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Committee on Children and Young People

REPORT 2/56 – NOVEMBER 2016

SEXUALISATION OF CHILDREN AND YOUNG PEOPLE



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Contents

Membership	v
Terms of Reference	vi
Chair’s Foreword	vii
List of Recommendations	ix
CHAPTER ONE – INTRODUCTION	1
Terms of reference	1
Conduct of the Inquiry	1
Calling for submissions	1
Submissions	1
Public hearings	1
This report	2
CHAPTER TWO – WHAT IS SEXUALISATION?	4
Definitions of sexualisation	4
Committee comment:	6
Effects of sexualisation	6
Evidence of harm	9
Committee comment:	12
CHAPTER THREE – SEXUALISATION IN ADVERTISING	13
Regulation of advertising in Australia	13
Complaints about advertising	14
The complaints process	15
Feedback from stakeholders	17
Criticisms of regulatory arrangements	18
Proposed changes to regulation of advertising	20
Out-of-home advertising	21
Committee comment:	25
CHAPTER FOUR – EXPOSURE TO PORNOGRAPHY	26
What is pornography?	26
Evidence of current levels of exposure to pornography	27
Harms caused by exposure to pornography	29
Possible benefits	31
Possible solutions: Internet filtering	32
Background	32
United Kingdom	33

Evidence from Inquiry participants	34
Limitations of internet filters	35
Other measures	35
Committee comment:	35
CHAPTER FIVE – TELEVISION, PRINT MEDIA AND MUSIC	37
Current regulatory regime	37
Classification (Publications, Films and Computer Games) Act 1995	38
Children’s Television Standards (CTS)	39
Television	39
Changing patterns of media consumption	41
Print publications	42
Girls’ magazines	43
Music	44
Music videos	44
CHAPTER SIX – SOCIAL MEDIA, SEXTING AND REVENGE PORN	46
Use of social media	46
Regulatory framework	47
Sexting	48
Positive aspects of social media and sexting	48
Revenge pornography	49
Legal implications	51
Providing assistance to young people	52
Other measures	53
Committee comment:	54
CHAPTER SEVEN – SAFE SCHOOLS	57
The Safe Schools program	57
Concerns about Safe Schools	58
Safe Schools resources	58
Links available through Safe Schools	60
The Loudon review	61
Responses to the Loudon review	62
Committee comment:	64
CHAPTER EIGHT – EDUCATION STRATEGIES	65
The role of education	65
Personal Development, Health and Physical Education in NSW schools	66
Other programs	69
Vulnerable young people	70
Supporting parents	71

Committee comment: _____	74
The role of the Advocate for Children and Young People _____	74
Committee comment: _____	75
APPENDIX ONE – LIST OF SUBMISSIONS _____	77
APPENDIX TWO – LIST OF WITNESSES _____	79
APPENDIX THREE – EXTRACTS FROM MINUTES _____	80

Figures

Figure 1: Media consumption by children and young people _____ 27

Tables

Table 1: Classifications for Films and Computer Games _____ 38

Table 2: Comparison of previous and current television codes of practice _____ 39

Table 3: National Classification Code for publications _____ 42

Membership

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Terms of Reference

That the Joint Committee on Children and Young people inquire into and report on the sexualisation of children and young people, with particular reference to:

- i. The sexualisation of children and young people in electronic, print and social media and marketing;
- ii. The exposure of children and young people in NSW to sexualised images and content in public places, electronic, print and social media and marketing;
- iii. The impact on children and young people of growing up in a sexualised culture;
- iv. Adequacy of current measures at state and federal level to regulate sexualised imagery in electronic, print and social media and marketing, and effectiveness of self-regulation measures;
- v. Measures to assist parents in fulfilling their responsibility to protect and educate children;
- vi. Measures to educate children and young people and assist them in navigating the contemporary cultural environment;
- vii. Possible measures that the Children's Advocate can take to assist children and young people to navigate the cultural environment successfully.
- viii. Any other related matter.

Chair's Foreword

The Committee views the development of our children and young people in NSW as paramount, a view that is shared amongst parents, guardians and caretakers within our communities. The Committee undertook this Inquiry to explore the impact that day-to-day exposure to inappropriate messaging and imagery has on children and young people.

The Inquiry was wide ranging in its exploration of media and communications that may lead to the early sexualisation of children and young people. The Committee found that children and young people are exposed to a range of messages and imagery throughout their day-to-day lives, from advertising and social media to television and internet access and beyond.

The Committee heard strong evidence that easy internet access exposes many children and young people to online pornography and websites that provide non-age appropriate sexual information. This is a complex area where further research is needed in order to better understand how we might reduce the early sexualisation of our children and young people. For this reason, the Committee recommended that the Advocate for Children and Young People explore opportunities for further research, with the view of reducing exposure to pornography through various means including online safety, sex and healthy relationship education.

The Committee also recognised that the regulation of advertising, internet and television falls outside the remit of the State Government, and thus made recommendations to the Attorney General to raise concerns at the federal level.

The Committee also found that children and young people are engaging in a practice known as 'sexting' and therefore, creating and sharing content between themselves without, perhaps, the full scope and impact of their actions. It is for this reason that the Committee recommended that the Attorney General take action with respect the dissemination of sexual images without consent.

I would like to thank the stakeholders who took part in the Inquiry for their assistance during the Committee's review.

I would also like to thank my fellow Committee members for their contributions and insights throughout the Inquiry, and Committee staff for the professionalism they applied to assisting the Committee in preparing our report.

Melanie Gibbons MP
Chair

List of Recommendations

- RECOMMENDATION 1 _____ 36
- The Committee recommends that the Advocate for Children and Young People commission research into young people's use of and attitudes towards pornography.
- RECOMMENDATION 2 _____ 36
- The Committee recommends that the Advocate for Children and Young People continue to work with the Office of the Children's e-Safety Commissioner and industry stakeholders to explore opportunities to reduce children and young people's exposure to pornography.
- RECOMMENDATION 3 _____ 36
- The Committee recommends that the Attorney-General, through her position on the Council of Australian Governments Law, Crime and Community Safety Council, advocate for the adoption of opt-out internet filtering.
- RECOMMENDATION 4 _____ 56
- The Committee recommends that the Attorney-General introduce legislation to make create specific offences of distributing or threatening to distribute an intimate image.
- RECOMMENDATION 5 _____ 56
- The Committee therefore recommends that the Attorney-General introduce legislation to make appropriate exceptions to the *Child Protection (Offenders Registration) Act 2000*.
- RECOMMENDATION 6 _____ 64
- The Committee recommends that the Department of Education remind schools of their obligations under the Controversial Issues in Schools policy and encourage schools to consult with parents in the implementation of the Safe Schools program in NSW.
- RECOMMENDATION 7 _____ 75
- The Committee recommends that the NSW Advocate for Children and Young People research and promote credible, evidence-based websites and other materials about online safety, sex and relationship education, and sexualisation of children and young people.
- RECOMMENDATION 8 _____ 76
- The Committee recommends that the Advocate for Children and Young People, the Department of Family and Community Services and the Department of Education promote the Office of the Children's e-Safety Commissioner on their websites.

List of acronyms

AANA	Australian Association of National Advertisers
ACCM	Australian Council on Children and the Media
ACL	Australian Christian Lobby
ACMA	Australian Communications and Media Authority
ACWA	Association of Children’s Welfare Agencies
ACYP	Advocate for Children and Young People
AFA	Australian Family Association
AMRA	Australian Music Retailers Association
APACNSW	Australian Psychologists And Counsellors in Schools NSW
APS	Australian Psychological Society
ARIA	Australian Recording Industry Association
ASB	Advertising Standards Bureau
CCSP	Council of Catholic School Parents
COAG	Council of Australian Governments
FACS	Department of Family and Community Services
FPA	Family Planning NSW
FVA	Family Voice Australia
ISP	Internet service provider
LMFC	The Life, Marriage and Family Centre Sydney
OMA	Outdoor Media Association
PDHPE	Personal Development, Health and Physical Education
SSCA	Safe Schools Coalition Australia

Chapter One – Introduction

- 1.1 The proliferation of sexual imagery and content in various media in recent years has raised concerns among the community. In particular, the increasing availability of such material to children and young people has generated discussion about whether exposure to sexualised content may harm their development. In its Inquiry the Committee on Children and Young People sought to investigate the issue of sexualisation in more detail and make recommendations to assist children and young people and their parents.

Terms of reference

- 1.2 On 20 October 2015 the Committee met and adopted terms of reference for an Inquiry into the sexualisation of children and young people. The full terms of reference are included at the front of this report. The Chair, Ms Melanie Gibbons MP, announced the Inquiry in the Legislative Assembly the following day, 21 October 2015.

Conduct of the Inquiry

- 1.3 The Inquiry was conducted in accordance with the Legislative Assembly's established practice and procedures. These include calling for submissions from the public, conducting public hearings, and preparation of the Committee's report.

Calling for submissions

- 1.4 The Committee advertised the Inquiry on its website, and distributed a media release announcing that it was seeking submissions from the public. The media release was distributed through the Isentia media service, which distributed the media release to all major media outlets in NSW.
- 1.5 The Committee also wrote to the Minister for Education, the Minister for Family and Community Services, the Children's Guardian and the Advocate for Children and Young People to advise them of the Inquiry and invite submissions. The Committee wrote to a further 28 stakeholders to invite them to make submissions.

Submissions

- 1.6 The Committee received 40 submissions. These came from a range of different stakeholders, including academics, the media, and organisations representing families, children and young people, as well as a number of individual members of the public. A full list of submissions is included at Appendix 1.

Public hearings

- 1.7 The Committee conducted two public hearings, on Thursday 7 and Friday 8 April 2016. At the public hearings the Committee took evidence from 21 witnesses who represented 12 organisations (some witnesses were independent). Two witnesses gave evidence by teleconference. A full list of witnesses is included at Appendix 2.

This report

- 1.8 This report canvasses concerns about sexualisation in relation to the representation of children and young people in advertising, their exposure to pornography, and sexting and revenge porn. It also considers available education for children and parents, including significant concerns raised about the Safe Schools program. The Committee is cognisant that this is not an exhaustive analysis of all concerns in relation to the sexualisation of children and young people. However, in compiling this report the Committee has sought to cover the major issues raised by participants in this Inquiry.
- 1.9 Chapter One considers the meaning of ‘sexualisation’. While there is no single definition of the term it is generally understood to be the act of giving or implying a sexual character to children and young people. Chapter Two canvasses differing views around sexualisation but notes the serious concerns held by many of its impact on the health and well-being of children and young people..
- 1.10 Chapter Three canvasses issues raised in relation to advertising. It outlines current arrangements for regulation of advertising in Australia, and the concerns raised by Inquiry participants in regard to it. Most of these related to the exposure of children and young people to sexual imagery in advertising, rather than sexualised representations of children and young people. The effectiveness of current regulatory arrangements in this sphere is also considered here.
- 1.11 Chapter Four discusses the increasing exposure of children and young people to pornography. The increasing availability of pornography, primarily via the internet, and children and young people’s increasing exposure to it, was a major concern for most Inquiry participants. Fears about the effect of pornography on the development of children and young people were widely held. This chapter explores the evidence in relation to pornography and also internet filtering.
- 1.12 Chapter Five discusses television, music and computer games, which were also raised as areas of concern by some Inquiry participants. The media regulation framework is complex and, as with all media regulation, largely a matter of Commonwealth jurisdiction.
- 1.13 Chapter Six explores issues in relation to social media. Social media has emerged as an integral part of youth culture and young people, as the Committee learned, face particular issues in relation to sexting and revenge porn. The Committee heard evidence about the damage that ‘revenge porn’ can do to children and young people, and possible measures to assist them.
- 1.14 Chapter Seven focuses on the Safe Schools initiative, which in late 2015 emerged as the subject of much controversy. A number of Inquiry participants expressed concerns that materials available through the Safe Schools program have a sexualising effect.
- 1.15 Chapter Eight canvasses the information and education available to children and young people and their parents. For children and young people this includes the Personal Development, Health and Physical Education curriculum in NSW schools as well as other initiatives in the area of cyber-safety, with most delivered online. Parents, as all stakeholders acknowledged, have a central role not only in

protecting their children but in providing them with the skills to negotiate the current cultural environment.

Chapter Two – What is sexualisation?

- 2.1 This Inquiry emerged out of community concerns about the growing presence of sexual imagery in advertising and various media, and children's exposure to this material. The term 'sexualisation' is widely used in this context, but it is not well defined. This chapter therefore considers the meaning of 'sexualisation', and the reasons that Inquiry participants were so concerned about it.

Definitions of sexualisation

- 2.2 In drafting terms of reference for the Inquiry, the Committee used the term 'sexualisation' in its general, every day sense. The Australia Institute has observed that, 'broadly defined, sexualisation is the act of giving someone or something a sexual character'.¹
- 2.3 Most Inquiry participants used the term in this broad sense. For example, the Australian Council on Children and the Media outlined concerns typical of those that Inquiry participants considered 'sexualisation':

For a number of years, marketing communications and media representations have combined to place increasing pressure on children to look hot, thin and sexy. Evidence suggests that children as young as six are being subjected to targeted marketing for clothing, makeup, music, and other goods designed to encourage them prematurely to think they need to look sexy. They are also frequently exposed to messages about, and representations of, adult sexuality in public places.²

- 2.4 Such concerns were widely shared among Inquiry participants. However, several noted that there is no legal or even generally accepted definition of the term 'sexualisation'.³ Some pointed toward definitions adopted by organisations that work in the field. For example, the Australian Psychological Society used the definition developed by American Psychological Association's taskforce on the sexualisation of girls:

Sexualisation occurs when:

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

¹ E. Rush, A. La Nauze, *'Corporate Paedophilia: Sexualisation of Children in Australia'*, The Australia Institute, 2006, p1.

² Submission 19, Australian Council on Children and the Media, p1.

³ Submission 22, NSW Government, p4; Submission 26, Dr Kath Albury; Submission 17, Australian Christian Lobby; Submission 25, Association of Children's Welfare Agencies (ACWA), p2.

- sexuality is inappropriately and prematurely imposed upon a person such as a child.⁴

- 2.5 This definition has been criticised as being overly broad. Collective Shout adopted the definition developed by the Royal Australian and New Zealand College of Psychiatrists, which distinguishes between ‘primary’ and ‘secondary’ sexualisation:
- Sexualisation of children refers to the imposition of adult models of sexual behaviour and sexuality on to children and adolescents at developmentally inappropriate stages and in opposition to the healthy development of sexuality. It encompasses sexual objectification and representation of children in adult sexual ways and in ways that imply the child’s value is dependent on conforming to a particular appearance, sexual display or behaviours. Children may also experience secondary sexualisation through exposure to sexualised advertising material and products aimed at adult consumers.⁵
- 2.6 While few Inquiry participants queried available definitions of sexualisation, Dr Kath Albury pointed out that ‘a number of Australian and international researchers in the field of youth and sexuality have noted the imprecise and ‘slippery’ nature of this term’.⁶ Moreover, Dr Albury observed that the imprecise nature of the term has implications for policy design and implementation.⁷ As Youth Action pointed out, without a precise definition it is difficult to quantify the extent of the problem.⁸
- 2.7 Previous inquiries such as the 2008 Senate Inquiry into sexualisation of children in the contemporary media, or the more recent Western Australian Inquiry into sexualisation of children, have also canvassed the issue of definition. The WA Inquiry, for example, considered that ‘direct’ sexualisation occurs through the *objectification* of children and young people, in media such as advertising, for example. ‘Indirect’ sexualisation corresponds to the concept of secondary sexualisation referred to by the College of Psychiatrists, and occurs through *exposure to* material intended for adults, such as pornography.
- 2.8 The WA Inquiry also considered that the age of a child or young person is crucial in determining what constitutes sexualisation. The NSW Government, for example, emphasised that what is sexualising to a young child may not be so for a teenager:
- 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 be considered sexualisation for an eight-year-old child to be exposed to sexually suggestive music videos but not necessarily so for a sixteen year old.

⁴ Submission 17, Australian Christian Lobby, pp7-8.

⁵ Royal Australian and New Zealand College of Psychiatrists, ‘Position Statement 58: Sexualisation of children in contemporary media’ (2008).

⁶ Submission 26, Associate Professor Kath Albury, p1.

⁷ Submission 26, Associate Professor Kath Albury, p1.

⁸ Submission 38, Youth Action, p9.

Editorial advice in a teenage magazine about safe sex may be appropriate for an older teenager but not so for a young child.⁹

2.9 In this regard, Youth Action distinguished between sexualisation and healthy sexual development.¹⁰ They pointed out that sexualisation often involves the imposition of sexuality *on* children and young people, whereas healthy sexual development involves exploration chosen *by* them.¹¹

2.10 On a different but related note, the Association of Children's Welfare Agencies (ACWA) distinguished sexualisation from sexualised *behaviour*. 'Sexualised behaviour' describes precociously sexual behaviour exhibited by children or young people; such behaviour is typically a response to child sexual abuse. ACWA describes sexualised behaviour as:

the impact of child sexual abuse (and other abuse) on children's behaviour thus leaving them vulnerable to both socially condoned norms that threaten the health development of children and young people, and further sexual abuse.¹²

Committee comment:

2.11 The Committee does not propose to define 'sexualisation' but considers that the definition expounded by the Royal Australian and New Zealand College of Psychiatrists provides a useful starting point. For the purposes of this report, the meaning of 'sexualisation' may be determined from the context in which it is used.

Effects of sexualisation

2.12 The terms of reference for the Inquiry asked the Committee to report on the impact on children and young people of growing up in a sexualised culture. Overwhelmingly, Inquiry participants were concerned that the impact of sexualisation is negative and harmful to both children and young people and, often, society more broadly.¹³

2.13 The 'areas of concern' identified by the NSW Government, for example, include body image and mental health issues, gender roles and attributes (including sexual violence) sexual and reproductive health.¹⁴ Similarly, in its Position Statement on the sexualisation of children in contemporary media, the College of Psychiatrists states that sexualisation can impact body image, self-esteem and sexuality:

There is a growing body of evidence that premature exposure to adult sexual images and values has a negative impact on the psychological development of children

⁹ Submission 22, NSW Government, p3.

¹⁰ Submission 38, Youth Action, p9.

¹¹ Submission 38, Youth Action, p9.

¹² Submission 25, Association of Children's Welfare Agencies, p2.

¹³ For examples, see Submission 9, Ms Maggie Hamilton; Submission 11, Dr Lesley-Ann Ey; Submission 15, Collective Shout; Submission 17, Australian Christian Lobby; Submission 33, Australian Psychological Society; Submission 23, Family Voice Australia.

¹⁴ Submission 22, NSW Government, pp8-12.

particularly on self-esteem, body image and understanding of sexuality and relationships.¹⁵

Body image

- 2.14 A number of Inquiry participants expressed concerns about the negative effect of sexualisation on body image, particularly for girls.¹⁶ For example, Collective Shout argued that girls are more affected by sexualisation than boys:

while both girls and boys are negatively impacted by growing up in a sexualised culture, research demonstrates that girls and women bear a disproportionate burden of the consequences of hypersexualised imagery and messaging.¹⁷

- 2.15 According to Inquiry participants such as Collective Shout, the objectification of women in media and advertising requires girls and women to 'conform to stereotypical sexualised beauty ideals'.¹⁸ The pressure to conform to images portrayed in media makes women and girls unhappy or unsatisfied with their bodies. The Australian Psychological Society, for example, states that 'Sexualisation and objectification have been found to undermine confidence in and comfort with one's own body.'¹⁹

- 2.16 Poor body image can, in turn, have negative effects on the health of girls and young women. As the NSW Government points out, anorexia nervosa is the third most common chronic illness among adolescent girls in Australia, and is directly linked to body image.²⁰ The College of Psychiatrists believes that sexualising images contribute to poor body image among girls:

exposure to sexualising messages contributes to girls defining their self-worth and popularity in terms of sexual attractiveness with negative impact on self-esteem. Excessive focus on appearance and a narrow definition of attractiveness has been found to contribute to the development of abnormal eating behaviours and lack of positive body image.²¹

Mental health

- 2.17 Eating disorders are just one of the mental health problems that Inquiry participants attributed to sexualisation. Research by the American Psychological Association also associates sexualisation with low self-esteem, anxiety, impaired cognitive function and depression.²² This research was cited by Inquiry participants such as the Australian Psychological Society,²³ Collective Shout,²⁴ and

¹⁵ Royal Australian and New Zealand College of Psychiatrists, 'Sexualisation of children in contemporary media', Position Statement #58, April 2008, p1.

¹⁶ Submission 23, Family Voice Australia, p10; Submission 15, Collective Shout; Ms Wendy Francis, Spokesperson on the sexualisation of society, Australian Christian Lobby, Transcript of Evidence, 8 April 2016, p48.

¹⁷ Submission 15, Collective Shout, p12.

¹⁸ Submission 15, Collective Shout, p12.

¹⁹ Submission 33, Australian Psychological Society, p9.

²⁰ Submission 22, NSW Government, p9.

²¹ Royal Australian and New Zealand College of Psychiatrists, 'Sexualisation of children in contemporary media', Position Statement #58, April 2008, p1.

²² American Psychological Association, 'Report of the American Psychological Association Taskforce on the Sexualisation of Girls', 2007.

²³ Submission 33, Australian Psychological Society, p6.

the Australian Christian Lobby.²⁵ The NSW Government also observed that anxiety and depression may be linked to objectification:

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.²⁶

Gender roles and sexual development

2.18 Another significant area of concern was the impact of sexualisation on children and young people's attitudes to gender. The NSW Government argued that distorted representations of women and men found in contemporary media – particularly in pornography – affect attitudes to gender identity and roles:

The exposure to media representations of genders ... 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).²⁷

2.19 The NSW Government further maintains, in line with the National Plan to Reduce Violence Against Women and their Children 2010 – 2022, that such stereotyping contributes to attitudes that support or justify violence against women and girls.²⁸ This concern has been raised in different contexts over many years, particularly by organisations that work with victims of sexual and family violence.

2.20 Inquiry participants raised a variety of concerns about the impact of sexualisation on children's sexual development. As Youth Action emphasised, 'young people should have the freedom to experience their individual sexual development at their own pace'.²⁹ Most stakeholders considered that sexualisation represents a threat to this freedom, by exposing children to sexual images and content before they are developmentally ready, and exerting pressure on children and young people think and act in particular ways.

2.21 Inquiry participants identified a range of potential harms to children's sexual development. The Australian Christian Lobby, for example, cited research which indicates that children who are repeatedly exposed to sexual content become sexually active at an earlier age, and that girls exposed to such content are more likely to become pregnant at a young age, as well as to become victims of sexual violence.³⁰

2.22 Stakeholders also expressed concerns about the effect of sexualised media on children and young people's attitudes to sex and relationships. Collective Shout, for example, believes that 'Australian teenagers ... appear to be using pornography as a handbook of sex education.'³¹ Family Voice Australia referred

²⁴ Submission 15, Collective Shout, pp11-12.

²⁵ Submission 17, Australian Christian Lobby, p28.

²⁶ Submission 22, NSW Government, p9.

²⁷ Submission 22, NSW Government, p9.

²⁸ Australian Government, 'The National Plan to Reduce Violence against Women and their Children 2010 – 2022'.

²⁹ Submission 38, Youth Action, p19.

³⁰ Submission 17, Australian Christian Lobby, pp29-30.

³¹ Submission 15, Collective Shout, p13.

to ‘warped sexual expectations and practices’.³² This phrase aptly describes the concern, shared by a number of stakeholders, that sexualisation distorts young people’s attitudes to sex.

- 2.23 These concerns were raised principally in relation to exposure of children and young people to pornography, but also in regard to other media such as advertising and music videos. For example, Family Planning NSW was concerned that exposure to pornography and other explicit content could lead to:

changed values and attitudes about sexual activity and behaviour, earlier promiscuity, sexual offending and deviance or sexually compulsive behaviour.

