are prevalent issues in Australia. In 2009 the Australian Office for Youth found that:

¹⁹ Parliament of Australia, Senate Standing Committee on Environment, Communications and the Arts, Sexualisation of Children in the Contemporary Media (June 2008 [3.50])

²⁰ Ibid [1.38]

²¹ Australian Government, Office for Youth, Body Image, Information Paper (2009):13

- 76 per cent of Australian high school girls 'consistently choose an ideal figure that they wish to have that is thinner than their own';
- more than half of Australian high school girls have tried to lose weight; and
- in one study of adolescent boys, 33 per cent wanted to be thinner and 33 per cent wanted to be larger.²²

Anorexia nervosa is the third most common chronic illness for adolescent girls in Australia (after obesity and asthma)²³, directly linked to the issue of body image.

Other research indicates that the concern around body image may be decreasing among children and young people. According to Mission Australia's annual surveys of young Australians²⁴ in 2015, 26.5 per cent of respondents thought body image was an issue, a decrease from 2007 results, which had body image as the highest concern at 32 per cent.

Anxiety and depression are both complex issues that can be triggered, and exacerbated by, many interrelated factors. Research suggests that objectification may be one of these factors. The Australian Government's second national household survey of the mental health and wellbeing of Australian children and adolescents found that prevalence of major depressive disorders increased from 2.1 per cent in 1998 to 3.2 per cent in 2013-14.²⁵

Gender roles and attitudes (including sexual violence)

Gender inequalities and distorted stereotyping contributes to attitudes that support or justify violence²⁶. The prevalence of violence against women and girls is a major concern in Australia. The Australian Bureau of Statistics shows one in three Australian women have experienced physical violence since the age of 15, and almost one in five have experienced sexual violence²⁷.

The 2008 National Survey of Secondary Students and Sexual Health identified an increase in the proportion of students who reported unsafe and unwanted sex.²⁸ Of particular concern, approximately one-third of young people (32 per cent) reported that they had unwanted sex at some time in their lives, with young women more likely to experience this situation than young men (38 per cent compared to 19 per cent).

Exposure and objectification distorts children and young people's views and attitudes towards gender roles. This distortion establishes foundations necessary for violence against women and girls to occur. The exposure to media representations of genders across online pornography, music videos, R18+ computer games and films, user-generated sexual media by other children and young people, and children who appear in advertisements adopting sexually provocative poses, can provide templates for what it means to be a boy/man (equated with sexual conquest and entitlement to access women's bodies) and girl/woman (sexually available). Anecdotal accounts and observations from specialist women's organisations working directly with victims of violence support this as a major source of concern. Their advice provided to previous

²² Australian Government, Office for Youth, Body Image, Information Paper (2009):15.

²³ See <http://www.ceed.org.au/www/452/1001127/displayarticle/1001246.html>

²⁴ See <https://www.missionaustralia.com.au/what-we-do/research-evaluation/youth-survey>

²⁵ Australian Government, The Mental Health of Children and Adolescents: report on the second Australian annual child and adolescent survey of mental health and wellbeing, 2015 : 137, 138.

²⁶ Australian Government, The National Plan to Reduce Violence against Women and their Children 2010 – 2022

²⁷ Ibid.

²⁸ Muir et al, State of Australia's Young People (2009): 112.

Government inquiries drew substantive links between sexual violence, harassment and exploitation with the messages from exposure including:

- specific forms of sexual invasion of young women's bodies that reflect recent music videos;
- notions of women and girls as possessions/commodities expressed through language of 'pimping' and
- young men in a prevention program on sexual exploitation, articulating one of the messages in sexualised media with links with masculinity – 'it's what boys do'.²⁹

Easy access to create and post online content creates additional opportunities to engage in risky online behaviour such as 'sexting'. Sexting refers to creating, sharing, sending or posting of sexual images or messages via the internet, mobile phones or other electronic devices. Sexting reinforces objectification, and contributes to adverse health impacts such as humiliation and/or harassment when imagery or messaging falls into undesirable hands.

In a recent Victorian Parliamentary inquiry³⁰, the Salvation Army's Oasis Hunter, an organisation that provides assistance and support to children and teenagers dealing with the consequences of sexting, provided an example of a young girl who had sought assistance:

... a young girl approached us for help in regards to social ramifications from sexting. The teenager had changed schools three times, but could not escape the inappropriate photographs which were circling of her. As a result, she had developed a well-known reputation across a variety of schools in the area³¹.