A large amount of activities portrayed within pornography are of non-mainstream behaviours or attitudes for the general population, including young people’s sexual practices and many contain content and behaviours void of intimacy or tenderness and typical to societal gender stereotypes femininity being inferior to masculinity. The foundations of safe sex and issues of consent are largely absent.³³

- 2.24 A number of stakeholders raised specific concerns about the effects of pornography in normalising particular sexual practices such as anal sex, and encouraging sexual aggression in boys and young men.³⁴ Exposure to pornography is discussed in more detail in Chapter Four.

- 2.25 Some stakeholders also pointed to an increase in problematic sexual behaviour in children and young people.³⁵ For instance, Dr Joe Tucci, Chief Executive Officer, Australian Childhood Foundation, observed that, ‘We’re now seeing six, seven and eight-year olds involved in coercive, manipulative sexual behaviours, because there’s a confusion around what sexuality means.’³⁶

‘Opportunity cost’

- 2.26 Some Inquiry participants were also concerned about the ‘opportunity cost’ of sexualisation; that is, that sexualisation and its effects could stop children and young people from enjoying other activities or interests. The Australian Christian Lobby explained this concept in the following terms:

There are only 24 hours available in each day, so children and adolescents who focus on developing their sex appeal with extensive concerns for their clothing, make-up, hairstyles and accessories, have less time to spend developing their abilities in sports, music or academic study.³⁷

Evidence of harm

- 2.27 While concerns about the possible effects of sexualisation were widely shared, Inquiry participants had differing views about the weight or validity of the

³² Submission 23, Family Voice Australia, p8.

³³ Submission 16, Family Planning NSW, p4.

³⁴ Submission 8, Mr Matthew Lennon, p5; Submission 9, Ms Maggie Hamilton, p4; Submission 15, Collective Shout, p13; Submission 23, Family Voice Australia, pp8-9; Submission 29, Anonymous, p2.

³⁵ Submission 11, Dr Lesley-anne Ey, p4; Submission 15, Collective Shout, p13; Submission 23, Family Voice Australia, p10.

³⁶ Quoted in Submission 9, Ms Maggie Hamilton, p4.

³⁷ Submission 17, Australian Christian Lobby, p31.

evidence that sexualisation causes harm. For example, the NSW Government considers that evidence about the effects of sexualisation is weak:

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.³⁸

2.28 In contrast, the American Psychological Association in their 2007 report entitled *Report of the APA Task Force on the Sexualisation of Girls* stated that there was ample evidence to show that sexualisation has negative effects in a variety of domains, including: cognitive functioning, physical and mental health, sexuality and beliefs.³⁹

2.29 (see Donnelly amendment #7) Sexualisation has multiple sources (e.g. television, the internet, video games). Children and young people are also exposed to multiple influences, and may experience harms in different ways or not at all. For these reasons, it can be very difficult to demonstrate a causal relationship between sexual imagery, for example, and harms to children and young people. For example, the Life, Marriage and Family Centre observed that increased reports of problematic sexual behaviours by children may not indicate an actual increase, nor be attributable to the effects of sexualisation:

Some childhood sexual behaviours indicate more than harmless curiosity. In some cases, sexual behaviours pose a risk to the safety and wellbeing of the child and other children in his or her world...Although the number of cases [of problematic sexual behaviour] being referred to child protection and juvenile justice systems has risen over the last two decades, it is not clear if these referrals represent a true increase in the number of children with sexual behaviour problems, increased public recognition of the problem, or an increase in the sexualisation of children and young people. However, it is likely that it is a combination of all these factors and more. There are many possible reasons why children may show sexual behaviours that are inappropriate and unexpected for their age. Children's sexual behaviour problems are rarely about sexual pleasure. These behaviours are far more likely to be related to anxiety, traumatic experiences, curiosity, exposure to online/media sexual content, poor impulse control and a range of other factors. These all need to be explored at the time of the identified/reported incidences by trained clinicians and/or school counsellors to guide appropriate response protocols.⁴⁰

2.30 Pornography is a specific, identifiable source of sexualisation and as such, is most likely to be directly linked to harm. For example, the NSW Advocate for Children and Young People advised that exposure to pornography is associated with a range of negative impacts:

In relation to the harms of pornography, while there is still the need for more research, there is good evidence and expert opinion that the exposure of children and young people to pornography is associated with a wide range of potential harms

³⁸ Submission 22, NSW Government, p8.

³⁹ Submission 17, Australian Christian Lobby, p28, referencing American Psychological Association, [Report of the APA Task Force on the Sexualisation of Girls](#)

⁴⁰ Submission 27, Life, Marriage and Family Centre, pp7-8.

including, mental health problems, body image problems, relationship dissatisfaction, impact on development of future healthy relationships and sexual relationships in adulthood, risky sexual behaviours which can result in contraction of sexually transmitted infections [STI] and unwanted pregnancy, and possible addiction.⁴¹

- 2.31 However, while exposure to pornography is *associated* with such problems, it has yet to be demonstrated that these problems are caused by it and it alone. At the public hearing on 8 April 2016, the Advocate, Mr Andrew Johnson, explained this distinction:

We also need to be aware of the enormous problem of violence against children, both boys and girls, but as it relates to this inquiry itself, this is one of the things when you look at the literature review; it is there but it is not causal. Can you prove it? One of the things we do not understand is: Are young people learning violent sexual behaviours by watching pornography? That is a risk. It is not proven. The research there is not saying if young people are watching this, then that happens.⁴²

- 2.32 The absence of a definitive causal link led some Inquiry participants to question the relationship between sexual imagery and sexualisation. For example, Dr Kath Albury questioned the concept of sexualisation, asking,

Does *any* access to images of semi-naked or naked bodies, or overt conversations regarding intimate relationships constitute 'sexualisation'? ... Is exposure to media representing marriage as a desirable state of being to be considered 'sexualising'? After all, the institution of marriage legitimates (and in some contexts encourages) sexual activity. Or is it only representation of pre- or extra-marital sexuality that is deemed problematic?⁴³

- 2.33 Professor Elizabeth Handsley, of the Australian Council on Children and the Media, also cautioned against a values-based response to representations of sex in the absence of evidence:

We have just seen enough situations in the past where there has been a values base compared to a moralistic response to a particular set of issues and then the debate seems to get bogged down in that and it is very easy for others to dismiss the concern. We think from a strategic and political point of view it is really important to base things on objective evidence and research-based evidence rather than a values-based response to particular material.⁴⁴

- 2.34 However, other Inquiry participants urged the Committee not to wait until definitive evidence of the harms caused by sexualisation becomes available. For example, the Australian Psychological Society expressed the view that, 'Policy makers cannot hope to base decisions on 'hard' empirical research data in this area, but rather on trends and patterns which are consistent with psychological

⁴¹ Submission 36, Advocate for Children and Young People, p1.

⁴² Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p13.

⁴³ Submission 26, Dr Kath Albury, p1.

⁴⁴ Professor Elizabeth Handsley, President, Australian Council on Children and the Media, Transcript of evidence, 7 April 2016, p 34.

theory'.⁴⁵ The Advocate for Children and Young People argued that there is sufficient evidence available for policy makers to act:

There is evidence enough for us to be doing something about it and it is being done.
There are enough programs for us to be looking at them and collating that research.
There is enough evidence to say that it is a problem.⁴⁶

Committee comment:

- 2.35 The Committee considers that the interests of children and young people must be the primary consideration in relation to policy responses to sexualisation. While further research is needed to increase our understanding of the dynamics of sexualisation, the Committee believes that the evidence supporting the negative impact of sexualisation on children and young people is both clear and strong. With this being the case, it is important that concrete steps are taken to reduce, if not eliminate, its impact.

⁴⁵ Submission 33, Australian Psychological Society, p7.

⁴⁶ Mr Andrew Johnson, 8 April 2016, p13.

Chapter Three – Sexualisation in advertising

- 3.1 The terms of reference for the Inquiry required the Committee to examine the exposure of children and young people to sexual imagery and content in various media and also to examine the adequacy of current measures to regulate sexual imagery in media and advertising.
- 3.2 According to some estimates, people are exposed to 3,500 advertising messages each day.⁴⁷ This Chapter discusses advertising, outlining the current arrangements for regulation of advertising in Australia and the concerns raised by Inquiry participants in regard to the adequacy of these arrangements.

Regulation of advertising in Australia

- 3.3 There is little legislation specifically to regulate advertising in Australia. This is consistent with practice in other democratic countries. The Australian Consumer Law prohibits misleading or deceptive conduct in trade or commerce, which includes misleading advertising. Apart from this legal requirement, advertising is regulated on a voluntary basis by the advertising industry itself.

- 3.4 The Australian Association of National Advertisers (AANA) maintains a series of advertising codes that members undertake to comply with; these codes apply to all media including television, print media, outdoor advertising, and the internet (though only internet content produced in Australia). Ms Simone Brandon, Director, Policy and Regulation, AANA, explained that the codes attempt to balance the needs of advertisers with those of consumers:

In developing these industry codes of conduct the AANA safeguards the rights of advertisers to commercial free speech and protects consumers by providing an ethical benchmark against which advertisers are held to account.⁴⁸

- 3.5 The codes most relevant to this Inquiry are the AANA Code of Ethics and the Code for Advertising and Marketing Communications to Children. As Ms Brandon explained, the AANA Code of Ethics includes provisions relating to depictions of sex, nudity and the use of 'sexual appeal' in advertising. The relevant provisions are:

2.2 Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.⁴⁹

⁴⁷ Ms Charmaine Moldrich, Chief Executive Officer, Outdoor Media Association, Transcript of evidence, 8 April 2016, p20.

⁴⁸ Ms Simone Brandon, Director, Policy and Regulation, Australian Association of National Advertisers, Transcript of evidence, 7 April 2016, p11.

- 3.6 As the NSW Advocate for Children and Young People noted, ‘applying the codes or guidelines always requires a level of interpretation.’⁵⁰ The codes are supported by practice notes which provide more detailed advice to advertisers seeking to interpret the codes. The Advocate noted that the practice note for the Code of Ethics states that ‘advertisements with appeal to younger people (under 14 years) which contain sexualised images or poses are to be used with caution’.⁵¹ As the Advocate (and other Inquiry participants) noted, children and young people are frequently exposed to advertising that is not explicitly intended for them.⁵²
- 3.7 The AANA Code for Advertising and Marketing Communications to Children concerns advertising that specifically targets children. For the purposes of the code, ‘children’ refers to people aged 14 and under. The Code states that advertising or marketing:
- (a) must not employ sexual appeal;
 - (b) must not include sexual imagery in contravention of Prevailing Community Standards; and
 - (c) must not state or imply that Children are sexual beings and that ownership or enjoyment of a Product will enhance their sexuality.⁵³
- 3.8 At the public hearing, members of the Committee questioned whether a definition of ‘sexualisation’ should be provided in the Code, to clarify that any sexualisation of children is prohibited by the Code.⁵⁴ The AANA subsequently advised that it would consider such an amendment, saying that:
- is happy to consider amending the Code to ensure there is no doubt that there is an outright prohibition on the sexualisation of children in advertising and marketing communication. This is the way the Code currently operates in practice.⁵⁵

Complaints about advertising

- 3.9 The codes are administered by the Advertising Standards Bureau (ASB), which is funded by a levy on advertisers. The number of complaints received varies: for instance, 5,735 complaints were received in 2014; this was almost double the number received in 2013. Of these, 2,309 (over 40 per cent) related to matters

⁴⁹ AANA Code of Ethics, http://aana.com.au/content/uploads/2015/12/Code_of_Ethics_081215.pdf, Accessed 14 June 2016.

⁵⁰ Mr Andrew Johnson, NSW Advocate for Children and Young People, Answers to questions on notice, 27 May 2016, p1.

⁵¹ AANA Code of ethics practice note, see: http://aana.com.au/content/uploads/2016/02/Code_of_Ethics_Practice_Note-081215.pdf, Accessed 28 June 2016.

⁵² Mr Andrew Johnson, NSW Advocate for Children and Young People, Answers to questions on notice, 27 May 2016, p1.

⁵³ AANA Code for Advertising and Marketing Communications to Children, http://aana.com.au/content/uploads/2016/02/Advertising_Marketing_Comms_to_Children_Code_081215.pdf, Accessed 14 June 2016.

⁵⁴ Mr Damien Tudehope MP, Transcript of evidence, 7 April 2016, p16.

⁵⁵ Ms Simone Brandon, Director of Policy and Regulatory Affairs, AANA, Correspondence to Committee, 6 June 2016.

outside the jurisdiction of the ASB.⁵⁶ More than 75 per cent of complaints related to television advertisements, with the next largest category being billboard advertising (about five per cent) and smaller proportions relating to other media.⁵⁷

- 3.10 As an advertisement may be the subject of multiple complaints, the number of complaints made does not correlate to ads which are the subject of complaint. Ms Fiona Jolly, Chief Executive Officer, Advertising Standards Bureau, emphasised that, 'the vast majority of advertising and marketing communications in Australia complies with the relevant codes and is not complained about.'⁵⁸
- 3.11 Complaints about representations of sex, sexuality and nudity accounted for 14.27 per cent of complaints. Those ads considered 'exploitative and degrading' under clause 2.1 - which relates to the use of sex appeal – accounted for a further 11.5 per cent of complaints.⁵⁹
- 3.12 While vilification and discrimination are the most common subjects of complaint, Ms Jolly explained that 'sex, sexuality and nudity are consistently one of the most complained about issues in advertising.'⁶⁰ However, complaints relating to the sexualisation of children (rather than sex and sexuality in general) comprise only a very small proportion of all complaints – 2.6 per cent over six years.⁶¹

The complaints process

- 3.13 The Advertising Standards Bureau advised that most complaints are made through its website.⁶² The ASB assesses complaints and advises the advertiser, who has a week to respond. Both the complaint and the response are then forwarded to the ASB's Board for determination.⁶³ Once a determination is made, the advertiser is advised of the outcome; if the ad is found to breach the code, the advertiser is asked to modify or withdraw the ad. Ms Jolly described the process when an ad is found to be in breach of the relevant code:

If the board decides that the ad breaches the code then we get on to the advertiser basically the next day and tell them the ad breaches the code, here is a rough idea of why, we will send them the written reasons within a couple of days, and then they have five days to reply. But we do expect them, within those five days, to have the ad removed from whatever media it is shown in.⁶⁴

- 3.14 The average period for resolving complaints is 36.5 days, and the level of compliance with ASB determinations is high.⁶⁵ According to Ms Jolly, over 99.5

⁵⁶ Advertising Standards Bureau, 'Review of Operations 2014', p8.

⁵⁷ Advertising Standards Bureau, *Review of Operations 2014*, p70.

⁵⁸ Ms Fiona Jolly, Chief Executive Officer, Advertising Standards Bureau, Transcript of evidence, 7 April 2016, p12.

⁵⁹ Advertising Standards Bureau, *Review of Operations 2014*, p70.

⁶⁰ Ms Fiona Jolly, 7 April 2016, p12.

⁶¹ Submission 28, Advertising Standards Bureau, p7.

⁶² Ms Fiona Jolly, 7 April 2016, pp13-14.

⁶³ Ms Fiona Jolly, 7 April 2016, pp13-14.

⁶⁴ Ms Fiona Jolly, 7 April 2016, p14.

⁶⁵ Ms Fiona Jolly, 7 April 2016, p12.

per cent of advertisers comply with determinations when an ad is found to be in breach of the code.⁶⁶

3.15 While compliance is high, the ASB also receives a large number of complaints about advertisements that have already been considered by the Board; for example, 2,047 of the 5,735 complaints received in 2014 related to complaints that had already been considered.⁶⁷ This suggests that ads which are found not to breach the code remain in circulation and continue to be the subject of complaints.

3.16 Only a minority of complaints are upheld by the Board – 16.8 per cent in 2015.⁶⁸ Ms Jolly explained that differing views about what constitutes sexualisation generate complaints:

The fact that someone has complained about sexualisation of a child does not mean that the board or the broader community would think it was sexualisation.... We have complaints that any image in a Big W catalogue, for example, of a child wearing a singlet and underpants is sexualisation of children. Now that may be sexualisation for some people but an image of a child standing there in a catalogue for clothing, wearing a singlet and age-appropriate clothing, not in a pose which is in any way mimicking an adult pose, is not sexualisation.⁶⁹

3.17 The phrase ‘prevailing community standards’ - which is to be applied in interpreting the codes - is of central importance in this regard.⁷⁰ The Board’s role is to apply the relevant code and make a determination as to whether an ad meets the requirements. Where an interpretation of the code is required, the Board makes a determination based on prevailing community standards, which necessarily involves a judgment as to what those standards are. Ms Jolly explained that this can lead to robust discussions within the Board:

That can sometimes be a very short discussion; it can sometimes be a very long discussion. As you can imagine with between 12 and 20 people sitting around a table discussing whether there is too much boob being shown to be appropriate for the late-night television audience, there are quite a lot of different views.⁷¹

3.18 The Board is appointed by the ASB and comprises 20 people drawn from the general community. Members are independent and not representatives of other organisations. The Board is also intended to be broadly representative of the Australian community. Ms Jolly explained that the ASB seeks to recruit Board members of different ages and backgrounds:

In addition we have criteria to make the board as broadly representative of the Australian community as we can. So we have an even gender split and we have a very broad range of ages represented, from 18 up to about 75—I think that is the age of our oldest person at the moment. We have people from different States and

⁶⁶ Ms Fiona Jolly, 7 April 2016, p17.

⁶⁷ Advertising Standards Bureau, ‘*Review of Operations 2014*,’ p68.

⁶⁸ Submission 28, Advertising Standards Bureau, p14.

⁶⁹ Ms Fiona Jolly, Chief Executive Officer, Advertising Standards Bureau, Transcript of evidence, 7 April 2016, p16.

⁷⁰ AANA Code of Ethics, http://aana.com.au/content/uploads/2015/12/Code_of_Ethics_081215.pdf, Accessed 14 June 2016.

⁷¹ Ms Fiona Jolly, 7 April 2016, p14.

different professions. From Sydney at the moment we have someone who has a retail background. We have a Baptist pastor from Brisbane; we have a retired school principal from Western Australia.⁷²

Feedback from stakeholders

3.19 Not surprisingly, Inquiry participants had differing views regarding the adequacy and effectiveness of the self-regulation regime. The Advertising Standards Bureau maintained that the current regime provides ‘a cost effective and efficient system of regulation for advertising and marketing communications, providing appropriate protections and safeguards for the community’.⁷³

3.20 The Advertising Standards Bureau argued that the adequacy of current regulation can be assessed in a number of ways. They pointed to the low level of complaints about sexualisation – particularly sexualisation of children - in advertising. According to research cited by the ASB, only 16 per cent of respondents felt that they had recently been exposed to advertising that they considered unacceptable, though sex, sexuality and nudity were the main reasons that respondents found ads unacceptable.⁷⁴ The ASB also pointed to research indicating that the outcomes of decisions by the Board are consistent with community attitudes as evidence that current regulation is adequate.⁷⁵

3.21 This view was supported by Inquiry participants from within the media. For example, TheNewsPaperWorks,⁷⁶ which represents mainstream newspapers such as NewsCorp and Fairfax, expressed the view that the current arrangements are adequate:

TNW firmly believes that the current regulatory environment is operating effectively with Australia’s major publishers having robust internal editorial and complaint handling policies.

TNW believes any concerns are unwarranted when balanced against the number of complaints received by the Australian Press Council and the Advertising Standards Bureau, and the overall number of advertisements that are published and broadcast annually.⁷⁷

3.22 Similarly, the Digital Industry Group Inc, which represents major internet sites such as Google, Facebook, Yahoo and Twitter, indicated that they are ‘fully supportive’ of the current system of self-regulation, and the role of the Advertising Standards Bureau.⁷⁸ The Digital Industry Group Inc believes that,

⁷² Ms Fiona Jolly, Chief Executive Officer, Advertising Standards Bureau, Transcript of evidence, 7 April 2016, p18.

⁷³ Submission 28, Advertising Standards Bureau, p14.

⁷⁴ Submission 28, Advertising Standards Bureau, p11.

⁷⁵ Submission 28, Advertising Standards Bureau, pp9-13.

⁷⁶ This organisation has since changed its name to NewsMediaWorks, but is referred to here under the name used in its submission.

⁷⁷ Submission 12, TheNewspaperWorks, p1.

⁷⁸ Submission 18, Digital Industry Group Incorporated, p9.

When combined with our proactive efforts to inform and support young people's experiences using our services, these self-regulatory frameworks provide an appropriate level of protection for young people from inappropriate content.⁷⁹

Criticisms of regulatory arrangements

- 3.23 However, some Inquiry participants considered the current system of self-regulation inadequate and ineffective. Their criticisms were directed toward both the decisions made by the Advertising Standards Bureau and the codes themselves. The Australian Council on Children and the Media, for example, maintained that the AANA codes are 'manifestly inadequate,'⁸⁰ while the Australian Christian Lobby argued that the ASB 'has failed to protect children from sexualised imagery and messaging' and that the current system is 'out of sync' with community standards.⁸¹
- 3.24 The Australian Christian Lobby cited a number of factors as evidence that the Advertising Standards Bureau is out of touch with community attitudes. These include the high level of community concern regarding sex, sexuality and nudity in advertising, and the low proportion of complaints upheld.⁸² The Council of Catholic School Parents and Collective Shout also cited examples of complaints dismissed by the Board which they felt should have been upheld.⁸³
- 3.25 In addition to criticising particular decisions, Inquiry participants also raised more systemic issues in relation to the regulatory framework. For example, the Council of Catholic School Parents argued that self-regulation represents a conflict of interest for the advertising industry:
- this system of the industry governing itself by regulating the standards, taking complaints against the standards, investigating the standards and delivering verdicts is not effective and does not reflect community standards.⁸⁴
- 3.26 The complaint-based nature of the regulatory system was also seen as problematic by some participants. Professor Elizabeth Handsley, President, Australian Council on Children and the Media, explained that this system places the onus of responsibility onto consumers:
- the whole question of self-regulation is one where advertisers ... are pretty much allowed to do whatever they want until somebody complains. That is always a big if. Will somebody notice and take the trouble to complain?⁸⁵
- 3.27 Moreover, consumers may not be aware of the complaints process or how to navigate it. As the Australian Christian Lobby pointed out, research has indicated that awareness of the complaints process among the general public is low.⁸⁶ Ms

⁷⁹ Submission 18, Digital Industry Group Incorporated, p9.

⁸⁰ Submission 19, Australian Council on Children and the Media, p5.

⁸¹ Submission 17, Australian Christian Lobby, pp33-34.

⁸² Submission 17, Australian Christian Lobby, p34.

⁸³ Submission 20, Council of Catholic School Parents NSW/ACT; Submission 15, Collective Shout, p16.

⁸⁴ Submission 20, Council of Catholic School Parents NSW/ACT, p9.

⁸⁵ Professor Elizabeth Handsley, President, Australian Council on Children and the Media, Transcript of evidence, 7 April 2016, p30.

⁸⁶ Submission 17, Australian Christian Lobby, p37.

Nicole Jameson, Research Assistant, Collective Shout, expressed the view that the low number of complaints can be attributed to lack of awareness of the system and how to navigate it:

Why is nobody complaining about the ads? They are not complaining about ads because they did not know about the system because it is too hard to navigate; you have to go to multiple media regulators to complain about ads in different mediums. It is just too hard; it is too complicated and puts too much of a burden on the consumer and they become desensitised and it takes up too much of their time and so the ads proliferate.⁸⁷

3.28 In its submission, the ASB reported that while levels of awareness of the Bureau among the public are low, when prompted 42 per cent of research respondents indicated that they would contact the Standards Board to make a complaint, and 36 per cent nominated the Advertising Standards Bureau.⁸⁸ The ASB expressed the view that 'the low level of complaint numbers is not a reflection of a low level of awareness of where to complain, rather it shows a low level of concern.'⁸⁹

3.29 The issue of response times was also raised at the public hearing. While the ASB gave evidence that the average time for resolving complaints is 36.5 days, the ad remains in circulation during this period. Ms Wendy Francis, Spokesperson for the Australian Christian Lobby, described her experience of complaining about an ad:

The first ad was a woman in red lingerie, extremely explicit red lingerie, standing over a Santa Claus figure who was lying prone on the floor at her feet and the text read "Knock Santa's socks off" ... We made the complaint in late November. The complaint was upheld, which was really great news, on 27 January this year ...

The complaint was upheld on 27 January ... So on 27 January Honey Birdette was instructed that they should take down their Christmas advertising.⁹⁰

3.30 The Australian Council on Children and the Media also expressed frustration with the response times of the Advertising Standards Bureau. Professor Handsley pointed out that the current process is not equipped to respond to advertising campaigns that are designed to run for just a few weeks or a few months:

We know that advertising campaigns generally run for a certain period of time, a number of weeks or possibly months. That is often about how long these processes take. That is, from advertising to complaint to hearing or investigation by the Advertising Standards Board [ASB] to a result, it can often take about that same length of time ...

A few years ago I came across a report of a decision that had been made by the ASB and it was broadly in the area of sexualisation. It was about a pizza shop having used the F word in its window as people walked past. They actually said in their response to the complaint that well, yes, we knew that we were probably going to be held in

⁸⁷ Ms Nicole Jameson, Research Assistant, Collective Shout, Transcript of evidence, 7 April 2016, p58.

⁸⁸ Submission 28, Advertising Standards Bureau, p12.

⁸⁹ Submission 28, Advertising Standards Bureau, p12.

⁹⁰ Ms Wendy Francis, Spokesperson on the Sexualisation of society, Australian Christian Lobby, Transcript of evidence, 8 April 2016, p48.

breach but we got a really good response to this campaign so we do not really mind.⁹¹

- 3.31 Collective Shout also made the point that the complaints-based system necessarily involves considering advertisements on a case-by-case basis. While this makes sense in regulatory terms, it fails to address the cumulative effect of advertisements. Ms Nicole Jameson, Research Assistant, Collective Shout, explained the limitations of the system:

if you were to submit a complaint about a particular bikini advertisement and you were to point out that this is a highly sexualised advertisement, one problem is that that advertisement will be taken on its merits as a single ad, not as one ad that is in a chain of advertisements over time. So, again, it is not one instance; we are talking cumulative harms. But the regulators look at these on a case-by-case basis, which fails to take into account the fact that the way in which we absorb these messages is by no means on a case-by-case basis.⁹²

- 3.32 These participants also argued that the current codes are too narrow. The Code of Ethics and the Code for Advertising and Marketing Communications to Children relates only to advertisements that are both directed to children and about products intended for children. As the Australian Council on Children and the Media observes, this code 'cannot address a large proportion of the sexualised advertising to which children are casually exposed in public places and in broadcast media'.⁹³

- 3.33 Collective Shout made a similar point, arguing that focusing on the relatively strict requirements of the children's code ignores the bulk of advertising that children are exposed to:

Most media regulators have drawn out a separate code dealing with media that is either targeting or featuring children, or the product that they are selling is targeting children. They have set up relatively strict standards, although on analysis of those codes they are not necessarily as strict as they might seem to be. But there is a general understanding that it is not acceptable even within the industry ... The problem with that is that the media that is targeting children is not the only media that children are consuming.⁹⁴

Proposed changes to regulation of advertising

- 3.34 These Inquiry participants proposed various measures to protect children against sexualisation in and through advertising. For instance, the Australian Christian Lobby proposed that the Australian Association of National Advertisers amend both the Code of Ethics and the Code for Advertising and Marketing Communications to Children to 'include a principle that the best interests of the

⁹¹ Professor Elizabeth Handsley, President, Australian Council on Children and the Media, Transcript of evidence, 7 April 2016, p30.

⁹² Ms Nicole Jameson, Research Assistant, Collective Shout, Transcript of evidence, 7 April 2016, p57.

⁹³ Submission 19, Australian Council on Children and the Media, p7.

⁹⁴ Ms Nicole Jameson, 7 April 2016, p57.

Child should be paramount.⁹⁵ Such a requirement would presumably lead to stricter controls on the use of sexual imagery and sexual appeal in advertising.

- 3.35 Collective Shout also proposed that the interests of children should be incorporated into advertising standards, though through different means. Collective Shout recommended the establishment of a new federal agency to regulate media, including advertising. Such an agency would, they believe, incorporate the best interests of children as well as simplifying the complaints process. Ms Jameson explained that it could:

encompass bringing the regulation of all media and marketing together in one encompassing independent Federal regulator, rather than being an industry self-regulation model. We believe that this new Office of Media Regulation should include a specific division, which is primarily responsible for looking after the interests of children and young people and that this needs to include staff expert in child development. This should also be done on a child's rights-based approach...⁹⁶

- 3.36 The Australian Council on Children and the Media also proposed a legislative solution, to amend the Australian Consumer Law to include clauses prohibiting sexualisation of children in trade or commerce, and exposure of children to inappropriate sexual content.⁹⁷

Out-of-home advertising

- 3.37 'Out of home' advertising is that which is designed to reach consumers outside their homes. This includes outdoor advertising such as billboards, as well as indoor advertising in venues such as shops and shopping centres. According to the Outdoor Media Association (OMA), which represents out-of-home media display companies, expenditure on outdoor advertising makes up just over 5 per cent of advertising expenditure in Australia.⁹⁸ 'On-premise' advertising is produced and displayed by businesses on their own premises – usually in shops.
- 3.38 According to the Advertising Standards Bureau, complaints relating to billboard advertising comprised 5.3 per cent of complaints received in 2014; 2.3 per cent of complaints related to advertising on transport; 2.2 percent to posters; and 0.54 per cent to other outdoor media.⁹⁹
- 3.39 The unique feature of out-of-home advertising is that it cannot be avoided or 'switched off' by consumers, and hence concerns about whether ads are appropriate for viewing by children are heightened. The Australian Christian Lobby, for example, expressed the view that out-of-home advertising should be safe for children because:

⁹⁵ Submission 17, Australian Christian Lobby, p38.

⁹⁶ Ms Nicole Jameson, Research Assistant, Collective Shout, Transcript of evidence, 7 April 2016, p57.

⁹⁷ Professor Elizabeth Handsley, President, Australian Council on Children and the Media, Answers to questions on notice, 'Media and the sexualisation of children', 27 June 2016, pp27-28.

⁹⁸ Submission 39, Outdoor Media Association, p4.

⁹⁹ Advertising Standards Bureau, 'Review of Operations 2014,' p71.

Outdoor advertising is on display all day and cannot be turned off, or tuned out, by the parent of a child. Public outdoor areas should be safe for children and families. Public places are after all, meant for the community.¹⁰⁰

- 3.40 At present, AANA advertising codes apply to out-of-home advertising as to other media. Some Inquiry participants proposed that outdoor advertising should be subject to stricter requirements, precisely because it cannot be avoided. For example, Dr David Sandifer, former NSW Director, Family Voice Australia, felt that outdoor advertising should be G-rated:

Our sense is that it is reasonable to apply a G-rating standard to outdoor advertising because anything outdoor can be viewed by a child so I think that seems like a very reasonable approach. That is not currently the approach, even if they have made some strides to improve.¹⁰¹

- 3.41 However, the Outdoor Media Association argued that the current standards, which require that advertising be appropriate to its audience, are adequate for outdoor advertising. Ms Charmaine Moldrich, Chief Executive Officer, Outdoor Media Association, explained that it takes the particular nature of outdoor advertising into account:

We are aware that outdoor advertising differs from other mediums because it cannot be switched off. As part of our content training and our content review process we consistently and constantly remind members and advertisers that outdoor has a broad audience which includes children.¹⁰²

- 3.42 The OMA advised that its members display some 12,000 advertisements annually in NSW;¹⁰³ 90 per cent of out-of-home media display companies are members of the OMA.¹⁰⁴ The OMA advised that in 2015, only two advertisements by its members were found to breach AANA codes; neither of these related to issues of sex, sexuality or nudity.¹⁰⁵

- 3.43 The OMA attributed this low level of complaints to the education that it provides to its members.¹⁰⁶ Ms Moldrich advised the Committee that, following a Commonwealth parliamentary inquiry into billboard advertising in 2010, the OMA worked to improve compliance within the outdoor advertising industry:

We established an education program. We conduct a regular program of content training for our members in conjunction with the Communications Council, the Advertising Standards Board [ASB] and the AANA. The education provides members with clear guidance about the 15 self-regulatory industry codes and how best to comply with them. We have also developed a content review policy including a copy

¹⁰⁰ Submission 17, Australian Christian Lobby, p39.

¹⁰¹ Dr David Sandifer, former NSW Director, Family Voice Australia, Transcript of evidence, 8 April 2016, p44.

¹⁰² Ms Charmaine Moldrich, Chief Executive Officer, Outdoor Media Association, Transcript of evidence, 8 April 2016, p17.

¹⁰³ Ms Charmaine Moldrich, 8 April 2016, p17.

¹⁰⁴ Submission 39, Outdoor Media Association, p4.

¹⁰⁵ Ms Charmaine Moldrich, 8 April 2016, p17.

¹⁰⁶ Ms Charmaine Moldrich, 8 April 2016, p22.

advice service that sees members seeking advice on advertisements from the OMA. Members send us around 50 pieces of creative each quarter.¹⁰⁷

- 3.44 The OMA's copy advice service allows its members to submit ads that may breach standards for review before they are released, though not all members utilise this service. Ms Moldrich advised that approximately 200 ads were submitted in 2015, and explained how the advisory system works:

You will find that while you say it is 200 ads out of 12,000, most of those 12,000 ads would be benign. They would be for government messaging, for Coles ads, they would be for a series of ads that do not get close to falling within the remit of the code. We pre-vet the ads where our members think this might fall within the remit of the code and that is when we come in.¹⁰⁸

- 3.45 Inquiry participants provided examples of outdoor advertising which they found offensive or inappropriate for viewing by children, and the case studies provide case studies of such ads. The Australian Christian Lobby referred to a case in Queensland, where a billboard advertising an adult entertainment venue featured a woman in a low cut top and text that read "I'm waiting". A complaint about the billboard was upheld by the Board in 2013 but the billboard was not removed.¹⁰⁹

- 3.46 Ms Moldrich advised that compliance with Board determinations is generally high, as members of the OMA undertake to comply with determinations as a condition of their membership. When asked about the possibility of deliberate non-compliance with Board determinations, Ms Moldrich assured the Committee that this is rare:

I think the relationship that we have with the ASB is that if there was an ad like that—and six years ago that might have been the case—the ASB would call us and say, "This ad is causing a great deal of consternation in the community", and we would immediately talk to our members about it. We are very aware that we are in the public domain and we are also very aware that it might have been the case 10 to 15 years ago where you could be cynical about this process and say, "Oh well, it is going to get us publicity"—if that is where you are heading. ... You will find that most advertisers are large multinational or national companies and do not want that stain; they do not want the controversy.¹¹⁰

- 3.47 However, it is important to note that outdoor advertising of the kind referred to here makes up only a small proportion of advertising in public places. The Outdoor Media Association explained that most out-of-home advertising is on-premises:

¹⁰⁷ Ms Charmaine Moldrich, Chief Executive Officer, Outdoor Media Association, Transcript of evidence, 8 April 2016, p17.

¹⁰⁸ Ms Charmaine Moldrich, 8 April 2016, p19.

¹⁰⁹ Ms Wendy Francis, Spokesperson on the Sexualisation of society, Australian Christian Lobby, Transcript of evidence, 8 April 2016, p48.

¹¹⁰ Ms Charmaine Moldrich, 8 April 2016, p23.

‘on-premise’ advertising is more prolific than third-party advertising. For example, in NSW, along Parramatta Road between Broadway and Leichhardt, there are about 2140 on-premise signs compared to 14 third-party advertisements.¹¹¹

It is possible that the billboard referred to in was placed by the business being advertised, and not a member of the Outdoor Media Association. This is not to suggest that on-premise advertisers are less likely to comply with determinations of the Advertising Standards Board.

CASE STUDY - LUSH advertisement

LUSH produced an ad depicting four naked women viewed from behind, with accompanying text that read ‘Go naked’. The ad was intended to raise awareness of the LUSH’s commitment to reducing ‘excessive packaging’ for its products. It appeared on posters in LUSH stores in August-September 2015. One complainant wrote:

I am offended as this is nudity for the sake of causing a stir and is offensive and unnecessary. I was unable to shield my children from exposure to this advert as it was on a poster in the centre aisle of the shopping centre. When I contacted Lush, they said that the women in the photo consented so it was OK – I’m sorry but I never consented for myself or my children to be exposed to nudity on our weekly shopping trip!

A complaint was received by the ASB on 28 August, and two further complaints were received on 2 and 3 September. LUSH responded, saying that:

The women in the images are members of the LUSH team, who felt strongly about this issue and volunteered to be part of our campaign to highlight this important issue. The photos are shot not to titillate, but with the utmost respect for these wonderful human beings and their commitment to this cause.

The Board made its determination on 23 September 2015. The Board considered that the ad did not raise issues of sex or sexuality but did depict nudity and this was not treated sensitively in view of the very broad audience, which included children. The complaints were upheld.

In its response to the Board’s determination, LUSH Cosmetics explained that the ads had already been removed. The advertising campaign had had been due to end on 9 September 2015, but ads had been removed from some stores on 2 September following the complaints. LUSH also forwarded examples of the many positive comments it had received about the ad.¹

¹ Advertising Standards Board, Case Report, Case Number 0361/15, 23 September 2015. Cited in Family Voice Australia, Answers to questions on notice and supplementary questions, 30 April 2016.

¹¹¹ Submission 39, Outdoor Media Association, p4.

CASE STUDY: Bonds advertisement

Bonds (Pacific Brands Underwear Group) launched an advertising campaign on 6 October 2013. The ad was for a range of bras and featured the word 'BOOBS' in white lettering on a black background, similar to the existing 'BONDS' logo. The ad appeared on billboards and public buses. A number of complaints were subsequently received. One complainant wrote:

I object to this advertisement on the grounds it is extremely offensive to see a slang term for women's breasts (often a term used to objectify and demean women) being highly visible on a public transport vehicle ... It's offensive to see this word on buses and billboards, and in such a large format. One wonders what word they would use to advertise men's products. I also heard a small child who was clearly learning to read sound it out and then yell it at the top of their lungs after seeing it.

The advertiser provided a response to the ASB, saying that the word 'boobs' is 'part of the Australian vernacular', and citing research which indicated that 74 per cent of women use it to describe their own breasts. The advertiser also noted that the ad had been submitted to the Outdoor Media Association for advice before being released.

The Board considered whether the ad was exploitative and degrading to women and found that, while use of the word constituted sex appeal it was not, by itself, exploitative or degrading. The Board also discussed the language used and considered that, while some in the community may find it offensive, it is in common usage and was not strong or obscene. The complaints were dismissed.¹

¹ Advertising Standards Board, Case Report, Case Number 0373/13, 23 October 2013. Cited in Family Voice Australia, Answers to questions on notice and supplementary questions, 30 April 2016.

Committee comment:

- 3.48 The evidence heard by the Committee indicates that strong community concerns about advertising relate largely to the exposure of children and young people to sexual imagery, rather than sexualised representations of children in advertising produced in Australia.
- 3.49 While there is consistent community concern about the use of sexual imagery in advertising, the number of complaints received by the industry regulator is relatively low.
- 3.50 The Committee noted the limitations of the current regulatory arrangements, particularly in regard to the timeliness of the complaints resolution process.

Chapter Four – Exposure to pornography

- 4.1 Due to the availability of internet-enabled technologies, children and young people are now able to access and navigate the internet more easily. The internet and social media have become part of their everyday cultural exchange, and with this comes increased access to internet-based pornography.¹¹²
- 4.2 The exposure of children and young people to pornography was a key concern for stakeholders to this Inquiry as it has been in other jurisdictions,¹¹³ and was seen as a key factor in their premature sexualisation. Few Inquiry participants mentioned pornography in more traditional media such as books and magazines; rather, their concerns related almost entirely to internet-based pornography.¹¹⁴ This chapter examines the issues raised by Inquiry participants.

What is pornography?

- 4.3 The term ‘pornography’ was widely used by stakeholders, but not clearly defined. In fact, the Children’s Advocate was the only Inquiry participant to provide a definition. He referred to pornography as:
- ...sexually explicit material designed to sexually arouse (Crabbe & Corlett, 2013), Pornography is highly varied in terms of content and mode of viewing (Short, et al., 2012). It may include erotic text, images, or video, it may be accessed via the internet or more traditional media and it ranges in level of explicitness.¹¹⁵
- 4.4 Inquiry participants generally used the term to refer to material that would be rated ‘X’ or possibly ‘R’ if it appeared in films or television (the National Classification Scheme is explained in more detail in Chapter Five). The Committee did not seek to define the term ‘pornography’ but it is used in this report in a sense similar to that contained in the definition just quoted, as sexually explicit material designed to sexually arouse.
- 4.5 The Advocate for Children and Young People also pointed out that the production of pornography is not restricted to professionals: young people may produce and distribute pornography themselves. Some ‘sexting’ may be considered a form of pornography, and this is also discussed in Chapter Six.

¹¹² Submission 36, Advocate for Children and Young People, p4; Submission 38, Youth Action and Policy Association NSW, p18; Submission 15, Collective Shout, p7; Submission 23, Family Voice Australia, p6.

¹¹³ See for example: Senate Inquiry into the harm being done to Australian children through access to pornography on the Internet, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Online_access_to_porn, Accessed 12 July 2016.

¹¹⁴ Submission 36, Advocate for Children and Young People, pp3-5; Submission 33, Australian Psychological Society, p4; Submission 15, Collective Shout, p7; Submission 17, Australian Christian Lobby, p16.

¹¹⁵ Submission 36, Advocate for Children and Young People, pp3-4.

Evidence of current levels of exposure to pornography

- 4.6 According to the NSW Government, teenagers are accessing the internet through various devices such as tablets, smart phones and via high speed internet connections such as broadband. The NSW Government infographic below provides further information.¹¹⁶

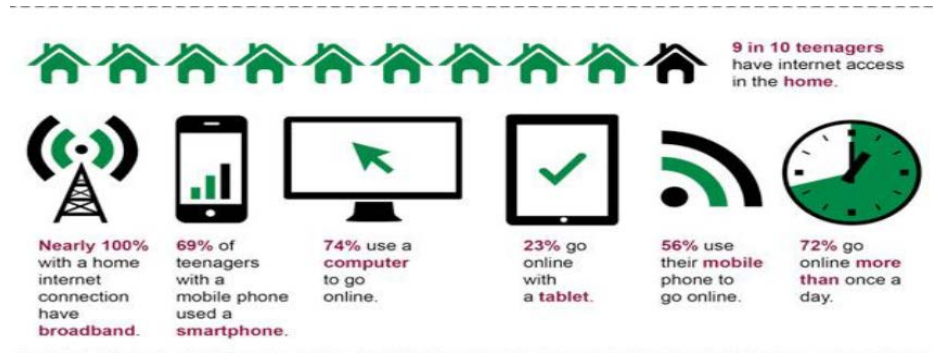


Figure 1: Media consumption by children and young people

- 4.7 Increased internet access has led to increased access to information generally and by default, pornography.¹¹⁷ According to the Advocate, young people access pornography mostly when using internet-enabled devices:

Young people aged 15-29 years age most commonly viewed pornography by streaming or downloading on a computer (47 per cent) followed by viewing on a phone (33 per cent). Only 3 per cent most commonly viewed pornography via DVD, webcam, magazine or book (Pornhub Insights, 2015).¹¹⁸

- 4.8 According to the Digital Industry Group, 28 per cent of 11-16 year olds have seen sexual images online. This proportion, they pointed out, is only slightly higher than the level of exposure to such images on television.¹¹⁹ However, it is unclear what was meant by the term 'sexual images' in this context, and whether this referred to pornography or sexual imagery in general.
- 4.9 The Advocate pointed to evidence that the proportion of children and young people who have been exposed to pornography is higher than this, with 90 per cent of young men and 60 per cent of young women encountering pornography by the age of 16.¹²⁰ By the age of 29, 100 per cent of men and 81 per cent of women have encountered pornography.¹²¹ The Australian Christian Lobby cited different research that indicated similar figures, with 93 per cent of males, and 62 per cent of females being exposed to pornography by the time they are 16.¹²²

¹¹⁶ Submission 22, NSW Government, p6.

¹¹⁷ Submission 36, Advocate for Children and Young People, p4; Submission 38, Youth Action, p18; Submission 15, Collective Shout, p7; Submission 23, Family Voice Australia, p6.

¹¹⁸ Submission 36, Advocate for Children and Young People, p4.

¹¹⁹ Submission 18, Digital Industry Group, Inc., p9.

¹²⁰ Submission 36, Advocate for Children and Young People, p4.

¹²¹ Submission 36, Advocate for Children and Young People, p4.

¹²² Submission 17, Australian Christian Lobby, p17.

- 4.10 According to the Advocate for Children and Young People, the age at which young people are first exposed to pornography has decreased over time, with most now encountering pornography well before they are 18.¹²³ He found that 'on average, males first see pornography at 13 years, and females at 16 years.'¹²⁴
- 4.11 Inquiry participants also observed gender differences in exposure to pornography, with more young men encountering pornography, more often, than young women. The Advocate stated that males between the ages of 15-29 are much more likely to access pornography on at least a weekly basis (81 per cent) than females, who reported accessing pornography 'less than monthly' (34 per cent).¹²⁵ The Australian Psychological Society also argued that 'young men are more likely than their female peers to use porn alone and in same sex groups and to view a wider range of images.'¹²⁶
- 4.12 A 2003 study by the Australia Institute also found that boys were more likely than girls to be exposed to pornography unintentionally. Eighty four per cent of boys reported encountering pornography online accidentally, compared to 60 of girls.¹²⁷ However, no evidence was provided as to how boys' internet use differs, or why they would be more likely than girls to encounter pornography unintentionally.
- 4.13 While there is reliable evidence that most children and young people are exposed to pornography, the Burnet Institute reported that there is little research about what kind of pornography that they are viewing. However, one study found that adolescents accessed various kinds of pornography:
- 18 per cent of adolescents have been exposed to affection-themed pornography, 18 per cent have been exposed to pornography with themes of dominance, and 10 per cent have been exposed to violent pornography.¹²⁸
- 4.14 Inquiry participants were deeply concerned that young people were accessing not just pornography but violent pornography.¹²⁹ The Burnet Institute reported that '6 per cent of Australian 11-16 year olds reported seeing violent pornography in the past year.'¹³⁰ However, there is also evidence that 'mainstream' pornography is, or has become, increasingly violent. For example, the Australian Psychological Society cited research indicating that much pornography is aggressive in its tone:

¹²³ Submission 36, Advocate for Children and Young People, p4.

¹²⁴ Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p1.

¹²⁵ Submission 36, Advocate for Children and Young People, p4.

¹²⁶ Submission 33, Australian Psychological Society, p4.

¹²⁷ Cited in Submission 23, Family Voice Australia, p6.

¹²⁸ Lim, MS, McCormack A, Carrotte, E, *'Review of literature on the impact of pornography on the sexualisation of children,'* January 2016, p5.

¹²⁹ Submission 17, Australian Christian Lobby, p17; Submission 36, Advocate for Children and Young People, pp5-6; Submission 15, Collective Shout, p14; Submission 19, Australian Council on Children and the Media, pp4-5.

¹³⁰ Lim, MS, McCormack A, Carrotte, E, *'Review of literature on the impact of pornography on the sexualisation of children,'* January 2016, p5.