There is not strong research in Australia on the prevalence on sexting. In 2012, the National Children's and Youth Law Centre and Legal Aid NSW released a report on sexting and cyberbullying³² which detailed results from a survey undertaken with around 950 students mostly from NSW and in their mid-teens. When asked if they knew someone who had been involved in sexting, respondents indicated the most common sexting-related experience was being asked for a photo (37 per cent), followed by being sent a photo (29 per cent), and having a photo shared without permission (17 per cent).

In its submission to the Victorian Inquiry, Women's Health Grampians consider that sexting can be a form of VAWG, suggesting that the distribution or posting of sexually explicit images without consent is a form of sexual harassment and abuse, regardless of the age of the persons involved:

The wide distribution of a sexually explicit image, with or without consent is likely to result in sexual and psychological harm or suffering to the young woman directly involved ... distribution of images subsequently exposes all young women to prevalent gendered attitudes and beliefs where a woman's value and worth is judged by her sexuality and sexual attractiveness to men.³³

Research suggests that the objectification of the female body in media and advertising also contributes as an enabler to VAWG. An explanatory statement in a report of the European

²⁹ Coy, M., R. Thiara, and L. Kelly. 2011. Boys think girls are toys? An evaluation of the nia project sexual exploitation prevention programme. London: Child & Woman Abuse Studies Unit, London Metropolitan University. End Violence Against Women. 2011c. A different world is possible: Promising practices to prevent violence against women and girls. London: EVAW.

³⁰ Victorian Parliament, Law Reform Committee, Inquiry into Sexting, May 2013.

³¹ Salvation Army Oasis Hunter, Submission no. 7, 30 May 2012, p. 5.

³² Kelly Tallon, Ahran Choi, Matthew Keeley, Julianne Elliott and Debra Maher, New criminal laws that apply to their online behavior, National Children's and Youth Law Centre and Legal Aid New South Wales, 2012: pp28-34.

³³ Women's Health Grampians, Submission no. 14, 14 June 2012, pp. 3-4.

Parliament's Committee on Women's Rights and Gender Equality on how marketing and advertising affects equality between men and women noted that:

The norms created by gender stereotypes in advertising objectify people, in the sense that both women and men—although women have suffered more up until now—are represented as objects. Reducing a human to an object leaves the individual exposed to violence and insults. Objectification in advertising is of key importance for the process by which an individual builds his/her identity and for how an image is perceived as 'normal'.³⁴

Sexual and reproductive health

With the rise in sexual activity, an issue of concern is that a 2008 National Youth Survey found only two-thirds of sexually active young people use condoms³⁵, increasing the risk of sexually transmitted diseases and unwanted pregnancy.

The objectification of women in media and advertising material, as well as greater exposure to more sexually explicit pornography, may be one of many factors in this trend. Some evidence pointing to a correlation in these changes suggests that exposure to explicit online pornography is causing children and young people to view particular sexual practices as 'normal'³⁶. It is anticipated that this issue will be explored in the current inquiry by the Senate Standing Committee on Environment and Communications on the 'harm done to Australian children through access to pornography on the internet'. The final report for this particular inquiry is due by December 2016.

³⁴ Committee on Women's Rights and Gender Equality, *Report on how marketing and advertising affect equality between women and men*, European Parliament, A6-0199/2008, 2008, p. 10.

³⁵ Australian Government, National Survey of Australian Secondary Students, 2008.

³⁶ See Hiatt B, 'School's Online Porn Warning', *The West Australian*, 8 November 2012, p. 3

Regulatory measures

Commonwealth responsibilities

Classification and Censorship

The current framework for the classification of media content in Australia is based on the Commonwealth *Classification Act 1995* and complementary state and territory legislation. Under the Classification Act, the Commonwealth's Classification Board classifies films, publications, and computer games to:

- provide advice to consumers to help inform viewing choices, including warnings relating to material that may be considered offensive;
- protect children from harmful or disturbing content; and restrict all Australians from accessing certain types of content.

Coregulatory and self regulatory arrangements

The Australian Government is legislated to co-regulate radio, television and online content through the *Broadcasting Services Act 1992*. Under this Act, the Australian Media and Communications Authority (ACMA) and industry bodies develop and operate by their codes of practices.

The Australian Government also regulates all forms of advertising (Electronic, Print, Social Media, Outdoor Advertising), which must comply with the *Competition and Consumer Act 2010*. This is administered by the Australian Competition and Consumer Commission who has oversight of a self regulating body and associated codes of practices.

The Australian Association of National Advertisers (AANA), an industry self regulating body, has developed a Code for Advertising and Marketing Communications to Children, which includes advertising and marketing communications directed primarily to children across all types of media. The AANA established the Advertising Standards Bureau and the Advertising Standards Board (ASB) to administer this code. Under this code, advertising or marketing communications to children must not:

- include sexual imagery in contravention of Prevailing Community Standards³⁷;
- state or imply that children are sexual beings and that ownership or enjoyment of a product will enhance their sexuality³⁸.

The ASB investigates complaints regarding marketing and advertising. If complainants are not satisfied with the result of their complaint, they are able to have the decision reviewed by an Independent Reviewer. In the ASB's 2014 Review of Operations, it is notable that:

- most of the complaints came from NSW (37 per cent);
- television (77 per cent) attracted the most complaints; and
- sex, sexuality and nudity (18 per cent)³⁹ was the third highest issue complained about.

³⁷ Prevailing Community Standards in this context refers to the community standards determined by the Advertising Standards Board (ASB) as those prevailing at the relevant time, and based on research carried out on behalf of the ASB as it sees fit, in relation to Advertising or Marketing Communications to Children.

³⁸ AANA, Code for Advertising and Marketing Communications to Children, 2014.

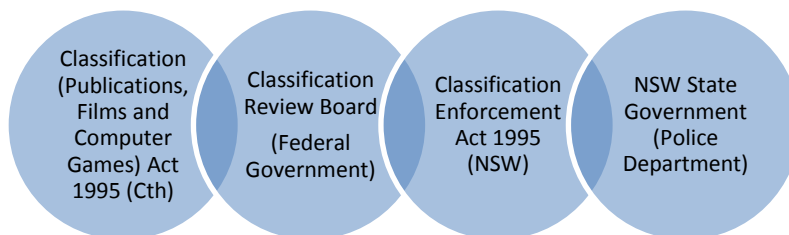
Children and young people can also be exposed to content, while not specifically aimed at them, through advertisements in public spaces; in this context termed outdoor advertising. Outdoor advertising is also bound by the *Competition and Consumer Act 2010* and the AANA's Code of Ethics.

Governments at the state, territory and local level play a role in regulating signage and positioning in terms of public safety (including road safety), planning laws, and visual amenity. Private and third-party outdoor advertising must comply with council regulations. Advertisers and media display companies may enter into contracts or licence agreements with government, council or corporate bodies, which often include a requirement to adhere to restrictions on the placement or content of advertising. For example, the Roads and Traffic Authority of New South Wales (RTA) stipulates that advertising under its licence must not contain reference to alcohol, tobacco, politics, pornography, religion, or 'any other products which are unsuitable in the RTA's opinion'.

NSW responsibilities

Sale and Distribution

The NSW Government holds legislative responsibilities under the *NSW Classification Enforcement Act 1995* in enforcing how films, computer games, and publications can be sold, hired, exhibited and advertised. The Enforcement Act does not apply to broadcasting services such as radio, television and the internet, which remain the sole responsibility of the Australian Government.



The Enforcement Act aims to protect communities by restricting possession of publications, films and computer games. The main types of offences under the Enforcement Act concern:

- failing to comply with call in notices by the Classification Board;⁴⁰
- selling, screening, distributing or advertising unclassified material⁴¹; and
- failing to comply with restrictions on the sale, distribution and advertising of classified material

The Australian Government provides some assistance in relation to enforcement, through the Classification Liaison Scheme (CLS). The Australian Attorney-General's Department operates the CLS—a joint Australian Government, state and territory initiative. CLS officers provide assistance to law enforcement agencies on referrals, as well as enforcement of breaches of call-in notices. Under the current Scheme, each individual jurisdiction determines its own enforcement priorities and enforcement remains the responsibility of individual states and territories.

³⁹ Advertising Standards Bureau, Review of Operations, 2014.

⁴⁰ Classification (Publications, Films and Computer Games) Enforcement Act 1995 (NSW) ss 46, 46A, 47.

⁴¹ Ibid ss 6, 19, 27.

Crimes Act

There are a number of provisions in the *Crimes Act 1900* to address criminal activities which relate to the exposure to inappropriate material and objectification of children and young people. While the provisions under this Act also address greater child protection issues such as sexual assault, neglect and prostitution, it also addresses child abuse material and grooming, which children and young people can be exposed to in electronic, print, social media and advertising.