...at the same time that pornography has become more mainstream, it has also become more aggressive. A recent content analysis of the most popular porn found that 88 per cent of scenes included acts of physical aggression and 48 per cent of the scenes contained verbal aggression (Horvath et al, 2014).¹³¹

- 4.15 Dr Jeremy Prichard cited similar research, indicating that much mainstream pornography depicts acts of aggression or violence. Overwhelmingly, it is women who are the objects of this aggression:

Between 37 per cent and 88 per cent of mainstream pornography scenes include acts of physical aggression (mostly gagging and spanking), most commonly towards female actors with the scene usually suggesting that the recipient was a willing participant. Women are also more like than men to be depicted as submissive during sex and as exploited or manipulated into sexual activity.¹³²

Harms caused by exposure to pornography

- 4.16 While most Inquiry participants agreed that sexualisation is harmful, exposure to pornography, in particular, was seen as particularly detrimental to children and young people.¹³³ The harms that pornography is feared to cause are similar to those that emerged in relation to sexualisation generally: damage to young people's body image, mental health, sexual development and attitudes to gender. For example, Mr Johnson explained that exposure to pornography is associated with a range of potential harms:

there is good evidence and expert opinion that the exposure of children and young people to pornography is associated with a wide range of potential harms including, mental health problems, body image problems, relationship dissatisfaction, impact on development of future healthy relationships and sexual relationships in adulthood, risky sexual behaviours which can result in contraction of sexually transmitted infections [STI] and unwanted pregnancy, and possible addiction.¹³⁴

- 4.17 Family Planning NSW concurred with this view. They noted that concerns about the negative impact of pornography on young people are widespread:

While research on this area can indicate divergent views, there are numerous studies that highlight concerns that exposure to pornography and sexually explicit material during adolescence can potentially lead to various negative consequences including; changed values and attitudes about sexual activity and behaviour, earlier promiscuity, sexual offending and sexual aggression.¹³⁵

- 4.18 The principal concern in relation to pornography was its potential impact on young people's sexual behaviour; that young people (really young men) who view pornography will demonstrate the problematic behaviours that they see depicted in it. The Australian Family Association, for example, expressed this view:

¹³¹ Submission 33, Australian Psychological Society, p4.

¹³² Dr Jeremy Prichard, Transcript of evidence, 8 April 2016, p27.

¹³³ Submission 36, Advocate for Children and Young People, pp3-5; Submission 33, Australian Psychological Society, p4; Submission 15, Collective Shout, p7; Submission 17, Australian Christian Lobby, p16.

¹³⁴ Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p1.

¹³⁵ Family Planning NSW, Answers to questions on notice, 13 May 2016, p2.

Coercion of girls to allow anal sex and violent/sado-masochistic sexual acts (e.g. choking) by boys who view pornography and think that is what they can ask for – that it is normal/usual part of sexual intercourse.¹³⁶

- 4.19 Collective Shout raised similar concerns, citing an increase in the number of teenage girls seeking treatment for injuries sustained as a result sexual acts, such as tearing or faecal incontinence due to anal sex.¹³⁷
- 4.20 More generally, there is concern that exposure to pornography may encourage or normalise violence towards women. In its submission, the NSW Government expressed just such a concern:

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...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).¹³⁸

- 4.21 The Australian Psychological Society expressed similar views. Much of the research regarding the effects of pornography emanates from the discipline of psychology, and the APS advised that psychologists are increasingly concerned about the role of pornography in normalising violence against women:

With the proliferations of the internet, and the increasingly violent nature of much pornographic content, serious concerns are now emerging within and beyond psychology about the impact on young people's expectations of sex and sexuality, the role pornography plays in facilitating and normalising violence against women, and how it contributes more broadly to representations and normative understandings about sex, sexuality and gender in society.¹³⁹

- 4.22 The problem of violence against women, of course, long pre-dates the availability of online pornography. However, the Australian Christian Lobby expressed the view that domestic violence among young people can be linked to the availability of pornography:

Common sense would tell you there has to be a linkage between pornography and lack of respect in relationships between young people... The fastest growing part of the problem of domestic violence is young people. We are seeing more young people put before courts than we have ever seen... The high use of pornography by young men is astounding...the highest users are [aged] between 14 and 25.¹⁴⁰

- 4.23 While research into the effects of viewing pornography online on children and young people is relatively recent, the link between pornography and violence against women has been the subject of research and debate for many years. Dr Prichard, for example, cited research that 'revealed a significant association

¹³⁶ Australian Family Association, Answers to questions on notice, 13 May 2016, p2.

¹³⁷ Submission 15, Collective Shout, p14.

¹³⁸ Submission 22, NSW Government, p9.

¹³⁹ Submission 33, Australian Psychological Society, pp4-5.

¹⁴⁰ Submission 17, Australian Christian Lobby, p16.

between pornography use (particularly of violent pornography) and attitudes supporting violence against women'.¹⁴¹

- 4.24 The same research, while noting that pornography was a risk factor, cautioned that this association between pornography and violence 'cannot be interpreted as causation,' because 'men with a disposition towards violence against women are more likely to seek out violent pornography'. This study concluded that, 'despite copious research into the phenomenon over many decades, the direct evidence for how viewing violent pornography impacts on gender-based violence is inconclusive.'¹⁴²

- 4.25 The Advocate for Children and Young People observed that the impact of exposure to pornography on a child or young person is likely to vary, depending on a whole range of factors:

The influence of pornography on an individual person will of course depend on a range of factors, including the viewer's gender, age, level of understanding, identification with the material and existing ideas, the content of the pornography viewed, frequency of viewing, and personality traits. That said, pornography is an adult product that is not intended for anyone under the age of 18 years.¹⁴³

- 4.26 The Advocate suggested that more research is needed in relation to the effects of exposure to pornography.¹⁴⁴ Youth Action echoed this call, and also emphasised that any research should include input from young people themselves:

What was clear throughout the written and verbal submission to the inquiry, is the lack of evidence currently...Youth Action recommends that young people are included in determining research focus and agenda.¹⁴⁵

Possible benefits

- 4.27 The Committee also received evidence about some possible benefits of pornography for young people, particularly in regard to their sexual development. For instance, the Digital Industry Group Inc. cited research that indicates that young people often use pornography as a tool in exploring their sexual identity, and exercise good judgement in their use of it:

Researchers stress that the desire to explore sexual imagery is often part of broader identity development amongst young people (e.g. exploring sexuality and gender, developing intimacy, seeking advice and creating an understanding of positive relationships). Importantly, this work supports the notion that young people apply the same morals and social norms in their online experiences as they do their offline experiences; they don't distinguish between the two and there remains a significant opportunity for parents, carers and educators to directly influence these norms.¹⁴⁶

¹⁴¹ M Lim, E Carrotte, M Hellard, 'The impact of pornography on gender-based violence, sexual health and well-being: what do we know?' *Journal of Epidemiology and Community Health*, January 2016, pp3-4, cited in Submission 31, Dr Jeremy Prichard.

¹⁴² M Lim, E Carrotte, M Hellard, January 2016, pp3-4, cited in Submission 31, Dr Jeremy Prichard.

¹⁴³ Mr Andrew Johnson, Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p1.

¹⁴⁴ Mr Andrew Johnson, 8 April 2016, p3.

¹⁴⁵ Youth Action, Answers to questions on notice, 13 May 2016, p10.

¹⁴⁶ Submission 18, Digital Industry Group, Inc., p9.

- 4.28 Other research also points to ‘growing, albeit limited evidence’ that pornography has benefits; these benefits include reducing sexual anxiety and dysfunction, and encouraging more open views toward sex and sexuality. One study of students in the US found that viewing pornography was associated with a willingness to explore new sexual behaviours and was experienced by viewers – particularly female viewers - as a source of empowerment.¹⁴⁷
- 4.29 On a similar note, the Australian Psychological Society also suggested that pornography can be a ‘source of liberation’¹⁴⁸ for young people who identify as lesbian, gay, bisexual, transgender, intersex and questioning (LGBTIQ), as these identities are generally not well represented in mainstream media. The Australian Psychological Society did caution, however, that, ‘in a world in which their [LGBTIQ] sexual orientation may be invisible or derided, portrayals of gay and lesbian sex can be equally gendered, aggressive and limiting.’¹⁴⁹
- 4.30 The role of education in assisting children and young people to interpret the sexual imagery and messaging they are exposed to is explored further in Chapter Eight.

Possible solutions: Internet filtering

- 4.31 The principal measure to address exposure to pornography proposed by Inquiry participants was internet filtering. There are different types of filters available for internet users, including the Internet Service Provider (ISP) level filter. An ISP is a company that supplies an internet carriage service to the public.¹⁵⁰ Thus, ISP-level filters block content deemed inappropriate before it reaches the computer or internet-connected device.¹⁵¹
- 4.32 There are two types of ISP-level filtering: the opt-in filter, which users can request, and the second, the opt-out filter, which is automatically applied to block certain content (usually pornography but also extremely violent material). The opt-out filter can be disabled, usually on request from the account holder.

Background

- 4.33 The *Broadcasting Services Act 1992*, which regulates television, radio and internet licensing, is administered by the Commonwealth. The use of ISP-level filtering as a measure to address exposure to pornography has been the subject of much debate at the Commonwealth level, over several years. For instance, the Commonwealth Parliamentary Library observed that:

Governments across the world have attempted to deal with [pornography directed at young or vulnerable individuals] by varying means and to varying degrees. These have included imposing mandatory filtering at an Internet Service Provider (ISP) level

¹⁴⁷ M Lim, E Carrotte, M Hellard, ‘The impact of pornography on gender-based violence, sexual health and well-being: what do we know?’ *Journal of Epidemiology and Community Health*, January 2016, pp3-4,...

¹⁴⁸ Submission 33, Australian Psychological Society, p4.

¹⁴⁹ Submission 33, Australian Psychological Society, p4.

¹⁵⁰ Office of the Children’s eSafety Commissioner, viewed 24 June 2016, <https://www.esafety.gov.au/about-the-office/internet-industry-compliance/content-service-provider-responsibilities>, Accessed 24 June 2016.

¹⁵¹ Office of the Children’s eSafety Commissioner website, Accessed 24 June 2016.

and optional filtering at the computer level. In Australia there has been considerable debate about what degree of filtering (if any) should be mandated.¹⁵²

- 4.34 In Australia, the issue first arose in 1993, when a Senate Select Committee considered regulation of computer bulletin boards. In 1996, the Howard government announced a set of fundamental principles intended to apply to regulation of the Internet. These included:
- Material online should not be subject to more onerous regulation than other material;
 - A framework for online services should balance community concerns in relation to content with industry concerns regarding the growth and potential of the internet; and
 - That ISPs should not be held responsible for material that they themselves do not create.¹⁵³
- 4.35 A Schedule to the *Broadcasting Services Act 1992* allows the Australian Broadcasting Authority to order internet content hosts (i.e. websites) to remove prohibited content. Prohibited content is that which would be refused classification under the National Classification Scheme, and does not include most mainstream pornography. Further, and as critics have observed, most prohibited content is hosted by websites overseas.
- 4.36 The Rudd/Gillard government subsequently proposed the adoption of mandatory internet filtering, to be based on a list of prohibited sites. This proposal was widely criticised as both inefficient and a restriction on free speech.¹⁵⁴ The then Shadow Minister for Communication, the Hon. Malcolm Turnbull, also criticised the proposal, saying that ‘the Coalition has never supported mandatory internet filtering. Indeed, we have a long record of opposing it.’¹⁵⁵ The proposal was dropped in 2009.
- 4.37 However, a Joint Select Committee on Cyber-Safety was established in 2010. The Select Committee produced a number of reports on various aspects of cyber-crime and cyber-safety, including issues facing children and young people, before it was dissolved in 2013. The current government established the National Children’s e-Safety Commissioner in 2015.

United Kingdom

- 4.38 A number of Inquiry participants expressed support for the model of internet filtering introduced in the UK. In July 2013, former British Prime Minister David Cameron announced that the six major ISPs in the United Kingdom would ‘offer family-friendly network level filtering to all new customers by the end of

¹⁵² P Pyburne, R Jolly, ‘Australian Governments and dilemmas in filtering the Internet: juggling freedoms against potential for harm,’ Research Paper, 8 August 2014.

¹⁵³ P Pyburne, R Jolly, 8 August 2014, p12.

¹⁵⁴ P Pyburne, R Jolly, 8 August 2014, p14.

¹⁵⁵ Hon Malcolm Turnbull MP, <http://www.malcolmturnbull.com.au/media/the-coalition-is-opposed-to-mandatory-internet-filters>, Accessed 23 May 2016.

December 2013, and to all existing customers by the end of December 2014.¹⁵⁶
In his view, ISP-level filters were necessary because:

...It used to be that society could protect children by enforcing age restrictions on the ground; whether that was setting a minimum age for buying top-shelf magazines, putting watersheds on the TV or age rating films and DVDs. But the explosion of pornography on the internet, and the explosion of the internet into our children's lives, has changed all of that profoundly. It's made it much harder to enforce age restrictions.¹⁵⁷

- 4.39 The UK model is one in which parents can not only 'opt-in' to ISP-level filtering, but that this decision becomes unavoidable for them:

We're not prescribing how the ISPs should contact their customers; it's up to them to find their own technological solutions. But however they do it, there'll be no escaping this decision, no, 'Remind me later,' and then it never gets done. And they will ensure that it's an adult making the choice.¹⁵⁸

- 4.40 The means by which this decision is made 'unavoidable' varies by ISP, allowing some flexibility for the ISP. Often ISPs will institute a step in the installation process, where the account holder must indicate a preference.

Evidence from Inquiry participants

- 4.41 Most Inquiry participants supported internet filtering in some form, as a means of reducing children and young people's access to internet-based pornography. For example, Ms Wendy Francis, Spokesperson for the Australian Christian Lobby, expressed support for the UK model:

We need what the United Kingdom has done, and that is a universal by-default ISP level safe feed. There is no reason why we cannot do what the United Kingdom has done. It would not in any way restrict adults from accessing porn, but what they have to do is opt in to get the porn instead of our children having to opt out, or our parents having to opt out.¹⁵⁹

- 4.42 Collective Shout also supports adoption of an opt-out ISP-level filter, for very similar reasons:

It [an opt-out ISP level filter] does not stop adults from accessing explicit content, but it means that families can sign up to a plan, knowing that if mum and dad want to access adult content, they have the password. It is not something kids can crack without phoning up in person and getting the details.¹⁶⁰

¹⁵⁶ Ofcom, 'Ofcom report on internet safety measures: strategies of parental protection for children online,' December 2015, p3.

¹⁵⁷ Submission 7, Mr Joe Bullock (Six Labor Senators), p10.

¹⁵⁸ Rt Hon David Cameron MP, Prime Minister, United Kingdom, <https://www.gov.uk/government/speeches/the-internet-and-pornography-prime-minister-calls-for-action>, Accessed 23 May 2016.

¹⁵⁹ Ms Wendy Francis, Queensland State Director and Spokesperson, Australian Christian Lobby, Transcript of evidence, 8 April 2016, p50.

¹⁶⁰ Ms Nicole Jameson, Research Assistant, Collective Shout, Transcript of evidence, 7 April 2016, p60.

Limitations of internet filters

- 4.43 However, Inquiry participants were also conscious of the limitations of internet filters. Few internet filters provide complete protection against inappropriate content, and there were also concerns that the presence of filters may give parents a 'false sense of security' in regard to what their children are viewing online. For example, the Office of the National eSafety Commissioner warns against over-reliance on internet filters:

Internet filters are no substitute for parental guidance and supervision and no filtering tool can block all unsuitable material. As the internet is vast and constantly changing, lists of blocked sites must be continuously updated for the filter to work effectively. Even then, some undesirable sites may still slip through the filter.¹⁶¹

- 4.44 Professor Elizabeth Handsley, President, Australian Council on Children and the Media, also observed that filters are only able to regulate the material that children access in their *own* homes:

Even parents with the best will in the world and the best filters in the world still cannot control what their children are exposed to in other people's homes or outdoors and so on, so let us get on the front foot and let us balance out those messages that they are getting with positive messages.¹⁶²

- 4.45 The Advocate for Children and Young People supported internet filtering (whether opt-in or opt-out) as part of a multi-pronged approach to reducing children's exposure to pornography. He advised that available evidence indicates that internet filters are effective enough to be a worthwhile measure:

I think sometimes when people are talking about filters they either overestimate or underestimate what they are able to do, and some of the evidence suggests that it is probably a bit more effective than people think.¹⁶³

Other measures

- 4.46 Other stakeholders supported education for both children and young people and their parents,¹⁶⁴ to provide informed and age-appropriate information about how to navigate the content they find online, including pornography. Education measures will be explored further in Chapter Eight of this report.

Committee comment:

- 4.47 The Committee received evidence that the exposure of children and young people to pornography is rising at an unprecedented rate. The Committee recognises the need for current information in this area and urges the NSW Advocate for Children and Young People to address children and young people's exposure to pornography as a strategic priority.

¹⁶¹Office of the Children's eSafety Commissioner, <https://www.esafety.gov.au/esafety-information/esafety-issues/offensive-or-illegal-content/offensive-or-illegal-content-information-for-parents-and-teachers>, Accessed 2 June 2016.

¹⁶² Professor Elizabeth Handsley, President, Australian Council on Children and the Media, Transcript of evidence, 7 April 2016, p33.

¹⁶³ Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p9.

¹⁶⁴ Submission 38, Youth Action, p26.

- 4.48 The Committee notes the need for further research on the impacts of exposure to pornography on children and young people. However, the Committee considers that the risks of early exposure of pornography on children and young people, particularly on body image, mental health, gender roles and attitudes, and sexual and reproductive health, are significant and must be pursued as a policy priority.
- 4.49 The Committee received evidence that internet filtering would provide parents with additional support in limiting children's access to pornography, and supports the adoption of an 'opt-in' approach to internet filtering similar to that taken in the United Kingdom.
- 4.50 As the *Broadcasting Services Act 1992* is administered by the Commonwealth, the Committee urges the NSW Government to advocate for adoption of ISP filtering through the Law, Crime and Community Safety Council of COAG.

RECOMMENDATION 1

The Committee recommends that the Advocate for Children and Young People monitor research into young people's use of and attitudes towards pornography.

RECOMMENDATION 2

The Committee recommends that the Advocate for Children and Young People continue to work with the Office of the Children's e-Safety Commissioner and industry stakeholders to explore opportunities to reduce children and young people's exposure to pornography.

RECOMMENDATION 3

The Committee recommends that the Attorney-General advocate for the adoption of opt-in internet filtering through the Council of Australian Governments Law, Crime and Community Safety Council

Chapter Five – Television, print media and music

- 5.1 The terms of reference for the Inquiry also referred to electronic, print and social media and marketing. As stakeholder concerns applied principally to advertising, the Committee received limited evidence about sexualisation in television or print *content*. Where content was raised by stakeholders, it related to the exposure of children and young people to inappropriate or sexual content rather than sexualised representations of children or young people. This chapter outlines the regulatory framework that currently applies to broadcasting, print media and music.

Current regulatory regime

- 5.2 The *Broadcasting Services Act 1992* (Cth) is the principal mechanism for regulation of broadcasting. The Act does not explicitly regulate content but outlines broad principles for Australian broadcasting, and establishes the Australian Communications and Media Authority (ACMA). Section 122 requires the ACMA to develop television standards for children, and Section 123 provides for industry to develop, in consultation with ACMA, codes of conduct for the regulation of broadcast television and radio. Similar to advertising standards, these codes are required to reflect community standards.
- 5.3 The Commercial Television Industry Code of Practice (Code of Practice) governs broadcast television content. The Code covers matters such as classification of programming, news content, limits on advertising, and disclosure of commercial arrangements. The Code is managed by Free TV Australia, the industry body representing commercial free-to-air broadcasters. Complaints about breaches of the code can be directed to Free TV Australia, and if a consumer is not satisfied with the outcome, to ACMA.
- 5.4 The Code of Practice requires that content broadcast on free-to-air television be classified in line with the categories outlined in the *Classification (Publications, Films, and Computer Games) Act 1995*. This includes movies broadcast on television but does not include news and current affairs programming or sports.¹⁶⁵ While news, current affairs and sport are exempt from classification, broadcasters are required to take care in the selection of material and have regard to the likely audience.¹⁶⁶ The Code also regulates the times at which advertisements for certain products (such as gambling or adult services) can be shown.
- 5.5 According to Free TV Australia, the Code of Practice developed by broadcasters establishes a more comprehensive classification scheme than that required under the *Classification Act 1995*:

¹⁶⁵ Submission 32, Free TV Australia, p6.

¹⁶⁶ Submission 32, Free TV Australia, p6.

The television classification system under the Free TV Code contains a greater level of detail for each classifiable element than the National Classification Scheme guidelines for films. However, the marking and categories used are the same and these are generally well understood by all consumers.¹⁶⁷

Classification (Publications, Films and Computer Games) Act 1995

- 5.6 All films, computer games and some publications sold and distributed within Australia are subject to the National Classification scheme, which assigns and enforces a classification to the product before its release to the public. The categories provided for in the Act would be familiar to most Australians and are detailed below.

Table 1: Classifications for Films and Computer Games

G General	PG Parental Guidance	M Mature	MA15+ Mature Accompanied
R18+ Restricted	X18+ Restricted (film only)	RC Refused Classification	

- 5.7 The Classification Board (formerly the Office of Film and Literature Classification) classifies films and print media, but is not responsible for classifying television programs, live performances or audio CDs. Instead these classifications are made by ACMA and the Australian Recording Industry Association (ARIA) respectively.¹⁶⁸
- 5.8 The *Classification Act 1995* also outlines the following classifications for print publications such as magazines and periodicals:
- **Category 1** – restricted publications commonly contain images of sexualised nudity and must be distributed in a sealed wrapper. Their covers must be suitable for public display.
 - **Category 2** – restricted publications commonly show images of actual sexual activity between consenting adults and may only be displayed in premises that are restricted to adults.¹⁶⁹
- 5.9 The *Classification Act 1995* is complemented by the *Classification Enforcement Act 1995* (NSW), which regulates the sale and exhibition of classified movies and computer games in NSW. This is the legislation that underpins the exclusion of persons aged under 18 from R-rated films in cinemas, for example.

¹⁶⁷ Submission 32, Free TV Australia, p6.

¹⁶⁸ Australian Classification Board, <http://www.classification.gov.au/About/Pages/What-We-Do.aspx>, Accessed 20 July 2016.

¹⁶⁹ Section 7 (1), *Classification (Publications, Films and Computer Games) Act 1995* (Cth)

Children's Television Standards (CTS)

- 5.10 The *Broadcasting Services Act 1992* also authorises ACMA to develop specific standards for all free-to-air broadcasters in regard to children's television programming.¹⁷⁰ These standards operate in conjunction with the classification guidelines and viewing times outlined in the *Broadcasting Services Act*.
- 5.11 Under the Children's Television Standards, TV programs may be classified, as C (for children) or P (for preschool children). While G-rated programs may be suitable for children, programs rated C and P are generally made specifically for children.¹⁷¹ Broadcasters are required to show 260 hours of C classified programs within designated bands for children under 14 years of age, and 130 hours of P classified programs within designated children's viewing hours.

Television

- 5.12 In November 2015, Free TV Australia developed a new Commercial Television Industry Code of Practice (Code of Practice), in order to 'more accurately reflect how Australians are actually consuming television content.'¹⁷² The new Code of Practice was registered by the Australian Communications and Media Authority (ACMA) in November 2015, and came into effect in December 2015.
- 5.13 The new Code of Practice amends the viewing hours within which programs of various classifications can be shown. The changes to viewing hours are detailed in Table 2 below.