Child Abuse Material

Sexualised imagery which meets the definition of child abuse material is regulated by Division 15A of the *Crimes Act 1900*. The definition of child abuse material includes material which depicts or describes a child who is (or appears to be) under 16 engaged in a sexual pose or sexual activity. Under section 91H it is an offence to disseminate, possess or produce child abuse material. The offence carries a maximum penalty of 10 years imprisonment.

The behaviour involved in sexting may constitute an offence of producing, disseminating or possessing child abuse material under section 91H of the *Crimes Act 1900*. There is particular concern that this practice is especially prevalent among young people who are not aware their actions may lead to criminal charges. The NSW Department of Justice is reviewing child sexual assault offences and will provide an opportunity to reconsider this.

Grooming

Grooming of a child under 16 is an offence under section 66EB(3) of the *Crimes Act 1900*. Grooming includes an adult exposing a child to indecent material with the intention of making it easier to engage in sexual activity with that child. 'Indecent' is not defined in the *Crimes Act 1900*, but is traditionally described by the courts as 'contrary to the ordinary standards of respectable people in the community' and may include sexualised imagery. The offence carries a maximum penalty of 12 years in the case of a child who is under 14, and a maximum penalty of 10 years in any other case.

Publishing an indecent article

Under section 578C of the *Crimes Act 1900* it is an offence to publish an indecent article. 'Publish' is broadly defined to include 'distribute, disseminate, circulate, deliver, exhibit, lend for gain, exchange, barter, sell, offer for sale, let on hire or offer to let on hire'. It also includes printing, photographing, making or having possession of an article for the purpose of publishing it. An indecent article may include sexualised imagery. The offence carries a maximum penalty of 12 months imprisonment for an individual or a \$22,000 fine for a corporation.

Employment of children and young people

The NSW Government regulates the employment of children and young people in entertainment industries, such as arts, exhibition, still photography and modelling. By ensuring appropriate legislation exists to guide production of material from the outset, it is envisaged that any material produced through the employment of children and young people is appropriate and does not contribute to the sexualisation of children through its distribution.

The Office of the Children's Guardian has a dedicated unit responsible for monitoring these responsibilities. In order to address the issue of the sexualisation of children and young people in these employment fields, the NSW Government amended the *Children and Young Persons (Care and Protection)(Child Employment) Regulation 2015* to ensure:

- that the employed child is always in line of sight of their parent/supervisor
- student productions are reviewed by the Office of the Children's Guardian given the low level experience in working with children, and their lack of understanding of the law

- the ability to deal with breaches by way of penalty infringement notices.

The legislation contains provisions:

- prohibiting an employer casting a child in a role or situation that is inappropriate to the child having regard to the child's age, maturity, emotional or psychological development and sensitivity
- prohibiting an employer employing a child in a situation where the child or any other person is naked
- requiring all employers of children within the prescribed industries to submit production information for review to ensure children are not depicted in an inappropriate way
- establishing a program involving location visits to ensure compliance with legislation
- developing information brochures for parents and children outlining the requirements of employers within the prescribed industries and complaint mechanisms if required.

Measures to educate and assist children, young people and parents

Education initiatives are a major component in assisting children and young people to develop in a sexually healthy way, and mitigate potential risks from exposure and objectification. In the 2008 Senate inquiry, the Committee found the evidence received makes it clear that:

*'..the extent to which media images and messages influence children's behaviour has not been established. What research has been done tends to indicate that children are not 'empty vessels' who simply accept what they see portrayed in the media, but are active consumers who examine and critique what they see based on what they have learned so far.'*⁴²

Online safety

Material is available and promoted by the NSW Government to assist parents and carers to fulfill their responsibility in protecting and educating children. The Department of Family and Community Services (FACS) website has resources available to parent and caregivers, including information on protecting children in an online environment and trends such as sexting and cyber safety. It is important to ensure that parents and carers are able to access information if they have concerns about the safety of a child or young person.

The NSW Police Force (NSWPF) works collaboratively with the Australian Federal Police (AFP) on the 'ThinkUKnow' Cyber Safety Program. The AFP provides training to the NSWPF in the delivery of the ThinkUKnow program. It also provides NSWPF access to its online cyber safety resources, including fact sheets addressing reputational risk from risky online behaviour and cyber safety, as well as information covering specific online applications such as instagram, KIK Messenger and Snapchat

The ThinkUKnow program has two components and explains concepts such as online grooming and sexting, provide guidance on dealing with these issues and details precautionary advice:

1. ThinkUKnow For Parents, Carers and Teachers (delivered by Crime Prevention Officers)
2. ThinkUKnow Youth for young people 11-17 years old (delivered by Youth Liaison Officers).

The NSW Department of Education utilises a Digital Citizenship resource which includes curriculum materials, videos and games. This resource helps teachers to engage students in primary and secondary school. Topics covered include staying safe and healthy while using digital technologies, appropriate and inappropriate online behaviour and being a positive contributor in an online world. Guidance for parents is also available through this resource. Further information can be found at www.digitalcitizenship.nsw.edu.au.

⁴² Parliament of Australia, Senate Standing Committee on Environment, Communications and the Arts, Sexualisation of Children in the Contemporary Media (June 2008) [3.20]

Healthy relationships, sexual development and safety information

High quality education about healthy relationships and sexual development can protect children and young people from the negative impacts of sexualisation. Appropriate education assists children and young people to build resilience and develop critical thinking skills. These traits benefit children and young people by teaching them to question and analyse messages from a variety of sources, including media and social media.

The school system plays a significant role in teaching and modelling acceptable behaviour, both inside and outside the classroom. The PDHPE curriculum contributes significantly to the formation of student understanding and values related to the acceptance of, and respect for, difference and diversity. In NSW schools, students from Kindergarten to Year 10 learn about sexuality, sexual health, social media and protective behaviours in an age appropriate way through the mandatory Personal Development, Health and Physical Education (PDHPE) key learning area. Senior students extend this learning through the mandatory Crossroads course.

Sexuality and sexual health education is a mandatory component of the Personal Development, Health and Physical Education (PDHPE) curriculum and is embedded in the broader context of positive relationships and wellbeing. It provides a holistic view on sexuality as well as opportunities for students to develop media literacy skills, which are essential to help them understand, interpret and evaluate media messages and imagery.

Sexuality education is sequenced across the stages of primary and secondary education to provide age appropriate content. In Kindergarten to Year 6, students learn:

- to accept themselves as they grow and change;
- about physical changes as they grow such as puberty and reproduction, devising strategies to cope with life changes;
- how positive relationships are formed and maintained;
- to explore how gender stereotypes can influence their choices and options; and
- how to develop and maintain a personal network of trusted adults for advice and support.

In Years 7-10 students learn:

- to explore a sense of self and how others can influence their identity;
- understand rights and responsibilities within respectful relationships;
- plan and manage sexual health, and access health information, products and services;
- identify strategies to keep themselves and others safe; and
- recognise sex based harassment and homophobic bullying, and affirm diversity and the impact of discrimination on the wellbeing of themselves and others.

While the content relating to sexuality and sexual health education within the PDHPE syllabus is prescribed, schools have the flexibility to treat sensitive and controversial issues in a manner reflective of its own ethos. Schools should consider its ethos, cultural sensitivities, community values and beliefs when developing its programs.

Where appropriate, schools can also partner with parents and involve them in decisions around the PDHPE program, especially when addressing sensitive issues such as sexuality and sexual health. This can assist teachers design programs that accommodate differing perspectives.

Amendments to PDHPE

Recent changes to the Years 7–10 Personal Development, Health and Physical Education (PDHPE) syllabus has seen content relating to domestic violence made explicit. Although the Years 7–10 syllabus has always provided the opportunity for students to learn about domestic violence, the amended content highlights the issue so that it will be more explicitly referenced and taught appropriately. The implementation of these amendments will commence in Term 1 2016. The amendments align with existing content related to abuse and power in relationships within the *Self and Relationships Strand* in both Stage 4 and 5.

Early childhood education

Imagery and behaviours contributing to sexualisation are not promoted in services. Quality services are conscious of the need to provide an environment that does not promote gender stereotypes and which discourages sexualised behaviour on the part of young children. Services also work with parents and relevant agencies in instances where sexualised behaviours are observed.

The two curriculum frameworks relevant to early child care - *Belonging, Being and Becoming*, and *My Time, Our Place* - share the sub-outcome that “children feel safe, secure and supported” with an emphasis on skills development. Unlike school curriculum documents, neither framework mandates any type of content such as content aimed at countering sexualisation influences.

Further initiatives

The NSW Sexual Health in Schools Project (the Project) is a long-standing partnership program between the Ministry of Health and the Department of Education. The Project aims to increase and maintain support for teachers in NSW government schools to provide effective sexuality and sexual health education to students in Kindergarten to Year 12.

In 2015, the project team began working with Family Planning NSW (FPNSW), the NSW Teachers Federation and Local Health Districts to produce resources to address explicit material and sexualisation of young people through media. A recent needs assessment of teachers conducted by FPNSW highlighted some key areas where teachers wanted additional support such as sexting and responding to issues in relation to pornography. These resources are currently under development.