Table 2: Comparison of previous and current television codes of practice

Classification	Description	Current code	Previous code
G	General	G programs may be broadcast at any time	Exclusive G classification times: 6am to 8.30am <i>weekdays</i> 4pm to 7pm <i>weekdays</i> 6am to 10am <i>weekends</i>
PG	Parental guidance	PG programs may be broadcast at any time	PG classification times: 5am to 6am <i>weekdays</i> 8.30 am to 12 noon <i>weekdays</i> 3pm to 4pm <i>weekdays</i> 7pm to 8.30pm <i>weekdays</i>
M	Mature	M classification times: 7.30pm to 6am <i>weekdays</i> 12noon to 3pm <i>weekdays</i> 7.30pm to 6am <i>weekends</i> and <i>school holidays</i>	M classification times: 7.30pm to 6am <i>weekdays</i> 12 noon to 3pm <i>weekdays</i> 7.30 pm to 6am <i>weekends</i> and <i>school holidays</i>

¹⁷⁰ Australian Communications and Media Authority, <http://acma.gov.au/Citizen/Stay-protected/My-kids-and-media/Kids-and-TV/childrens-television-standards-kids-tv-and-advertising-i-acma>, Accessed 20 July 2016.

¹⁷¹ Australian Communications and Media Authority, <http://acma.gov.au/Citizen/Stay-protected/My-kids-and-media/Kids-and-TV/childrens-television-standards-kids-tv-and-advertising-i-acma>, Accessed 20 July 2016.

¹⁷² FreeTV Australia, http://www.freetv.com.au/content_common/pg-code-of-practice.seo, Accessed 26 July 2016.

MA	Mature accompanied; not suitable for people under 15 years	MA classification times: 8.30pm to 5am <i>All days</i>	MA classification times: 9pm to 5am <i>All days</i>
AV	Adult violence	9.30pm to 5am <i>All days</i>	NA

5.14 Under the new Code of Practice, television programs classified M and MA can be shown half an hour earlier in the evening. PG programs can now be broadcast at any time of day, whereas previously there were specific times during which PG programs could be broadcast.

5.15 A number of Inquiry participants were critical of the amended Code, arguing that it makes programs containing adult themes more accessible to children. For example, Family Voice Australia brought the Committee's attention to ACMA research published in March 2015, which collated information between 2001 and 2013 on children's television viewing.¹⁷³ The research indicated two peaks in weekday viewing times for children aged 0-14 years. These peaks were between the hours of 7am and 9am, and between 7pm and 8pm.

5.16 Family Voice pointed out that although the peak hour for evening viewing was between 7pm and 8pm, programs classified as Mature (M) could be broadcast at 8.30pm, when many children and young people still viewing.¹⁷⁴ According to Family Voice:

The evidence suggests that the best interests of the children would be served by *extending* the end of the previous Code's evening PG zone from 8.30pm to 9pm – reflecting children's current viewing habits.¹⁷⁵

5.17 On a similar note, the Australian Christian Lobby argued that the changes to the Code will make it more difficult for parents to regulate their children's TV viewing habits:

Families in Australia expect that certain types of content will not be aired at certain times of day when children are more likely to be viewing...many parents struggle to uphold family viewing rules. One study found that 90 per cent of parents made rules to limit television use, but only 54 per cent were able to uphold rules over time.¹⁷⁶

5.18 However, Free TV Australia pointed out that commercial free-to-air broadcasters have 'the strongest safeguards of any media platform to limit the exposure of children to potentially unsuitable material'.¹⁷⁷ They maintain that the review and subsequent changes in the Code reflect changing television viewing habits, arguing that free-to-air television is the safest media platform for children:

Research indicates that families with children are heavy users of on-demand content (such as ABC iView), and that the child audience for commercial free-to-air television is in decline. There has been an overall 9 per cent decline in the average daily

¹⁷³ Submission 23, Family Voice Australia, p11.

¹⁷⁴ Submission 23, Family Voice Australia, p12.

¹⁷⁵ Submission 23, Family Voice Australia, p11.

¹⁷⁶ Submission 17, Australian Christian Lobby, p42.

¹⁷⁷ Submission 32, Free TV Australia, p2.

number of children watching commercial free-to-air television between 2001 and 2013. Many of these platforms are unregulated. Commercial free-to-air television remains the safest place for children to access content in this new media landscape.¹⁷⁸

- 5.19 Free TV Australia also pointed out that complaints about television programming have actually declined in recent years. This is likely to be a reflection of changes in viewing patterns, rather than changes in industry practice. The proportion of complaints upheld by ACMA is very low:

Of the 1911 complaints made to broadcasters under the Code of Practice in 2014-15, the ACMA found just three Code breaches in 2014-15. None of these breaches related to a classification issue or placement of high level content. This is an exceptional compliance record, especially in light of the reach of commercial free-to-air television, and the volume of material broadcast each day.¹⁷⁹

Changing patterns of media consumption

- 5.20 The growing availability of online media have changed patterns of media consumption for all Australians, and particularly for children and young people. As a result, children and young people are viewing less free-to-air television and instead viewing media content from other sources. According to Free TV Australia, young people aged 13-17 now spend almost half of their screen time watching video on the internet, a smart phone or tablet.¹⁸⁰

- 5.21 Collective Shout argued that regulation of television is inadequate and that this will drive consumers to other media platforms:

Children and young people are already ambushed by the broadcasting of unsuitable promos and trailers for M and MA 15+ movies, and PG times. As well as eroding the already poor protections offered to children and young people, we believe that this decision is likely to reinforce current trends toward the viewing of 'television' content via online media platforms as families seek to exercise control over the media consumption of children and young people.¹⁸¹

- 5.22 However, Free TV Australia pointed out that the new media platforms have also provided parents, as well as children and young people themselves, with more options to regulate viewing. These options now include:

It is also relevant to note that parents and carers of children and young people now have a myriad of options to manage their viewing, including:

- parental locks, which are now ubiquitous following the transition to digital television;
- on-demand streaming services (such as Netflix, Presto and Stan),
- information contained in Electronic Program Guides,
- DVDs,

¹⁷⁸ Submission 32, Free TV Australia, p10.

¹⁷⁹ Submission 32, Free TV Australia, p9.

¹⁸⁰ Submission 32, Free TV Australia, p9.

¹⁸¹ Submission 15, Collective Shout, p6.

- on-demand content such as iTunes, Foxtel Go and ABC iView;
- two popular government funded, advertisement-free children's channels (ABC2 and ABC3); and
- dedicated subscription children's channels (such as Discovery Kids, Nick Jr and Disney Jr).¹⁸²

Print publications

5.23 Print publications also fall within the jurisdiction of the *Classification (Publications, Films, and Computer Games) Act 1995*. The National Classification Code for publications is detailed in Table 3 below. Under the *Classification Enforcement Act* Category 1 publications are to be sold with a warning label, while Category 2 publications may only be sold in restricted sales areas such as adult bookstores.

Table 3: National Classification Code for publications

Category	Description of publication
Category 1 restricted	Publications (except RC publications and Category 2 restricted publications) that: <ul style="list-style-type: none"> (a) explicitly depict nudity, or describe or impliedly depict sexual or sexually related activity between consenting adults, in a way that is likely to cause offence to a reasonable adult; or (b) describe or express in detail violence or sexual activity between consenting adults in a way that is likely to cause offence to a reasonable adult; or (c) are unsuitable for a minor to see or read
Category 2 restricted	Publications (except RC publications) that: <ul style="list-style-type: none"> (a) explicitly depict sexual or sexually related activity between consenting adults in a way that is likely to cause offence to a reasonable adult; or (b) depict, describe or express revolting or abhorrent phenomena in a way that is likely to cause offence to a reasonable adult and are unsuitable for a minor to see or read
Refused Classification (RC)	Publications that: <ul style="list-style-type: none"> (a) describe, depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified; or (b) describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is

¹⁸² Submission 32, Free TV Australia, p9.

	engaged in sexual activity or not); or (c) promote, incite or instruct in matters of crime or violence
All other publications	Unrestricted.

5.24 As most print publications fall within the ‘unrestricted’ category, there is little direct government regulation of most print media. The Australian Press Council regulates newspapers and other news media according to its General Principles and specific Standards, but these principles and standards are primarily intended to ensure accuracy, fairness and transparency, and do not refer to children and young people. The Independent Media Council performs a similar function for some magazines, but its code of conduct is similarly focused on journalism standards rather than issues relating to children.

5.25 Complaints about publications that may subject to classification under the National Classification Code can be directed to the Classification Board. The website of the Commonwealth Department of Communication and the Arts advises consumers to direct any complaints to the editor or representative of the publication in question, in the first instance.

Girls’ magazines

5.26 The main issue raised by Inquiry participants in regard to print publications was the content of girls’ magazines, which was seen as inappropriate by some participants. For example, the Australian Christian Lobby expressed the view that the content of magazines content aimed at a young audience may contribute to the sexualisation of children and young people:

These magazine are widely read by children and ‘tweens’ and contain a very significant amount of sexualising content such as beauty, fashion, celebrities (usually those famous primarily for their looks and often those who star in TV shows rated unsuitable for children), gossip, romances and crushes, particularly of young girls (the target audience) on much older men (celebrities).¹⁸³

5.27 Family Voice Australia also raised concerns about the content of magazines and its impact on young girls, particularly advice columns about sex and sexual development:

Girls’ magazines sexualise young girls and profit from their curiosity through the provision of sex advice. For example, *Dolly* magazine, which has a target audience of 14-17 year olds, has an “Everything you need to know about sex” guide on its website... In what other circumstances would children ever be advised that the ‘most important thing is that whatever you’re doing make you feel good?’ Such advice is irresponsible and encourages children to engage in risky sexual practices – at ages when this might be illegal.¹⁸⁴

¹⁸³ Submission 17, Australian Christian Lobby, p12.

¹⁸⁴ Submission 23, Family Voice Australia, p7.

- 5.28 However, The Newspaper Works emphasised that publishers whose magazines target children and young people carefully consider the age-appropriateness and community benefit of the information that is released:

They provide credible and balanced information, playing an important role in correcting misconceptions and providing teenagers with a responsible and mature understanding of sexual issues and sexual development. These initiatives and information are both useful and educational.¹⁸⁵

- 5.29 The Newspaper Works further argued that the low number of complaints that the organisation received, together with the high readership levels of the publications, indicate that current regulations are satisfactory and no additional regulations are necessary.¹⁸⁶

Music

- 5.30 The Australian Recording Industry Association (ARIA) and the Australian Music Retailers' Association (AMRA) also have a Code of Practice, which requires publishers to attach warning labels to products that contain explicit content; similar labelling is included in some online music sales. The classifications used are similar to the National Classification Code, and warn consumers of explicit language and themes relating to sex, drugs and violence. Complaints about CDs and music DVDs can be made to AMRA.

- 5.31 Six Labor Senators provided a submission arguing that the Code of Practice is inadequate. The Senators cited the example of a song by the group Cannibal Corpse, entitled 'Stripped, raped and strangled,' the lyrics of which include explicit descriptions of murder and rape. The Senators noted the provisions in the recording industry Code of Practice which require that:

Product containing lyrics which promote, incite, instruct, or exploitatively or gratuitously depict drug abuse; cruelty; suicide; criminal or sexual violence; child abuse; incest; bestiality; or any other revolting or abhorrent activity in a way that causes outrage or extreme disgust to most adults' is not to be sold.¹⁸⁷

- 5.32 The Senators argued that, 'it is hard to see what might qualify as sufficiently exploitative and gratuitous to be actually classified as 'not to be sold' under a system that finds these lyrics acceptable.'¹⁸⁸

Music videos

- 5.33 Inquiry participants expressed concerns about music videos broadcast on television, and children and young people's potential exposure to adult themes represented in these videos. For example, Dr Lesley-anne Ey advised that music videos containing sexualising lyrics and imagery are broadcast during hours when children and young people are likely to be watching:

¹⁸⁵ Submission12, The Newspaper Works, p2.

¹⁸⁶ Submission 12, The Newspaper Works, p2.

¹⁸⁷ Submission 7, Six Labor Senators, p7.

¹⁸⁸ Submission 7, Six Labor Senators, p7.

Recent research found that more than 55 per cent of music videos broadcast on Australian free-to-air television during child-friendly time periods – parental guidance (PG) and General (G) – contained some level of sexualised content. Lyrics were the highest type of sexualised demonstration followed by dress, non-dance movement and dance movement.¹⁸⁹

5.34 All music video clips are subject to classification under the Commercial Television Industry Code of Practice. Free TV Australia advised that music videos are treated as follows:

If the material is determined to be unsuitable for the relevant time zone (usually G or PG), then the video is edited before broadcast or else it is not included in the respective program. For G classified programs networks take extra steps to ensure the videos are very mild in impact and safe for children to watch without adult supervision as required under the Code. For a PG show, the networks apply the Code at the lower end of the PG classification requirements as they are mindful that younger viewers could be watching these programs.¹⁹⁰

¹⁸⁹ Submission 11, Dr Lesley-anne Ey, p2.

¹⁹⁰ Senate Standing Committee on Environment, Communications and the Arts, *'Sexualisation of children in the contemporary media,'* June 2008, pp40-41.

Chapter Six – Social media, sexting and revenge porn

- 6.1 As mentioned in Chapter Three, social media has emerged as a key part of the social fabric. Many children and young people, even more than adults, use social media as a regular part of their daily lives. In some cases they use the same sites, such as Facebook, Twitter or Instagram, as their parents. However, other sites or apps such as Snapchat, Tumblr, kik and YouTube are particularly popular among young people. Sexting, in particular, emerged as a key theme during this Inquiry, and this chapter details the issues raised.

Use of social media

- 6.2 According to the Office of the Children's eSafety Commissioner, more than half of Australia's teenagers are active on social media:

Eighty-two per cent of teens had been online in the previous 4 weeks with online teens undertaking a range of activities including 64 per cent streaming videos, 47 per cent playing games online, 78 per cent emailing, 54 per cent social networking and 78 per cent research and browsing.¹⁹¹

- 6.3 Youth Action also cited research that indicates 90 per cent of young people aged between 16 and 29 access the internet daily. In 2011, 90 per cent of young people aged 15 – 17 had their own mobile phone and, as they pointed out, this figure is likely to have increased in the years since.¹⁹² Youth Action observed that 'the prevalence of mobile devices in young people's lives has undoubtedly changed the ways in which young people interact, socialise, and conduct friendships and relationships.'¹⁹³

- 6.4 The Council of Catholic School Parents argues that social media has become such a necessity in the culture of children and young people that children are seeking out access regardless of their parents' wishes:

Children pressure parents on a number of fronts around the use of social media: to join apps prior to the designated legal age (usually 13 years old) and to have unfettered activity within those apps to prove the trust their parents have for them.¹⁹⁴

- 6.5 Some stakeholders raised concerns that while interacting on social media sites children and young people may be exposed to sexual images and content, such as pornography. For example, Family Voice Australia said, 'the popularity of

¹⁹¹ Office of the Children's eSafety Commissioner, Submission to Committee on Environment and Communications, *Inquiry into the harm being done to Australian Children through access to pornography*, March 2016, p1.

¹⁹² Submission 38, Youth Action, p12.

¹⁹³ Submission 38, Youth Action, p12.

¹⁹⁴ Submission 20, Council of Catholic School Parents NSW/ACT, p8.

social media and the amount of time spent daily on such sites significantly increases the exposure of children to sexual content.¹⁹⁵

Regulatory framework

- 6.6 Under Schedules 5 and 7 of the *Broadcasting Services Act 1992* (the Act), internet content is broadly regulated by the Australian Communications and Media Authority (ACMA).¹⁹⁶ Under Schedule 5 of the Act, ACMA has the authority to issue take-down notices to ISPs for internet content that is hosted in Australia.
- 6.7 ACMA also has the authority to issue take-down notices, service cessation notices or link deletion notices for content that is hosted overseas, if that content would be prohibited if it was classified in Australia.¹⁹⁷ Although it is not a criminal offence for ISPs to host prohibited internet content, failure to comply with a direction from ACMA, may result in a criminal offence under the Criminal Code Act 1995.¹⁹⁸ Most 'mainstream' or non-violent pornography, though, would be classified in Australia and is therefore not subject to the authority of ACMA.
- 6.8 However, many internet platforms and companies have instituted their own policies to protect internet users, and these often include prohibitions on pornography. For example, the Digital Industry Group, which includes a number of large internet companies such as Google, Microsoft, YouTube, Facebook, Yahoo, and Twitter, provided a submission outlining the policies that they have in place. These include:
- Policies that prescribe how old you must be to use services,
 - Policies that outline what can and cannot be shared via services,
 - Policies that expressly prohibit sharing of pornography and any content that presents children in a sexual manner,
 - Tools that allow any of the millions of people who use services to flag content to us that may violate policies,
 - Investment in tools that can provide additional protections for minors (for example, graphic content warnings, the default additional privacy protections for minors on Facebook and YouTube Kids); and
 - Investment in a reporting infrastructure that allows prompt review and removal of any such content.¹⁹⁹
- 6.9 The Office of the Children's e-Safety Commissioner, which is discussed in more detail in Chapter Eight, lists a number of major sites such as Facebook, YouTube,

¹⁹⁵ Submission 23, Family Voice Australia, p8.

¹⁹⁶ *Broadcasting Services Act 1992* (Cth), Schedules 5 and 7.

¹⁹⁷ Australian Communications and Media Authority website, <http://www.acma.gov.au/theACMA/carriage-service-provider-rules-isp-licensing-i-acma>, Accessed 9 August 2016.

¹⁹⁸ Australian Communications and Media Authority website, Accessed 9 August 2016.

¹⁹⁹ Submission 18, Digital Industry Group, p2.

Twitter and Flickr as social media partners. The Commissioner works with these companies to resolve cyber-bullying complaints.

Sexting

- 6.10 Stakeholders raised concerns that children and young people were not just exposed to sexual content online, but also involved in creating and sharing sexual images of themselves and other young people – ‘sexting,’ as it has become known.²⁰⁰ According to the NSW Government, sexting is the ‘creating, sharing, sending or posting of sexual images or messages via the internet, mobile phones or other electronic devices.’²⁰¹
- 6.11 Inquiry participants observed that sexting is a rising trend amongst children and young people. The Children’s Advocate cited a recent study which indicated that a significant number of children and young people are sharing sexual pictures and videos via smart phones, tablets and over the internet:
- ...In a recent study, *Sexting and Children and Young People* (2015), with which the former commission (on children and young people) was involved, over 2,200 young people aged 13 years and over, with the primary target group being young people aged 13 to 18 years, the study found that 40 per cent to 50 per cent of young people aged 13 to 18 had sent a sexual picture or video via communication technology and between 60 per cent and 70 per cent had received a sexual picture or video. Most sexting occurred between partners in committed relationships.²⁰²
- 6.12 However, an earlier study by the Joint Select Committee on Cyber-Safety found different results, with 91.2 per cent of young people reporting that they have not and would not sent naked or semi-naked pictures of themselves via communications networks.²⁰³ Such variable results may be accounted for by changes in methodology, or genuine social changes in the period between 2011 and 2015.
- 6.13 As sexting is a relatively new social phenomenon, the evidence base in relation to it is under-developed, with much of the evidence received by the Committee being anecdotal. The NSW Government also noted that ‘there is not strong research in Australia on the prevalence of sexting’ and suggested further research is necessary.²⁰⁴

Positive aspects of social media and sexting

- 6.14 Some stakeholders observed that use of social media can play a positive role in young people’s development. For example, according to the NSW Government:

Children who experience discrimination due to physical or mental ill health, sexuality or homelessness have identified social network services as critical to feeling

²⁰⁰ Mr Andrew Johnson, Advocate for Children and Young People, 8 April 2016, pp2-3.; Mr Michael Woodhouse, Executive Director, Department of Family and Community Services, Transcript of evidence, 8 April 2016, p34; Submission 9, Ms Maggie Hamilton, p8.

²⁰¹ Submission 22, NSW Government, p10.

²⁰² Mr Andrew Johnson, Advocate for Children and Young People, Transcript of evidence, 8 April 2016, pp2-3.

²⁰³ Joint Select Committee on Cyber-Safety, *‘High-wire Act: Cyber safety and the young,’* Parliament of Australia, 2011, p138.

²⁰⁴ Submission 22, NSW Government, p10.

acceptable and belonging. 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' (48 per cent).*²⁰⁵ [italics in original]

- 6.15 The Advocate for Children and Young People cited research that indicates that most sexting is also unproblematic. Young people engage in sexting on a voluntary basis, as part of their relationships:

There was very little evidence of peer pressure or coercion to engage in sexting. Rather, young people reported engaging in the practice as a consensual and enjoyable part of their intimate relationship.²⁰⁶

- 6.16 Youth Action also noted that sexting is typically consensual and can be not only enjoyable but also provide benefits, in terms of providing a way for young people to explore their identities and sexuality:

the practice of consensual, peer-to-peer (or age-appropriate) sexting is one of the ways in which young people can explore and develop their sexual identity, and thus it can play a positive role in relationships between young people.²⁰⁷

Revenge pornography

- 6.17 While benign when engaged in consensually, sexting can be damaging when intimate or sexual images are shared without the consent of the subject or subjects involved. As the Committee heard, in some cases consent is not obtained before images are shared and sexts may also be posted maliciously – ‘revenge porn,’ as it has become known. According to a report by the NSW Standing Committee on Law and Justice, the typical revenge pornography scenario is one where a person has an intimate or sexually explicit image or video of themselves posted online by their ex-partner without their consent. In some instances, the material is uploaded to a dedicated ‘revenge porn’ website.²⁰⁸

- 6.18 Revenge porn can be deeply distressing and damaging for adults, let alone children and young people. Young people, moreover, are likely to be less skilled and less experienced in accessing support or seeking redress in such situations. Dr Jeremy Prichard, from the Law Faculty at the University of Tasmania, recounted a case that he was aware of that involved two young people:

Two teenagers—I think they were both 14 or 15, a boy and a girl—had consensual sexual activity one night in a park. The boy decided he wanted to take a photograph of what was happening because, from what the police officer told me, he thought this was too good to be true, so he wanted a memento for himself but he did not seek her consent. Even though there was consent to the sexual activity, there was no consent given to the photograph that was taken.

²⁰⁵ Submission 22, NSW Government, p4.

²⁰⁶ Cited in Submission 36, Advocate for Children and Young People, p15.

²⁰⁷ Submission 38, Youth Action, p14.

²⁰⁸ Standing Committee on Law and Justice, ‘*Remedies for the serious invasion of privacy in New South Wales*,’ Parliament of New South Wales, March 2016, p19.

She said, "What are you doing with your phone?" He said, "I'm just checking the time" and she did not realise he had taken the photograph. He held on to that photograph for many months and ... then he was talking to another girl in the same school and he said, "Oh, I've had sex with so and so" and she said, "I don't believe you." He said, "No. I'll prove it to you. Here's a photograph" and he sent her the photograph. There was another act that was not consented to, that is, to share the photograph with any other person. Then that girl who received the photo sent it all around the school.²⁰⁹

6.19 In August 2016, the Sydney Morning Herald reported that police had ordered the removal of explicit photos of more than 2,000 teenage girls from 70 different schools from a website. Most of the photos were revealing 'selfies', with some depicting girls engaged in sexual acts; the photos had been taken by the girls themselves but uploaded to the site without their consent.²¹⁰

6.20 The harms caused by intentional or malicious sharing of images without consent were widely acknowledged by Inquiry participants. The Advocate for Children and Young People reported that non-consensual sharing of sexts can cause significant harms for the victim:

The non-consensual redistribution of sexts can cause significant harm to the victim, affecting the young person's wellbeing, health, school, employment, family and peer relationships. Young people may find themselves the victims of humiliation, bullying, harassment, threat, punishment (from school and/or parents) and criminalisation.²¹¹

6.21 The NSW Privacy Commissioner also provided a submission on this issue. Dr Elizabeth Coombs advised that her Office receives requests for assistance from parents whose children have had their privacy invaded in this way. She emphasised that 'it is an important human right that a person is able to control their personal information,' and observed that:

on many occasions in electronic and social media, material of a personal and sexual nature has been uploaded to the internet by the young person themselves. Unfortunately, these actions can haunt young people for many years.²¹²

6.22 Youth Action pointed out that it is usually young girls who are the victims of such non-consensual sexting. One study found that girls are more likely to report experiencing, or knowing someone who has experienced, most types of cyber-bullying, including non-consensual sexting.²¹³ Youth Action described the consequences of such experiences as 'emotional distress and shame for the victims, as well as permanent damage to their digital footprint, and of course, potential legal repercussions if either party are under the age of 18'.²¹⁴

6.23 The NSW Government supports education measures to inform children and young people about the risks involved with sexting. Mr Michael Woodhouse,

²⁰⁹ Dr Jeremy Prichard, Transcript of evidence, 8 April 2016, p29.

²¹⁰ 'Pornographic website targeting schoolgirls exposes 'terrifying' fears facing girls online,' *Sydney Morning Herald*, 20 August 2016.

²¹¹ Submission 36, Advocate for Children and Young People, p15.

²¹² Submission 34, NSW Privacy Commissioner, p1.

²¹³ Submission 38, Youth Action, p17.

²¹⁴ Submission 38, Youth Action, p17.

Executive Director, Strategic Policy, Department of Family and Community Services, emphasised that ‘one of the important points we would want to make is obviously this is an area where prevention is better than cure.’ He suggested that in the context of sexting the best role for government is in education:

Raising awareness amongst children and young people about the dangers of sexting and the perhaps naive assumptions around what may happen to images that are produced for one purpose but then end up being used in entirely another manner is a matter that is very live within one of the Government's core levers, which is what we do within education.²¹⁵

- 6.24 In fact there are education initiatives, such as the ThinkUKnow program, already in place to inform young people and parents about the risks of sexting. These are discussed further in Chapter Seven.

Legal implications

- 6.25 At present there is no legislation specifically in relation to sexting in NSW. However, in certain circumstances sexting may be captured under offences associated with child pornography.²¹⁶ In NSW, consensual sexual activity – including sexting – is legal for persons aged 16 years or older. However the sharing of sexual images of persons aged under 16 could potentially be captured by the offence of production, dissemination or possession of child abuse material.²¹⁷
- 6.26 The NSW Law Society advised that consensual sexting between children under the age of 16 years may also be captured by the offence of committing an act of indecency. If filmed for the purposes of producing child abuse material, an act of indecency may be classed as an ‘aggravated’ offence, and a person found guilty may be registered under the *Child Protection (Offenders Registration) Act 2000*.²¹⁸
- 6.27 The Law Society noted that provisions in the NSW *Crimes Act* differ from those in Commonwealth legislation. Under Commonwealth law, sexting between people aged under 18 years is a criminal offence, even if the behaviour is engaged in consensually. Under s 474.19 of the *Criminal Code Act 1995* (Cth), a person under the age of 18 cannot consent to sexualised images of themselves being taken, sent or received.²¹⁹ This offence is also registrable under the *Child Offenders (Offenders Registration) Act 2000*. To date, though, no young person has been placed on the Sex Offenders Register solely for an offence related to sexting.²²⁰
- 6.28 Youth Action was critical both of the inconsistency between state and federal legislation, and the application of such legislation to consensual behaviour.

²¹⁵ Mr Michael Woodhouse, Executive Director, Strategic Policy, Department of Family and Community Services, Transcript of evidence, 8 April 2016, p34.

²¹⁶ Submission 40, Law Society of NSW, p1.

²¹⁷ Submission 40, Law Society of NSW, pp1-2.

²¹⁸ Submission 40, Law Society of NSW, p2.

²¹⁹ Submission 40, Law Society of NSW, p2.

²²⁰ Submission 40, Law Society of NSW, p3.

They noted that under Commonwealth legislation, ‘asking for, taking, sending, or receiving such images are all illegal actions for those under the age of 18, regardless of whether the practice is occurring with mutual consent’.²²¹ Youth Action also pointed out that this makes it very difficult for young people to take legal action on their own behalf:

Sexting potentially carries very high penalties for young people, who risk occupying contradictory roles – as both criminals and vulnerable subjects – and who could be charged under the very legislation that has been designed to protect them.²²²

- 6.29 The Advocate for Children and Young People also noted that in NSW young people under the age of 16 may find themselves in a similar situation:

A sext may fall under this definition if, for example, it is a photo of a child under 16 years in a sexual pose. Irrespective of whether consent was involved, the subject of the sext and anyone else who is in possession of the sext is liable for prosecution under the current legislation. Under certain conditions, a conviction for such a sex offence may result in the person being placed on the NSW Child Protection Register.²²³

Providing assistance to young people

- 6.30 Youth Action, the Law Society of NSW and the Advocate for Children and Young People were critical of these provisions and proposed amendments to legislation to ensure that young people are not criminalised for consensual behaviour. Youth Action, for example, recommended NSW legislation be reviewed and amended to ‘allow for a more appropriate range of responses for young people, especially in instances of mutually consensual sexting that is age-appropriate’.²²⁴ The Law Society indicated that it would also support ‘alternative legislative approaches to deal with sexting where no exploitation is involved’.²²⁵

- 6.31 The Advocate for Children and Young People expressed the view that, while there appear to have been no convictions for offences involving consensual sexting to date, this legislative anomaly should nonetheless be rectified.²²⁶ He suggested the introduction of appropriate exemptions in the *Crimes Act*:

One of the issues that has been raised is about the criminality potential of a young person sexting, because under the Crimes Act it is the receiving or holding or sending of child abuse material ... We need to ensure that within that particular provision there are exemptions for young people who may be sexting that are not unnecessarily caught up in very important provisions about stopping adults from the production and distribution of child abuse material.²²⁷

²²¹ Submission 38, Youth Action, p15.

²²² Submission 38, Youth Action, p15.

²²³ Submission 36, Advocate for Children and Young People, p15.

²²⁴ Submission 38, Youth Action, p15.

²²⁵ Submission 40, Law Society of NSW, p2.

²²⁶ Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p10.

²²⁷ Mr Andrew Johnson, 8 April 2016, p10.

6.32 Mr Johnson also drew the Committee's attention to the *Crimes Amendment (Sexual Offences and Other Matters) Act 2014* (Vic). This Act created new offences of distributing or threatening to distribute an intimate image. These offences prohibit the 'intentional distribution of an intimate image where that distribution contrary to community standards of acceptable conduct'.²²⁸ In assessing whether the distribution of an image is against community standards, the courts are required to consider the following:

- (a) the nature and content of the image;
- (b) the circumstances in which the image was captured;
- (c) the circumstances in which the image was distributed
- (d) the age, intellectual capacity, vulnerability or other relevant circumstances of a person depicted in the image;
- (e) the degree to which the distribution of the image affects the privacy of a person depicted in the image.²²⁹

6.33 Importantly, the Victorian legislation also created a series of exceptions to offences relating to the publication or transmission of child pornography, to ensure that young people who engage in consensual sexting are not guilty of an offence.²³⁰

Other measures

6.34 Inquiry participants noted that young people are frequently reluctant to approach the police for assistance with issues such as cyber-bullying, and suggested that other approaches may be preferable. In particular, Inquiry participants proposed the use of 'take-down notices' to websites that host offending images or information. For example, Ms Jacqueline McKenzie, Policy and Advocacy Manager, Youth Action, expressed such a view:

Revenge porn is difficult because it is something that starts off as a young person expressing themselves. It is consensual, but then things do go wrong. It is really, really upsetting and it is permanent for some young people. One of the things we would like to see is that when it comes to revenge porn it depends on the goodwill of the individuals, websites or companies to respond to that person's anguish and take it down and we think that at least, as one little step forward, we could give the police powers to issue take down notices.²³¹

6.35 Family Planning NSW agreed with this view and also emphasised that it is important to involve young people themselves in this process, rather than it being imposed by adults:

My personal view would be that it would be fantastic if images or material that is detrimental to young people is taken down because the consequences for them in

²²⁸ Section 25 of the *Crimes Amendment (Sexual Offences and Other Matters) Act 2014* (Victoria) created a new section 41DA in the *Summary Offences Act 1966* (Victoria)

²²⁹ Section 24 *Crimes Amendment (Sexual Offences and Other Matters) Act 2014* (Victoria) added a new definition of community standards of acceptable conduct in relation to the distribution of intimate images to section 40 of the *Summary Offences Act 1966*

²³⁰ Section 8 of the *Crimes Amendment (Sexual Offences and Other Matters) Act 2014* (Victoria) created a new section 70AAA of the of the *Crimes Act 1958* (Victoria) which outlined the circumstances of these exceptions

²³¹ Ms Jacqueline McKenzie, Policy and Advocacy Manager, Youth Action, Transcript of evidence, 7 April 2016, p5.

their later life—honestly, they do not begin to understand ... The caution that I would give is the obvious one—namely, if you do that without engaging the young person in explanations about why you are invading what they consider to be their space—and the internet is one of their spaces—then they might even go further underground. It should be done in a way that engages kids in that.²³²

6.36 In fact, the Office of the Children’s e-Safety Commissioner does have powers to order websites to remove material. The Office was established by the *Enhancing Online Safety for Children Act 2015* (Cth), which provides the Commissioner with powers to issue legally binding notices to social media websites, ordering them to remove cyber-bullying material. Civil penalties apply for non-compliance, although the Office works with industry partners to promote a co-operative approach. The Commissioner also has powers to issue notices to individuals who post cyber-bullying material, requesting them to remove it, refrain from posting further cyberbullying material or apologise to the child who is the target. Sharing of images without the consent of the subject would, for these purposes, be considered cyberbullying.

6.37 The Commissioner also administers the Online Content Scheme under the *Broadcasting Services Act 1992*. Under this Scheme, the Office may investigate valid complaints about online content, and take action on material found to be prohibited or potentially prohibited under the National Classification Scheme.

6.38 At the public hearing, the Advocate for Children and Young People, Mr Johnson, brought the work of the Office of the Children’s e-Safety Commissioner to the attention of the Committee.

It is a very new position. Although we know the eSafety Commissioner is very keen to work with as many people as possible, and he is doing a great job, I think there is more onus on the rest of us, to be honest, to make sure that the message is getting out ... Certainly we will be working with his Office to ensure that we are promoting this as far and wide as we can, and also working with the other New South Wales government departments to do so.²³³

Committee comment:

6.39 The Committee received evidence that ‘sexting’ is now common practice among many young people and is, in most cases, consensual. However, the Committee also heard that non-consensual sharing of images or content created for these exchanges can have devastating consequences for young people.

6.40 The Committee considers that education provides the best means to prevent such non-consensual sharing of images. While education measures are discussed further in Chapter Eight, the Committee notes that education in relation to the ethics of relationships is primarily the responsibility of parents. Schools play a role in supporting parents in this role. The Committee notes material currently available on the Department of Education’s website and

²³² Professor Ann Brassil, Chief Executive Officer, Family Planning NSW, Transcript of evidence, 7 April 2016, p38.

²³³ Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p5.

commends the Department for incorporating sexting information into the Personal Development, Health and Physical Education curriculum.²³⁴

- 6.41 The Advocate for Children and Young People also has a role in working with children and young people and with other agencies to strengthen the effectiveness of education in relation to social media and sexualisation.
- 6.42 The Committee was also pleased to learn more about the role of the Office of the Children's e-Safety Commissioner. The Office has an important role to play in resolving complaints from children and young people and their parents about revenge pornography or other inappropriate internet content. The Committee commends the Advocate for Children and Young People for his proactive work in liaising with the Office of the Children's e-Safety Commissioner.
- 6.43 The Committee also recognises that there may be situations where complaints cannot be resolved. Where non-consensual sharing of images is intentional and malicious, the involvement of police is appropriate. The Committee therefore recommends that the Attorney-General introduce legislation to create specific offences of distributing or threatening to distribute an intimate image without consent.
- 6.44 The Committee notes that it is possible that the *Crimes Act 1900* may be applied to consensual sexting and that young people convicted of such an offence may be subject to registration under the *Child Protection (Offenders Registration) Act 2000*. Such an outcome may be contrary to the intention of this legislation, and the Committee urges the NSW Government to correct this anomaly. The Committee therefore recommends that the Attorney-General introduce legislation to make appropriate exceptions to the *Child Protection (Offenders Registration) Act 2000*. The Committee considers that the Victorian model introduced by the *Crimes Amendment (Sexual Offences and Other Matters) Act 2014* (Victoria) may be a useful approach for the Attorney General to consider when drafting such exceptions.
- 6.45 The Committee acknowledges the work of the Legislative Council's Standing Committee on Law and Justice, its report of 3 March 2016 and its recommendations relating to a statutory cause of action for serious invasions of privacy.²³⁵ The Committee also acknowledges that Senate Legal and Constitutional Affairs References Committee examined revenge pornography and recommended that the Commonwealth along with the states and territories enact criminal offences for the recording and sharing of intimate images without consent and for threatening to do so.²³⁶
- 6.46 On 5 September 2016 the NSW Government provided a response to the Law and Justice Committee's report of 3 March 2016. The response noted that Committee's recommendations in relation to the introduction of a statutory

²³⁴ The Committee had reference to the following Department of Education websites on 6 September 2016:
http://www.curriculumsupport.education.nsw.gov.au/digital_rev/pdhpe/stage5/

²³⁵ NSW Legislative Council's Standing Committee on Law and Justice, *Remedies for the Serious Invasion of Privacy in New South Wales*, 3 March 2016, recommendations 3-6

²³⁶ Senate Legal and Constitutional Affairs References Committee, *Phenomenon colloquially referred to as 'revenge porn'*, 25 February 2016, recommendations 2 and 3

cause of action for serious invasions of privacy. In its response, the Government has preferred to address the harm caused by revenge porn by reviewing and amending the criminal law.²³⁷

- 6.47 The Government response outlined that it would consult with stakeholders on the terms of the new criminal offences and how they would be framed to ensure NSW criminal law adequately protects people from the harm caused by the non-consensual sharing of intimate images.²³⁸ With respect to the recommendation of the Law and Justice Committee for a statutory cause of action for serious invasions of privacy in NSW, the Government noted that it would explore the proposal for a statutory cause of action with other Australian jurisdictions.²³⁹

RECOMMENDATION 4

The Committee recommends that, as part of the review and amendment of the criminal law, the Attorney-General introduce legislation to create specific offences of distributing or threatening to distribute an intimate image.

RECOMMENDATION 5

The Committee recommends that the Attorney-General introduce legislation to make appropriate exceptions to the *Child Protection (Offenders Registration) Act 2000*.

²³⁷ NSW Government response to the Legislative Council Standing Committee on Law and Justice's report into *Remedies for the serious invasion of privacy in New South Wales*, accessed from the NSW Legislative Council's Standing Committee on Law and Justice website on 6 September 2016, <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/GovernmentResponse/6043/160905%20Government%20response.pdf>

²³⁸ NSW Government response to the Legislative Council Standing Committee on Law and Justice's report into *Remedies for the serious invasion of privacy in New South Wales*, op cit.

²³⁹ NSW Government response to the Legislative Council Standing Committee on Law and Justice's report into *Remedies for the serious invasion of privacy in New South Wales*, op cit.

Chapter Seven – Safe schools program

- 7.1 The Safe Schools program was not specifically canvassed in the terms of reference for this Inquiry.. However, the Committee received a number of submissions that were very critical of Safe Schools, and argued that the program sexualises children and young people by exposing them to sexual content that is age-inappropriate. This chapter explains the Safe Schools program and outlines the concerns raised.
- 7.2 In discussing Safe Schools, it is important to note the timing of the Committee's Inquiry. Safe Schools has been operating since 2014. A review of the program was announced on 22 February 2016; most submissions to this Inquiry were received before that date. The Committee received further evidence at public hearings on 7 and 8 April – after the review was completed. Hence some of the evidence canvassed in this chapter relates to issues raised *before* the review (referred to as the 'Louden' review) commenced, and some in response to it.

The Safe Schools program

- 7.3 Safe Schools was launched as an anti-bullying program provided in schools that opt in to the program. Its aims are to (1) reduce homophobic and transphobic behaviour and intersex prejudice, and (2) increase support for same sex attracted, intersex and gender diverse students, school staff and families.²⁴⁰ Safe Schools is funded directly by the Commonwealth Government and has been operating since July 2014.
- 7.4 The program is managed by the Safe Schools Coalition, a network of organisations convened by the Foundation for Young Australians. In NSW, the network partner is Family Planning NSW, and Safe Schools staff work from its offices. Professor Ann Brassil, Chief Executive Officer, Family Planning NSW, explained the role of her organisation in working with schools:
- Our staff work with teachers; that is what they do. They have these conversations and what happens in the State schools program is that teachers are given a range of resources that they cherry-pick or do not use at all. They may, as part of the program, just be in an environment to learn how to talk about these sorts of issues more easily themselves and then they use none of the resources.²⁴¹
- 7.5 It was the evidence of Family Planning NSW that some 113 schools in NSW have opted into the program.²⁴² In February 2015 the Safe Schools program was the

²⁴⁰ W. Louden, 'Review of appropriateness and efficacy of the Safe Schools Coalition Australia program resources,' 11 March 2016, p7.

²⁴¹ Professor Ann Brassil, Chief Executive Officer, Family Planning NSW, Transcript of evidence, 7 April 2016, p43.

²⁴² Professor Ann Brassil, Chief Executive Officer, Family Planning NSW, Answers to questions on notice, 27 May 2016, p6.

subject of criticism, both in the media and in the federal Parliament.²⁴³ It was in response to this criticism that the Prime Minister announced a review of Safe Schools on 22 February 2016. Hence some of the evidence received by the Committee related to issues raised prior to the review, and some in response to it.

Concerns about Safe Schools

- 7.6 As already mentioned, the Committee received a number of submissions expressing concerns about the Safe Schools program. For example, one individual wrote, 'I am deeply opposed to the Safe Schools Coalition Australia. This anti-bullying program currently in hundreds of schools is promoting the sexualisation of children through detailed discussion of explicit sexual content.'²⁴⁴
- 7.7 Other Inquiry participants went further. For example, Family Voice Australia argued that 'Government is contributing to the problem [of sexualisation] by the provision of education programs which encourage risky sexual experimentation'.²⁴⁵ The Wilberforce Foundation and the Australian Christian Lobby also argued that schools may be liable in negligence for any damage suffered by children and young people as a result of accessing information made available through Safe Schools programs.²⁴⁶
- 7.8 In NSW the schools that had been listed as participating in the Safe Schools program were, on the 8th of July 2016, removed from the Safe Schools Coalition Australia website. This means that parents can no longer go to that website to establish if their school is, or is not, participating in the Safe Schools program.

Safe Schools resources

- 7.9 As individual schools determine how they will deliver the Safe Schools program, the main issues of contention were resources produced by Safe Schools and parental consent. Inquiry participants provided specific examples of materials that were either issued by Safe Schools, or available through it, which they argued were inappropriate. The objections raised were too numerous to discuss in their entirety. Hence the discussion that follows is limited to some examples which illustrate the kind of concerns raised.

All of Us

- 7.10 For example, the Australian Christian Lobby was critical of the "*All of Us*" curriculum, which is a collection of short videos and teaching materials designed for use in Years 7 and 8.²⁴⁷ ACL pointed to an activity in which students are asked to imagine that they are older and in a relationship with someone of the opposite

²⁴³ K. Donnelly, 'Safe Schools Coalition is more about LGBTI advocacy than making schools safer', *The Age*, 11 February 2016; N. Bitá, 'Safe Schools Coalition: sexual politics in the classroom', *The Australian*, 13 February 2016; Mr George Christensen MP, *HR Debates*, 25 February 2016, p2305.

²⁴⁴ Submission 2, Mr D Sofatzis, p1.

²⁴⁵ Submission 23, Family Voice Australia, p19.

²⁴⁶ Submission 24, The Wilberforce Foundation, p6.

²⁴⁷ 'All of us: Health and Physical Education Resource; Understanding gender diversity, sexual diversity and intersex topics for Years 7 and 8', <http://www.safeschoolshub.edu.au/common/downloads/All-Of-US-Online-Version-May-2016-v3.pdf>, Accessed 9 June 2016.

and same sex, respectively, and then reflect on how their family, school and community may respond to these relationships. The ACL argued that this activity 'directly sexualises children,'²⁴⁸ and suggested that:

The program's instruction that a child must imagine themselves – potentially two to five years – older is likely out of a desire to avoid asking eleven to fourteen year olds to imagine themselves in a romantic or sexual relationship at their current age. Year seven and eight children are too young to legally be allowed to engage in sexual activity.²⁴⁹

- 7.11 The Australian Christian Lobby further argued that the "*All of Us*" program discriminates against students who find non-heterosexual sexuality unacceptable:

ACL submits that this program does more than explore gender diversity, sexual diversity and intersex topics; it also encourages, through its treatment of these issues, a silencing of diversity of thought and opinion ... There is nothing within the "All of Us" program that seeks to teach respect, tolerance and inclusivity for those who may, for cultural or religious reasons, consider non-heterosexual expressions of sexuality unacceptable.²⁵⁰

OMG I'm Queer and OMG My Friend's Queer

- 7.12 The Australian Family Association was critical of "*OMG I'm Queer*" and "*OMG My Friend's Queer*", which are booklets for young people who are same-sex attracted and their friends, respectively. "*OMG I'm Queer*" includes personal stories about coming out and provides information about how to safely manage online dating, partying, a glossary of terms, and website addresses of relevant organisations.²⁵¹ The Australian Family Association expressed the view that these booklets 'attempt to normalise a radical sexual agenda'.²⁵² In support of this view, they pointed to the following quotes from the booklets:

"When I was 16, I felt I had fully come to terms with my sexuality, and felt the term pansexual really described how I felt."

"Michael told us he was a lesbian like 2 years ago, and we were like "who cares" type of thing. It wasn't a big deal at all. But it's been soo tricky trying to remember to refer to the person who was my sister as my brother (and trying to explain it to my friends at school)."

"The idea that you've gotta act a certain way just because of what bits you have between your legs is pretty outdated."

"Others, like me, find their sexuality is fluid, and changes over time: sometimes liking guys more, sometimes liking girls more."

²⁴⁸ Submission 17, Australian Christian Lobby, p24.

²⁴⁹ Submission 17, Australian Christian Lobby, p25.

²⁵⁰ Submission 17, Australian Christian Lobby, p24.

²⁵¹ W. Loudon, 'Review of appropriateness and efficacy of the Safe Schools Coalition Australia program resources,' 11 March 2016, pp16-17.

²⁵² Submission 30, Australian Family Association, p11.

OMG I'm Trans

- 7.13 “OMG I’m Trans” is another booklet, targeted towards young people who are transgendered or have gender identity issues. It is similar in style to “OMG I’m Queer” but includes information relevant to transgender people, such as medical and legal information and information about passing as one’s preferred gender, including practices such as chest binding, packing and penis tucking. “OMG I’m Trans” was produced by Minus18, an organisation for GLBT young people.
- 7.14 The Australian Family Association objected to “OMG I’m Trans,” arguing that it promotes transgender treatment and rights. They also pointed to particular content from the booklet that they felt was inappropriate.²⁵³
- 7.15 “OMG I’m Trans” is not an official Safe Schools resource, but it is available on the Minus18 website, and the Victorian Department of Education and Training website. At the public hearing on 7 April 2016, representatives of Family Planning NSW explained that the “OMG I’m Trans” booklet is not distributed to schools in NSW. Family Planning NSW is a member of the Safe Schools Coalition and is funded to deliver the program in NSW.²⁵⁴ Ms Anne Stuart, Director, Planning, Education and International programs, Family Planning NSW, explained that it had stopped distributing some other resources as well:

The “OMG I’m Trans” has never been part of the program in New South Wales. It is a resource that is not appropriate in schools. We made a decision four or five months ago to pull the “OMG” and “Stand Out” resources out and not distribute them to schools, because we had concerns about the content and the tone of the language within those resources.²⁵⁵

Links available through Safe Schools

- 7.16 Inquiry participants also pointed to other material available through Safe Schools, particularly via links on the Safe Schools website, or websites listed in printed resources. The website of Minus18 attracted particular attention.²⁵⁶
- 7.17 Some of the websites referenced in the Safe Schools website also target people aged over 18 and include sexually explicit content; others provide links to further websites which contain such content. For example, the Australian Family Association expressed concerns about explicit material that may be available through the Safe Schools Coalition:

SSCA material frequently encourages students to become involved with a number of external organisations, both online and in person, while parental consent is not even mentioned. Some of these organisations are of an adult/erotic nature and raise

²⁵³ Submission 30, Australian Family Association, p13.