Academics Kath Albury and Paul Byron from the University of New South Wales are currently working with Family Planning in NSW and Queensland, on a media literacy project called “Rethinking Media and Sexuality”. This project aims to assist educators in working with young people on issues such as on-line access to pornography and will be available for government schools in 2016.

NSW Health promotes child safety and healthy sexual development, with its Nepean Blue Mountains Local Health District launching a booklet *Talk Soon, Talk Often, A Guide for Parents Talking to their Kids About Sex* in November 2015. The booklet aims to support local parents and carers to help their children develop into happy healthy young adults.

FACS funds the Kids Helpline (provided by Boystown) which provides child friendly resources on ‘hot topics’ for children and young people, including mobile phone safety, safe chatting online, and internet safety. The Kids Helpline also provides a 24 hour free hotline for direct telephone support for all children and young people in NSW.

Targeted work with specific groups of children and young people

FACS ensures information is provided to carers of vulnerable children and young people placed in out of home care (OOHC). It is vital to ensure vulnerable children and young people at higher risk of exploitation than the general population, and their carers, have access to appropriate educational and guidance material. To the high risk client group of children and young people in OOHC, free cybersafety training sessions were offered to foster carers across NSW through a joint initiative between FACS and the eSafety Commission (formerly Australian Communications and Media Authority). The training was the first specialist training offered to foster carers and aimed to help carers support children and young people navigate the online world and cyber-settings.

Initial training for foster carers, *Caring for Kids*, highlights the need for adequate and supportive supervision of children's social and leisure activities, touching on monitoring children's use of social media and the internet.

Additional resources on parenting issues are available on the FACS website which also provides contact details for key resources including the 24 hour parenting hotline and *Raising Children* website. These resources provide supportive strategies aimed at reducing the risk of cyber bullying, exposure to sexualised imagery and privacy breaches.

In line with emerging trends in this area, FACS is developing casework guidelines that assist in age appropriate milestones associated with physical, emotional and sexual health during puberty and young adulthood. This would also cover educational resources related to the risks of inappropriate use of social media and the internet, including cyber bullying, sexting, pornography and grooming.

Targeted early intervention services also provide an opportunity to work with vulnerable groups. Brighter Futures delivers targeted early intervention services to families with children aged under nine years, or who are expecting a child, where the children are at high risk of entering or escalating within the statutory child protection system. 29 non government agencies across NSW are funded by FACS to provide intervention and support that aim to achieve long-term benefits for children. This program does not directly address the sexualisation of children and young people, however education and indirect support is provided to parents and caregivers through services such intensive case management, structured home visiting and parenting programs to develop their capacity to protect and educate their children.

Responding to child abuse

The Department of Family and Community Services (FACS) is responsible for managing and responding to reports of children and young people at risk of significant harm (ROSH). The NSW Mandatory Reporter Guide confirms that significant and extended exposure to sexually explicit material resulting in the inappropriate sexualisation of a child, or a young person with an intellectual disability, could require a report to be made to the Child Protection Helpline. Where potential harm is not deemed to meet the ROSH threshold, a subsequent report to the relevant Child Wellbeing Unit is encouraged.

Mandatory reporters deliver the following services to children as part of their paid or professional work, and play a critical role in the child protection arena:

- health care (e.g. doctors, nurses, dentists, and other health workers)
- welfare (e.g. psychologists, social workers, and youth workers)
- education (e.g. teachers, principals)

- children's services (e.g. child care workers, family day carers, and home-based carers)
- residential services (e.g. refuge workers, community housing providers)
- law enforcement (e.g. police).

Many government agencies have further responsibilities and specific policies to ensure the protection of children and young people as follows:

- Employees of the Department of Education have responsibilities under the *Children and Young Persons (Care and Protection) Act 1998* relating to the reporting of concerns about suspected risk of significant harm and risk of harm to children and young people to their principal or workplace manager.
- The Department of Education [Protecting and Supporting Children and Young People Policy](#) outlines the responsibilities of departmental employees under the legislation. All staff have a duty to recognise safety, welfare or wellbeing concerns for children and young people that arise from or during the course of their work.
- [Protecting and Supporting Children and Young People: Revised procedures](#) (updated 14 March 2014) require that all staff in schools are aware of the indicators of child abuse and neglect of children and young people, their obligations to report suspected risk of harm and the procedure for doing so.