²⁵⁴ Ms Anne Stuart, Director, Planning, Education and International Programs, Family Planning NSW, Transcript of evidence, 7 April 2016, p36.

²⁵⁵ Ms Anne Stuart, 7 April 2016, p46.

²⁵⁶ Submission 17, Australian Christian Lobby, p25; Dr David Sandifer, former National Director, Family Voice Australia, Transcript of evidence, 8 April 2016, p45.

serious concerns regarding child protection. SCA operates as a gateway to connect students to these sorts of organisations.²⁵⁷

- 7.18 At the public hearing on 7 April, Committee members questioned representatives from Family Planning NSW about information available on the website of the Safe Schools Coalition and its partner organisations.²⁵⁸ Family Planning NSW explained that in addition to resources approved by the Commonwealth Department of Education, the Safe Schools Coalition initially website initially included other information.²⁵⁹ However, only those approved by the Commonwealth were distributed to schools in NSW.²⁶⁰ Other material available on the Safe Schools website was removed as a response to the Louden review, which is discussed below.²⁶¹

The Louden review

- 7.19 The review commissioned by the Commonwealth examined the resources issued by Safe Schools. The aims of the review were to provide advice on whether the resources were consistent with the objectives of the program, educationally sound and age-appropriate; it also considered the adequacy of consultation with parents.²⁶²
- 7.20 The review noted that membership of the Safe Schools Coalition does not imply an obligation to use resources produced by Safe Schools and in fact, 'the material provided encourages schools to develop their own plan for choosing among and implementing the resources'.²⁶³ The extent to which schools use the official resources varies greatly.
- 7.21 The review found that most of the official resources produced by Safe Schools (including "*All of Us*") were consistent with the aims of the program and suitable for use in schools.²⁶⁴ It noted that three of the resources created by young people ("*OMG I'm Queer*," "*OMG My Friend's Queer*," and "*Stand Out*") are not intended as classroom resources, instead being made available to individual students through school libraries or student support centres.²⁶⁵ The review found that these resources are not suitable for primary schools and recommended the development of guidelines to assist schools' decision-making around when and how to use them.²⁶⁶
- 7.22 The review did not consider website content, as these are not official Safe Schools resources. However, it did observe that some material available on the websites of Safe Schools partner organisations may be inappropriate:

²⁵⁷ Submission 30, Australian Family Association, p17.

²⁵⁸ See Transcript of evidence, 7 April 2016, pp40-42.

²⁵⁹ Professor Ann Brassil, Chief Executive Officer, Family Planning NSW, Transcript of evidence, 7 April 2016, p41.

²⁶⁰ Professor Ann Brassil, pp41-42.

²⁶¹ Professor Ann Brassil, p41.

²⁶² W. Louden, 'Review of appropriateness and efficacy of the Safe Schools Australia Programme Resources', March 2016, p4.

²⁶³ W. Louden, March 2016, p2.

²⁶⁴ W. Louden, March 2016, p2.

²⁶⁵ W. Louden, March 2016, p2.

²⁶⁶ W. Louden, 'March 2016, p2.

There may, however, be material on some of these websites that would not be suitable for younger students, and material that should not be accessed from inside a school's Internet firewall unless it had been specially approved.²⁶⁷

7.23 The review recommended that advice be provided to schools about the suitability of material on websites recommended in Safe Schools resources.²⁶⁸

7.24 The review noted that consultation with parents is a matter for the schools themselves, and that schools participating in Safe Schools did so in different ways. Again, the review recommended that further guidance be provided to schools, with the aim of:

Outlining expectations for parent consultation by members and schools using SSCA resources and services and providing sample documents for communication with parents and carers.²⁶⁹

Responses to the Loudén review

7.25 At the public hearing on 7 April, the Australian Family Association expressed its dissatisfaction with the Loudén review, arguing that 'serious problems remain with the program.'²⁷⁰ Their objections to Safe Schools go beyond the content of particular resources considered in the review, criticising the basis of the program and its nature as a whole.²⁷¹ For example, the AFA was critical of research underlying Safe Schools, and also argued that anti-bullying programs should be general in nature.²⁷²

7.26 The Australian Family Association made a number of recommendations in regard to Safe Schools.²⁷³ In particular, they recommended that the NSW Government conduct an inquiry into it:

It is the view of the AFA that the Minister for Education, on behalf of the Government, should examine the Safe Schools program closely as to whether, as the AFA submits, it sexualises children in the very school system itself. The Birmingham review is relevant because the New South Wales Government may think that if those amendments are made then it should be okay for New South Wales schools, but it is our view that it is not.²⁷⁴

7.27 The NSW Government did not comment on the Safe Schools program in its submission. In answers to questions, it emphasised that Safe Schools is a Commonwealth program:

²⁶⁷ W. Loudén, 'Review of appropriateness and efficacy of the Safe Schools Australia Programme Resources', March 2016, p21.

²⁶⁸ W. Loudén, March 2016, p2.

²⁶⁹ W. Loudén, March 2016, p22.

²⁷⁰ Ms Terri Kelleher, National Spokesperson, Australian Family Association, Transcript of evidence, 7 April 2016, p22.

²⁷¹ Submission 30, Australian Family Association.

²⁷² Submission 30, Australian Family Association.

²⁷³ Submission 30a, Australian Family Association, p7.

²⁷⁴ Ms Terri Kelleher, National Spokesperson, Australian Family Association, Transcript of evidence, 7 April 2016, p22.

The Safe Schools program is an initiative of the Australian Government and the resources used in this program have been approved for use in schools by the Australian Government's Department of Education and Training. The NSW Government will continue to work with its Australian Government counterparts to ensure a balanced and inclusive learning experience for all students.²⁷⁵

7.28 The NSW Government did point out that it supports the NSW Department of Education Controversial Issues in Schools Policy, which applies to all NSW public schools. The Policy states that it is a Principal's responsibility to ensure that parents are consulted about the participation of their children in programs dealing with controversial issues.²⁷⁶ This policy, applies to Safe Schools programs.

7.29 However, Mr Joe Carolan, Research Assistant, Australian Family Association, argued that withdrawing students from classes where contentious issues are discussed is not a solution because Safe Schools aims to change the culture of schools:

The other aspect is that Safe Schools officially says that LGBT should be embedded across all subjects. The same way that a single parent could exempt their child from scripture, this is quite different. It could not be done when Safe Schools is about changing the whole culture of the school across all subjects, if there was a particular parent who wanted an exemption.²⁷⁷

7.30 Other organisations were more supportive of the review. For example, Professor Brassil from Family Planning NSW, which delivers Safe Schools in NSW, expressed her support:

We are part of the program and we have made it very clear to the Foundation for Young Australians that we fully support the recommendations of the Commonwealth, particularly the review of some of the resources to make sure they continue to be more and more appropriate to the schools.²⁷⁸

7.31 Mr Andrew Johnson, NSW Advocate for Children and Young People, also expressed his support for the review:

In terms of the Safe Schools program, we think it plays an important part in helping prevent bullying towards gay and lesbian and transgender youth. There is absolutely no place for bullying of any kind in our community and the protection of vulnerable young people must always be first and foremost. We agree with the findings of the Commonwealth review, the Loudon review: some of the Safe Schools activities need to be reviewed for their suitability, there needs to be more transparency for parents, and the link to external resources should be limited to government-funded organisations.²⁷⁹

²⁷⁵ NSW Government, Answers to supplementary questions, 26 May 2016, p1.

²⁷⁶ NSW Department of Education, Controversial Issues in Schools, https://www.det.nsw.edu.au/policies/curriculum/schools/cont_issue/PD20020045.shtml, Accessed 1 July 2016.

²⁷⁷ Mr Joe Carolan, Research Assistant, Australian Family Association, Transcript of evidence, 7 April 2016, p28.

²⁷⁸ Professor Ann Brassil, Chief Executive Officer, Family Planning NSW, Transcript of evidence, 7 April 2016, p40.

²⁷⁹ Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p4.

Committee comment:

- 7.32 The Committee recognises that the aim of the Safe Schools program is to prevent bullying in schools, and reiterates that bullying of any kind is unacceptable in NSW schools. The Committee also notes that there has been major public controversy surrounding the program.
- 7.33 The Committee noted the issues that Inquiry participants raised about materials provided through Safe Schools. However, the Committee also noted that individual schools determine which materials, if any, will be provided to students in its school. The Committee urges the NSW Department of Education to inform all schools about its Controversial Issues in Schools policy. The Committee believes that schools must consult parents prior to the implementation of the Safe Schools program, and parents should have the ability to opt-in. Furthermore the school must obtain consent from parents before their child participates in the program. Parents may, at any time, elect to withdraw their child from the program.
- 7.34 . The Committee notes that it is voluntary in NSW for individual schools to implement the Safe Schools program.
- 7.35 The Committee considers that the websites of some of Safe Schools partners contain material that is inappropriate for children and young people. However, the Committee also noted that links to particular websites appear to have been removed as a result of the Loudén review.

RECOMMENDATION 6

The Committee recommends that the Department of Education require schools under the Controversial Issues in Schools policy to consult with parents prior to any implementation of the Safe Schools program, and require that parents choose whether to opt in to this program. At any time parents may elect to have their child opt out of the program.

Chapter Eight – Education strategies

- 8.1 The NSW Government believes that ‘high quality education and healthy relationships and sexual development can protect children and young people from the negative impacts of sexualisation.’²⁸⁰ The terms of reference asked the Committee to consider measures to educate children and young people, as well as measures to assist parents. This chapter therefore summarises the education initiatives currently operating in NSW, and some of the issues raised by Inquiry participants.

The role of education

- 8.2 Education programs to assist children and young people to navigate their cultural environment were, with some qualifications, supported by all Inquiry participants. For example, Ms Charmaine Moldrich, Chief Executive Officer, Outdoor Media Association, commented that, ‘we cannot childproof the world, we have to world-proof our children.’²⁸¹
- 8.3 Education is usually deemed to be the primary mechanism to achieve this ‘world-proofing,’ providing children with the skills to understand and critically analyse their cultural environment. Inquiry participants focused on two types of education: sex and relationships education, and education in media literacy.
- 8.4 Family Planning NSW, for example, believes that ‘age-appropriate comprehensive sexuality and relationships education’ is a ‘key measure to assist parents, teachers and children to navigate this cultural environment.’²⁸² They also cited evidence which indicates that sex education has positive impacts in terms of the choices that young people make:

It is a common misconception that providing young people with information about reproductive and sexual health will encourage them to become sexually active at a younger age. Research has shown that young people who are well informed about reproductive and sexual health are more likely to wait until they are older before becoming sexually active – and more likely to access contraception and practice safer sex when they do so.²⁸³

- 8.5 Other Inquiry participants emphasised the importance of educating children and young people about the sexualising messages they receive through the media.²⁸⁴ For instance, Collective Shout emphasised the importance of media literacy:

Educating children and young people about sexualised media and marketing is a crucial part of assisting them in navigating our contemporary cultural environment.

²⁸⁰ Submission 22, NSW Government, p17.

²⁸¹ Ms Charmaine Moldrich, Chief Executive Officer, Outdoor Media Association, Transcript of evidence, 8 April 2016, p18.

²⁸² Professor Ann Brassil, Chief Executive Officer, Family Planning NSW, Transcript of evidence, 7 April 2016, p36.

²⁸³ Submission 16, Family Planning NSW, p4.

²⁸⁴ See Submission 11, Dr Lesley-anne Ey; Submission 15, Collective Shout; Submission 19, Australian Council on Children and the Media.

With the appropriate media literacy and critical thinking skills, children and young people develop resilience and are empowered to make healthy choices as consumers of media.²⁸⁵

- 8.6 Inquiry participants were generally agreed on the value of education in assisting children and young people, differing only on its importance relative to other measures, or who should provide it. For instance, Family Voice felt that primary responsibility for educating children lies with parents:

an important role of government is to honour the principle that parents (or, when applicable, guardians) have the primary responsibility for the religious and moral education of their children ... Consequently, measures to help children and young people navigate the contemporary cultural environment should be directed towards empowering parents (and guardians) as they guide the development of their children.²⁸⁶

- 8.7 By contrast, Youth Action supported the provision of sex education in schools. They also emphasised the importance of engaging young people themselves in the development of education programs:

We support an expanded and comprehensive sex education curriculum that includes media literacy as a core component. This should be created in collaboration with young people, providing them with a language and analytical framework to help them think critically about the media and the nature of our consumer culture.²⁸⁷

- 8.8 However, Collective Shout also expressed reservations about education programs. While positive about their value, they cautioned against regarding education as a panacea:

While education is a useful and protective tool for children and young people, it cannot take the place of broader actions to reduce the presence and impact of sexualised media. Collective Shout is critical of approaches which accept hypersexualisation as a social norm, and rely on education measures as a kind of 'magic bullet' against potential harms.²⁸⁸

Personal Development, Health and Physical Education in NSW schools

- 8.9 The NSW Government provided information about education initiatives in NSW public schools. The principal initiative is Personal Development, Health and Physical Education (PDHPE). This is a core part of the curriculum in NSW schools and includes elements of both sex and relationships education, and media literacy. The NSW Government explained that PDHPE is compulsory in public schools:

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

²⁸⁵ Submission 15, Collective Shout, p20.

²⁸⁶ Submission 23, Family Voice Australia, p15.

²⁸⁷ Submission 38, Youth Action, p26.

²⁸⁸ Submission 15, Collective Shout, p20.

learning area. Senior students extend this learning through the mandatory Crossroads course.²⁸⁹

- 8.10 The Department explained in broad terms how the syllabus is structured. In the years from Kindergarten to Year 6 (primary school), children learn:
- To accept themselves as they grow and change;
 - About physical changes such as puberty and reproduction
 - How positive relationships are formed and maintained
 - To explore how gender stereotypes can influence their choices and options
 - How to develop and maintain a personal network of trusted adults for advice and support.
- 8.11 Older students, in years 7 to 10, 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
 - Identify strategies to keep themselves and others safe
 - Recognise sex-based harassment and homophobic bullying, affirm diversity, and the impact of discrimination on the wellbeing of themselves and others.
- 8.12 The NSW Government noted that while the content of the PDHPE syllabus is prescribed, individual schools can determine how it is implemented; this includes whether and how to consult with parents about sensitive or controversial issues.²⁹⁰ Safe Schools, which was discussed in the previous chapter, is typically implemented through the PDHPE curriculum.
- 8.13 Family Planning NSW provided positive feedback on the PDHPE curriculum, and expressed the view that it is the best in Australia:
- I would go so far as saying in New South Wales we have the best primary education for reproductive and sexual health at a school level. A number of the States and Territories do not include this at all in their school curriculum, and ACARA [the Australian Curriculum, Assessment and Reporting Authority], the national curriculum, is not as articulate about these sorts of issues.²⁹¹
- 8.14 The NSW Government also drew the Committee's attention to its Sexual Health in Schools project, which provides support for teachers delivering the PDHPE curricula. Family Planning NSW explained that its consultations with teachers indicated that they need support in this area:

²⁸⁹ Submission 22, NSW Government, p17.

²⁹⁰ Submission 22, NSW Government, p17.

²⁹¹ Professor Ann Brassil, Chief Executive Officer, Family Planning NSW, Transcript of evidence, 7 April 2016, p47.

The results of a survey we undertook in 2015 of 337 New South Wales teachers showed that 54 per cent of teachers felt they needed more support to address pornography and media representations of sex and sexuality. Other topics teachers wanted help with included sexting and social media, how to answer difficult questions, and support to adapt the curriculum to special needs groups including those with disability. So whilst the PDHPE curriculum is comprehensive, what is needed is further professional development and resources to assist teachers to deliver the curriculum, particularly in the area of social media, sexting and pornography.²⁹²

- 8.15 Mr Andrew Johnson, the Advocate for Children and Young People, also emphasised the importance of providing good quality information for teachers. He spoke highly of the PDHPE curriculum and the resources available to teachers in NSW:

These resources are taught in an age-appropriate way within the broader context of growth and development, interpersonal relationships, safe living and individual and community health. There are other resources and opportunities for students to develop media literacy skills, which are essential to help them understand, interpret and evaluate media messages and imagery, and resources developed around digital citizenship to help teachers engage with students on the topics of staying safe and healthy while using digital technologies.²⁹³

- 8.16 Youth Action emphasised the importance of regular review of the PHPDE curriculum. As the social and media landscape are rapidly shifting, it is important that sex and relationship education stay relevant for young people. Ms Katie Acheson, Chief Executive Officer, Youth Action, observed that young people's needs are changing:

The complexity of sexual fluidity that we see these days and gender identity and how that affects young people is very different to what it was five years ago. If we have a curriculum from five years ago it is not going to be responding to their needs today. So it needs to be almost, like I would say, an annual review. How is this changing for young people? How can we keep them safe?²⁹⁴

- 8.17 In fact, the NSW Government is doing some of this work. The Department of Education, in partnership with the Ministry of Health and Family Planning NSW, is currently developing specific resources for teachers in relation to sexting and pornography.²⁹⁵ The NSW Government also referred to a project on media literacy, entitled 'Rethinking Media and Sexuality,' which is currently being developed and is expected to be available for use by teachers this year.²⁹⁶ Family Planning NSW urged the Government to fund the development of further training and resources for relationship and sexuality education, and ensure that these are available to schools and teachers.²⁹⁷

²⁹² Professor Ann Brassil, 7 April 2016, p36.

²⁹³ Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p2.

²⁹⁴ Ms Katie Acheson, Chief Executive Officer, Youth Action, Transcript of evidence, 7 April 2016, p3.

²⁹⁵ Submission 22, NSW Government, p18.

²⁹⁶ Submission 22, NSW Government, p18.

²⁹⁷ Professor Ann Brassil, Chief Executive Officer, Family Planning NSW, Transcript of evidence, 7 April 2016, p37.

Other initiatives

- 8.18 In addition to the PDHPE curriculum taught in NSW schools, there are other initiatives to educate children and young people and assist them in navigating the internet safely.

Digitalcitizenship.nsw.edu.au

- 8.19 The Department of Education also produces a resource for teachers and parents about digital citizenship, with games and other learning activities for children and young people. It is not about sex specifically but provides useful information about negotiating internet use in general, including social networking, online etiquette and advice about how to behave responsibly and stay safe online.

ThinkUKnow.org.au

- 8.20 The NSW Police delivers a program called Think U Know, which provides information about how to stay safe online. Developed by the Australian Federal Police, Think U Know has a website that includes information about all aspects of cyber safety, including how to report inappropriate content, cyberbullying or online grooming. NSW Police liaison officers also conduct presentations to schools and community groups.

Children's e-Safety Commissioner

- 8.21 The Office of the Children's e-Safety Commissioner was established by the Australian Government in July 2015. Its website provides legal information and education resources about all aspects of online safety, including cyber-bullying, offensive or inappropriate content, and online grooming. The NSW Advocate for Children and Young People, Mr Andrew Johnson, advised that his Office is working with the Children's e-Safety Commissioner:

We are in discussions with the commissioner about opportunities to work with his office on strategies to reduce children and young people's exposure to online pornography, and ensuring greater education for both parents and guardians and children and young people about what they can do to reduce harm.²⁹⁸

- 8.22 The Children's e-Safety Commissioner also provides a complaints service, where people can report offensive or inappropriate content and behaviour, as well as links to the complaints pages of many popular websites. This information is particularly important for children and young people in the context of sexting or cyber-bullying. The e-Safety Commissioner has powers to order websites to remove material. Mr Johnson explained that the e-Safety Commissioner is working to increase awareness of this service:

We are working with that office to ensure that we are helping to get the message out so that both children and young people, but importantly parents and guardians, know that there is the capacity for them to have an application to draw down material.²⁹⁹

²⁹⁸ Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p2.

²⁹⁹ Mr Andrew Johnson, 8 April 2016, p3.

Vulnerable young people

8.23 Mainstream education strategies are important, but they do not meet the needs of all children and young people. Inquiry participants drew the Committee's attention to the needs of children and young people who are particularly vulnerable: those from disadvantaged backgrounds, those living in out-of-home care, and those with disabilities.

8.24 Mr Michael Woodhouse, Executive Director, Strategic Policy, Department of Family Community Services, gave evidence on behalf of the NSW Government and advised that the Department's priority is children who are 'vulnerable for a whole range of reasons who are probably going to be additionally vulnerable for harms associated with sexualisation as well.'³⁰⁰ Mr Woodhouse pointed out that these children and young people may also be vulnerable to sexual abuse:

I do worry about children who are in lower income families with parents who are doing it tough for a whole range of reasons, where a whole lot of other things may be going on in the household. We know from the statistics on sexual assault that there are certain categories of kids who are more likely to be victims of child sexual assault than others. That is not to suggest it cannot happen in any household, but at the same time we are aware that it happens more commonly to children who are vulnerable for a range of reasons. I am concerned and should have ongoing concern, for instance, about children and young people with intellectual disabilities.³⁰¹

8.25 The Association of Children's Welfare Agencies (ACWA) also focused on those children who have experienced abuse or neglect, particularly those living in out-of-home care. There are approximately 20,000 children and young people living in out-of-home care in NSW.³⁰² Moreover, children living in out-of-home care may be disengaged or excluded from the education system.³⁰³ ACWA explained that the experience of abuse also leaves children vulnerable to further abuse:

Where children and young people have been exposed to family or care environments where the abuse of power in intimate relationships was normalised, and where they themselves experienced sexual abuse or other kinds of abuse, they will not have well-developed internalised notions of what is safe or risky behaviour.³⁰⁴

8.26 Further, children who children who have experienced sexual abuse may also exhibit sexualised behaviour.³⁰⁵ One study found that children who displayed sexualised behaviour are likely to have experienced at least one of the following issues: childhood trauma; poor educational outcomes; adverse socio-economic

³⁰⁰ Mr Michael Woodhouse, Executive Director, Strategic Policy, Department of Family Community Services, Transcript of evidence, 8 April 2016, p35.

³⁰¹ Mr Michael Woodhouse, Executive Director, Strategic Policy, Department of Family Community Services, Transcript of evidence, 8 April 2016, p39.

³⁰² NSW Department of Family and Community Services, Family and Community Services Annual Report 2014-2015, p26.

³⁰³ Submission 25, Association of Children's Welfare Agencies, p3.

³⁰⁴ Submission 25, Association of Children's Welfare Agencies, p3.

³⁰⁵ Submission 25, Association of Children's Welfare Agencies, p2.

conditions; homelessness or an unstable home life; intellectual impairment or developmental delays; social isolation; or exposure to drug or alcohol misuse.³⁰⁶

- 8.27 Such complex issues require more targeted responses.³⁰⁷ The NSW Government outlined some of the training and resources that the Department of Family and Community Services provides to foster parents.³⁰⁸ Children who exhibit sexualised behaviour are more likely to be referred to specialist NGO or clinical services.

Supporting parents

- 8.28 The terms of reference also required the Committee to consider measures to assist parents to fulfil their responsibilities to protect and educate their children. The Committee did not receive a large amount of evidence in regard to measures to assist parents, but the section that follows outlines the issues raised by Inquiry participants.

- 8.29 Collective Shout emphasised that parents and carers do not raise children in a vacuum.³⁰⁹ Parenting occurs within a broader social and cultural context. As a result, governments have a responsibility to support parents:

The concept that parents are entitled to support from state and society as they fulfil their parental role and responsibility is explicitly set out in the United Nations Convention on the Rights of the Child, ratified under Australian law. According to UNICEF, under this Convention the State has a particular responsibility to protect and assist families in fulfilling their essential role as nurturers of children.³¹⁰

- 8.30 As a measure to support parents, Collective Shout and Family Voice urged the NSW Government to support increased internet filtering.³¹¹ Internet filtering was discussed in Chapter Four. Stricter regulation of advertising and television content was also proposed, again to support parents' attempts to prevent children accessing inappropriate content.³¹² Regulation of advertising and television content were discussed in preceding chapters.

- 8.31 Other suggestions from Inquiry participants focused principally on measures to inform and educate parents. Some expressed a need for more information and education for parents, about the risks of sexualisation and how to prevent it. The Children's Advocate advised that 'we hear from children and young people that they want more information; equally, we are hearing from parents and guardians that they want more access to information.'³¹³

³⁰⁶ W. O'Brien, 'Australia's response to sexualised or sexually abusive behaviours in children and young people,' Australian Crime Commission, 2010, pp14-15.

³⁰⁷ Submission 25, Association of Children's Welfare Agencies, p3.

³⁰⁸ Submission 22, NSW Government, p19.

³⁰⁹ Submission 15, Collective Shout, p18.

³¹⁰ Submission 15, Collective Shout, p19.

³¹¹ Submission 15, Collective Shout, p19; Submission 23, Family Voice, p14.

³¹² Submission 20, Council of Catholic School Parents, p10; Submission 15, Collective Shout, p19.

³¹³ Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p3.

- 8.32 The internet, with its rapidly-changing nature, featured highly in parents' concerns.³¹⁴ For instance, the Council of Catholic School Parents felt that more work is need to keep parents informed about developments in social media:

More work and constant education for parents needs to continue around new and emerging technologies that could present a threat or challenge to child protection and safety. This would include information about apps like Snapchat, Instagram, kik, and others as they arise so parents can keep at the forefront of what their children are accessing.³¹⁵

- 8.33 The Committee heard about a number of initiatives already operating to provide information to parents; most of these are online. Some of the government initiatives currently available are outlined below:

- The Department of Family and Community Services website includes information about safety online, targeted primarily to foster parents. FACS also hosts the familiesnsw website, which provides a range of information and advice for parents. This includes links to the Parent Line phone counselling service and *Parenting* magazine. While these are not focused on issues of sexualisation, advice may be provided on an ad hoc basis.
- The Digital Citizenship website, hosted by the Department of Education, provides advice and resources for parents in regard to online safety.
- The Think U Know website, referred to previously, also provides information for parents about how to keep children safe online. It is hosted by the Australian Federal Police and police forces in each state provide presentations for parent and community groups.
- The Commonwealth Government funds to the Raising Children Network. Its website is similar in style to the familiesnsw site but more comprehensive: it contains information and advice about parenting, from pregnancy to grandparenting. The site also hosts discussion forums where parents can raise issues and seek advice.
- The iParent section of the Office of the Children's e-Safety Commissioner website provides lots of information for parents about how to keep children safe online. It also includes information about popular social media sites and apps and advice about how to choose suitable movies and games. The Parent's Guide to Online Safety booklet is downloadable and available in popular community languages.

- 8.34 The Inquiry established that information is available but this does not necessarily mean that parents do, or even can, access it. For example, at the public hearing Ms Jodie Harrison MP questioned Mr Michael Woodhouse from the Department of Family and Community Services about the ThinkUKnow initiative:

³¹⁴ Submission 36, Advocate for Children and Young People, p11.

³¹⁵ Submission 20, Council of Catholic School Parents NSW/ACT, p10.

Ms JODIE HARRISON: I am a mum of a 16-year-old and a 13-year-old and I have never heard of it before.

Mr WOODHOUSE: Right.

Ms JODIE HARRISON: How widely is that program rolled out? How many parents have been exposed to it? How are those parents identified? How can that be better rolled out? How come I found out about it as part of this Committee?

8.35 In answers to questions on notice, the Department of Family and Community Services advised that in 2014/15, Think U Know conducted 2,069 presentations which were attended by 190,000 students across Australia. A further 213 were attended by 6,588 parents or carers. The program also has a presence online, with 61,240 visits to its website; one of its videos received 1.6 million views on YouTube.³¹⁶

8.36 The Advocate for Children and Young People acknowledged that much information is already available to parents and that some of this information, such as the National Children's e-Safety Commissioner's website, focuses on the internet and social media. He suggested that measures should focus on distribution rather than the production of information:

I think the important thing is, as we said, to look at what is out there—and there is lots of good material out there—and how we can make it more readily available for children and young people and for parents and guardians.³¹⁷

8.37 Inquiry participants agreed that it is important not just to inform parents about the risks of sexualisation but to engage them in their child's education. High levels of parental engagement are associated with positive outcomes in education generally. The Australian Psychological Society also cited evidence indicating that the negative impact of viewing violent or sexual material on children is reduced when parents are present and discuss the material with them, as parents can prevent children from viewing such content uncritically. They also noted that such strategies to manage children's internet use effectively 'apply to how children are supported, protected and assisted to thrive in all aspects of their lives.'³¹⁸

8.38 Professor Brassil from Family Planning NSW emphasised that 'parents should be able to talk about it, teachers should be able to talk about it and kids should be able to have an environment where they can have these discussions'.³¹⁹ However, while good communication between parents and children may be beneficial, Inquiry participants acknowledged that talking about issues related to sex can be difficult for both parents and children. For example, Mr Johnson observed the difficulties inherent in conversations about an issue such as sexting:

What is the help we need as parents and guardians to start that conversation if something were to happen? ... Of course, inherently, it is something very private and

³¹⁶ 'Think U Know Corporate Report 2014-15,' p6.

³¹⁷ Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p3.

³¹⁸ Submission 33, Australian Psychological Society, p8.

³¹⁹ Professor Ann Brassil, Chief Executive Officer, Family Planning NSW, Transcript of evidence, 7 April 2016, p37.

they have got to talk about it. Conversely though, sometimes we need to make sure that we have opened the dialogue with children and young people because everyone at the school could know but the parent or guardian does not. I think we need to assist parents as to how they start that conversation and when they start that conversation.³²⁰

- 8.39 However, many parents are not equipped to open such a dialogue with their children. Family Planning NSW, which works with both young people and parents, described their experience:

Many parents have never been taught to have this conversation. So we have got no bar for them to come to; no set of confidence in the skills of talking about it in the general community. That is why we are moving more into parent education.

There are many parents in our society who have not finished school, who did not have the PDHPE curriculum themselves and who come from other communities such as newly arrived core populations. There is example after example of groups that have not even had access to the information around the biology of sex. You would be surprised at how many groups that we work with—because we work in target populations—where the mothers do not even know the basics about their own biology and what is happening to them.³²¹

- 8.40 The Nepean Local Health District recently produced a NSW version of the West Australian booklet, *'Talk soon, talk often: a guide for parents talking to their kids about sex'*. Family Planning NSW provides information for parents about sexuality, and is developing an education course specifically for parents. Their work targets those communities most in need of assistance, such as migrant communities.

Committee comment:

- 8.41 The Committee considers that accurate, age-appropriate education about sex and relationships is a key measure to help protect children and young people from sexualisation. Parents and other caregivers have primary responsibility for educating their children but schools also have a legitimate role in providing sex and relationship education. In providing such education, schools should respect the cultural and religious sensibilities of parents and families.
- 8.42 The Committee heard evidence about the positive work that is being done to provide information to both children and young people and their parents. Connecting children and young people – and parents – to accurate, accessible, relevant information is the primary challenge in this area. All of the groups and agencies that participated in this Inquiry have a role to play in responding to this challenge.

The role of the Advocate for Children and Young People

- 8.43 Item (vii) in the terms of reference asked the Committee to consider possible measures that the NSW Advocate for Children and Young People can take to assist children and young people.

³²⁰ Mr Andrew Johnson, NSW Advocate for Children and Young People, Transcript of evidence, 8 April 2016, p7.

³²¹ Professor Ann Brassil, 7 April 2016, p38.

- 8.44 The NSW Advocate for Children for Children and Young People is still a relatively new role with Mr Johnson, the first Advocate, being appointed in January 2015. The Office of the Advocate for Children and Young People was established in the first half of 2015 and has a staff complement of 15 positions.
- 8.45 The functions of the Advocate and principles governing his work are detailed in the *Advocate for Children for Children and Young People Act 2014*. His role, essentially, is to advocate for the wellbeing of children and young people in NSW, and promote their involvement in decision-making that affects them.
- 8.46 Not all Inquiry participants addressed the term of reference regarding measures that the Advocate might take. However, those that did provided a range of suggestions as to how the Advocate might assist in addressing or responding to the sexualisation of children and young people, although these suggestions were not always well informed in regard to the limited resources available to him.
- 8.47 In other examples, the Life, Marriage and Family Centre recommended that the Advocate promote the adoption of stronger media and advertising standards; support the development of resources for parents, work more closely with the National Children's e-Safety Commissioner, and support research into sexualisation.³²² Similarly, Collective Voice proposed that the Advocate press for stronger media and advertising standards, as well as conducting research and providing information and education. Collective Voice also suggested that these measures be included in the Advocate's strategic plan for children and young people in NSW.³²³
- 8.48 The Advocate himself proposed similar measures. He suggested that that he and his Office could play a role in promoting and reviewing credible websites and materials to assist both children and parents; commission research; work with the National Children's E-Safety Commissioner; and work with the Department of Education, Board of Studies and NSW Police to improve the effectiveness of education initiatives.³²⁴

Committee comment:

- 8.49 The Committee acknowledges and commends the work that the Advocate for Children and Young People is doing in regard to online safety and in particular, the exposure of children and young people to pornography. The Committee encourages the Advocate to research and promote credible, age-appropriate evidence-based websites.

RECOMMENDATION 7

The Committee recommends that the NSW Advocate for Children and Young People research and promote credible, age-appropriate, evidence-based websites and other materials in relation to children and young people.

³²² Submission 27, Life, Marriage and Family Centre, pp13-14.

³²³ Submission 15, Collective Shout, pp22-23.

³²⁴ Submission 36, Advocate for Children and Young People, p14.

RECOMMENDATION 8

The Committee recommends that the Advocate for Children and Young People, the Department of Family and Community Services and the Department of Education promote the Office of the Children’s e-Safety Commissioner on their websites.

Recommendation 9

Given the concerns regarding revenge porn and the exchange of Child Exploitation Material online – which may include images of revenge porn – the Committee recommends that the Advocate for Children and Young People monitor research concerning the creation and distribution of sexts and pornography by minors.

Recommendation 10

The Committee recommends that the Advocate for Children and Young People work with the Children’s e-Safety Commissioner to investigate the processes currently available on online social media platforms for adults to review content flagged as harmful to children. The Advocate should work in conjunction with the Children’s e-Safety Commissioner to establish a mechanism for adults to report inappropriate content exchanged on social media platforms.

Appendix One – List of Submissions

No.	Person / Organisation
1	Mr Ben Savas
2	Mr D Sofatzis
3	Mr Steve Varga
4	Mrs Fiona Campbell
5	Ms Alison Varga
6	Ms Gillian Sofatzis
7	Six Labor Senators
8	Mr Matthew Lennon
9	Ms Maggie Hamilton
10	Mr Bill Muehlenberg (Family Council of Victoria)
11	Dr Lesley-anne Ey
12	The Newspaper Works
13	Australian Association of National Advertisers
14	Dr Andrew Mullins
15	Collective Shout
16	Family Planning NSW
17	Australian Christian Lobby
18	Digital Industry Group Inc
19	Australian Council on Children and the Media
20	Council of Catholic School Parents NSW/ACT
21	APACSNWSW – Psychologists and School Counsellors
22	Department of Family and Community Services – NSW Government
23	David Phillips - Family Voice Australia
24	The Wilberforce Foundation
25	Association of Children’s Welfare Agencies
26	Dr Kath Albury – University of NSW
27	The Life, Marriage and Family Centre Sydney
28	Advertising Standards Bureau
29	Anonymous – NSW resident
30	Australian Family Association
30a	Australian Family Association

COMMITTEE ON CHILDREN AND YOUNG PEOPLE
LIST OF SUBMISSIONS

31	Dr Jeremy Prichard (University of Tasmania)
32	FreeTV Australia
33	Australian Psychological Society
33a	Australian Psychological Society - additional information
34	Office of the Privacy Commissioner
35	Confidential
36	Advocate for Children and Young People
37	KidsPace Code Inc.
38	Youth Action and Policy Association NSW
39	Outdoor Media Association
40	The Law Society of NSW

Appendix Two – List of Witnesses

7 April 2016, Waratah Room

Witness	Organisation
Ms Katie Acheson Chief Executive Officer	Youth Action
Ms Fiona Jolly Chief Executive Officer	Advertising Standards Bureau
Ms Simone Carton Legal Manager	Advertising Standards Bureau
Ms Simone Brandon Director, Policy and Regulation	Australian Association of National Advertisers
Mrs Terri Kelleher National Spokesperson	Australian Family Association
Mr Joe Carolan Research Assistant	Australian Family Association
Professor Elizabeth Handsley President (by teleconference)	Australian Council on Children and the Media
Ms Ann Brasil Chief Executive Officer	Family Planning NSW
Ms Ann Maree Ashburn Director, Government	Family Planning NSW
Ms Maggie Hamilton Researcher	
Ms Nicole Jamison Spokesperson	Collective Shout

8 April 2016, Waratah Room

Witness	Organisation
Mr Andrew Johnson	NSW Advocate for Children and Young People
Ms Charmaine Moldrich Chief Executive Officer	Outdoor Media Association
Dr Jeremy Prichard Senior Lecturer in Criminal Law and Criminology	University of Tasmania
Mr Michael Woodhouse Executive Director, Strategic Policy	Department of Family & Community Services
Dr David Sandifer National Spokesperson	Family Voice Australia
Ms Wendy Francis Queensland State Director and Spokesperson on the sexualisation of society	Australian Christian Lobby

Appendix Three – Extracts from Minutes

MINUTES OF MEETING No 4

1.30pm, 20 October 2015
Room 1254

Members Present

Ms Gibbons (Chair), Mr Donnelly, Mr Johnsen; Ms Taylor, Mr Tudehope.

Apologies

Mr Green, Ms Harrison.

Officers in Attendance

Jason Ardit, Abigail Groves, Millie Yeoh

1. Minutes of previous meeting

Resolved, on the motion of Mr Tudehope, seconded by Ms Taylor: That the minutes of meeting no 3 held on 15 September 2015 be confirmed.

2. Proposed Inquiry into sexualisation of children and young people

The Chair tabled draft terms of reference for an inquiry into sexualisation of children and young people in the media.

The Committee deliberated.

Resolved, on the motion of Mr Donnelly, seconded by Mr Tudehope: That the Committee adopt the following terms of reference for an inquiry into the sexualisation of children and young people:

That the Joint Committee on Children and Young people inquire into and report on the sexualisation of children and young people, with particular reference to:

- i. The sexualisation of children and young people in electronic, print and social media and marketing;
- ii. The exposure of children and young people in NSW to sexualised images and content in public places, electronic, print and social media and marketing;
- iii. The impact on children and young people of growing up in a sexualised culture;

- iv. Adequacy of current measures at state and federal level to regulate sexualised imagery in electronic, print and social media and marketing, and effectiveness of self-regulation measures;
- v. Measures to assist parents in fulfilling their responsibility to protect and educate children;
- vi. Measures to educate children and young people and assist them in navigating the contemporary cultural environment;
- vii. Possible measures that the Children's Advocate can take to assist children and young people to navigate the cultural environment successfully.
- viii. Any other related matter.

Resolved, on the motion of Mr Donnelly, seconded by Mr Tudehope: That the Committee write to stakeholders inviting them to make submissions, with a closing date of 5 February 2016.

The Chair advised that she would also issue a media release.

Ms Taylor asked staff to liaise with Legislative Council committee staff regarding the distribution list for the Chair's media release.

3. Adjournment

The Committee adjourned at 1.58pm, until 1.15pm on Wednesday 18 November.

MINUTES OF MEETING No 6

1.15pm, 8 March 2016
Room 814/15

Members Present

Ms Gibbons (Chair), Mr Donnelly, Mr Johnsen, Ms Taylor, Ms Harrison, Mr Green, Mr Tudehope.

Officers in Attendance

Jason Arditi, Abigail Groves, Jackie Linnane, Millie Yeoh.

1. Minutes of previous meeting

Resolved, on the motion of Ms Taylor, seconded by Mr Johnsen: That the minutes of meeting no 5 on 18 November 2015 be confirmed.

3.1 Submissions received

The Committee deliberated on the following submissions:

- Submission 1 – Mr Ben Savas
- Submission 2 – Mr D Safatzis
- Submission 3 – Mr Steve Varga
- Submission 4 – Mrs Fiona Campbell
- Submission 5 – Ms Alison Varga
- Submission 6 – Ms Gillian Sofatzis
- Submission 7 – Mr Joe Bullock
- Submission 8 – Mr Matthew Lennon
- Submission 9 – Ms Maggie Hamilton
- Submission 10 – Mr Bill Muehlenberg, Family Council of Victoria
- Submission 11 – Dr Lesley-Anne Ey
- Submission 12 – Newspaper Works
- Submission 13 – Australian Association of National Advertisers
- Submission 14 – Dr Andrew Mullins
- Submission 15 – Ms Nicole Jamison, Collective Shout
- Submission 16 – Family Planning NSW
- Submission 17 – Australian Christian Lobby
- Submission 18 – Digital Industry Group Inc
- Submission 19 – Australian Council on Children and the Media
- Submission 20 – Council of Catholic School Parents NSW/ACT
- Submission 21 – Australian Psychologists and Counsellors in Schools - NSW
- Submission 22 – NSW Department of Family and Community Services
- Submission 23 – Family Voice Australia
- Submission 24 – The Wilberforce Foundation
- Submission 25 – Association of Children’s Welfare Agencies
- Submission 26 – Associate Professor Kath Albury
- Submission 27 – Life Marriage and Family Centre
- Submission 28 – Advertising Standards Bureau
- Submission 29 – Anonymous
- Submission 30 – Australian Family Association
- Submission 31 – Jeremy Prichard
- Submission 32 – FreeTV Australia
- Submission 33 – Australian Psychological Society
- Submission 34 – Office of the Privacy Commissioner NSW
- Submission 35 – Confidential

Resolved, on the motion of Mr Tudehope: That Submissions nos. 1 – 29 and 31 – 34 be published on the Committee’s website; that, due to the graphic images it contains, Submission no 30 be made available on request by the secretariat; and, that

submission no 35 remain confidential. The Committee further resolved that the posting of Submission 30 to the website be discussed at the next meeting.

3.3 Public hearing

The Committee deliberated on possible dates for a public hearing.

Resolved, on the motion of Ms Taylor, seconded by Mr Johnsen: That the Committee conduct public hearings on Thursday 7 April and Friday 8 April 2016.

The Chair asked the secretariat to circulate a list of proposed witnesses, and asked members to forward any suggestions to the secretariat.

4. Adjournment

The Committee adjourned at 1.45pm until Thursday 7 April 2016.

MINUTES OF MEETING No 7

9.15am, 7 April 2016

Waratah Room, Parliament House

Members Present

Ms Gibbons (Chair), Mr Donnelly, Mr Johnsen, Ms Taylor, Ms Harrison, Mr Green, Mr Tudehope (Deputy Chair).

Officers in Attendance

Jason Arditi, Abigail Groves, Jackie Linnane, Millie Yeoh.

The Deputy Chair opened the meeting in the absence of the Chair.

5. Minutes of previous meeting

Resolved, on the motion of Mr Donnelly, seconded by Mr Johnsen: That the minutes of meeting no 6 held on 8 March 2016 be confirmed, subject to amendment of item 3.1 relating to further discussion of publication of Submission 30.

6. Inquiry into sexualisation of children and young people

2.1 Submissions received

- Submission 33a – Australian Psychological Society
- Submission no. 36 – Children's Advocate NSW
- Submission no. 37 – KidsPace Code Inc
- Submission no. 38 – Youth Policy and Advocacy Association NSW
- Submission no. 39 – Outdoor Media Association

Resolved, on the motion of Mr Johnsen, seconded by Ms Taylor: That Submission nos. 33a, 36, 38 and 39 be published on the Committee's website, and Submission no 37 be published in part, at the request of the author. The Committee further resolved to redact the final paragraph on page 5 of Submission 31, at the request of the author.

2.2 Public hearing

2.2.1 Media

Resolved, on the motion of Mr Johnsen, seconded by Ms Taylor: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearings on 7 and 8 April 2016 in accordance with the NSW Legislative Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

2.2.2 Transcript of evidence

Resolved, on the motion of Mr Johnsen, seconded by Ms Harrison: That the corrected transcripts of evidence given on 7 and 8 April 2016 be authorised for publication on the Committee's website.

2.2.3 Answers to questions on notice

Resolved, on the motion of Mr Johnsen, seconded by Mr Donnelly: That witnesses be requested to return answers to questions taken on notice and supplementary questions within 3 weeks of the date on which the questions are forwarded to the witness, and that once received, answers to questions on notice be published on the Committee's website.

2.2.4 Public hearing

The Chair joined the meeting at 9.20am and opened the public hearing. Witnesses and the public were admitted.

Ms Katie Acheson, Chief Executive Officer, Youth Action, sworn and examined.

Ms Jacqui McKenzie, Policy and Advocacy Manager, Youth Action, affirmed and examined.

Evidence concluded, the witnesses withdrew.

Ms Fiona Jolly, Chief Executive Officer, and Ms Simone Carton, Legal Manager, Advertising Standards Bureau, sworn and examined.

Ms Simone Brandon, Director, Policy and Regulation, Australian Association of National Advertisers, affirmed and examined.

Evidence concluded, the witnesses withdrew.

The Committee adjourned at 11am, and resumed at 11.20am.

Mrs Terri Kelleher, National Spokesperson, and Mr Joe Carolan, Research Assistant, Australian Family Association, sworn and examined.

Mrs Kelleher tabled the following documents:

- Supplementary submission – Australian Family Association
- ‘The Federal review of Safe Schools was no independent’
- ‘Camp Out 2016: A queer activist training camp promoted in Safe Schools’

Evidence concluded, the witnesses withdrew.

Professor Elizabeth Handsley, President, Australian Council on Children and the Media, joined the hearing by teleconference. Professor Handsley affirmed and examined.

Evidence concluded, the teleconference ended.

The Committee adjourned for lunch at 12.55pm.

Witnesses and the public withdrew.

The Committee resumed at 1.50pm. Witnesses and the public were admitted.

Professor Ann Brassil, Chief Executive Officer, Family Planning NSW, sworn and examined.

Ms Ann-Maree Ashburn, Director, Government and Communications, and Ms Anne Stuart, Director, Planning Education and International, Family Planning NSW, affirmed and examined.

Evidence concluded, the witnesses withdrew.

Ms Maggie Hamilton, writer, sworn and examined.

Evidence concluded, the witness withdrew.

The Committee adjourned at 3.30pm and resumed at 3.48pm.

Ms Nicole Jameson, Spokesperson, Collective Shout, sworn and examined.

Evidence concluded, the witness withdrew.

The Committee adjourned at 4.32pm. The public withdrew.

The Committee resumed at 9.35am on Friday 8 April 2016.

Witnesses and the public were admitted.

Mr Andrew Johnson, NSW Advocate for Children and Young People, sworn and examined.

Mr Gregor Macfie, Director, Office of the Advocate for Children and Young People, affirmed and examined.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE
EXTRACTS FROM MINUTES

Evidence concluded, the witnesses withdrew.

The Committee adjourned at 10.55am and resumed at 11.20am.

Ms Charmaine Moldrich, Chief Executive Officer, and Ms Tess Phillips, Senior Policy Advisor, Outdoor Media Association, affirmed and examined.

Evidence concluded, the witnesses withdrew.

Dr Jeremy Prichard, Senior Lecturer, Criminal Law, University of Tasmania, joined the hearing by teleconference. Dr Prichard affirmed and examined.

Evidence concluded, the teleconference ended.

The Committee adjourned for lunch at 12.40pm.

Witnesses and the public withdrew.

The Committee resumed at 1.40pm.

Witnesses and the public were admitted.

Mr Michael Woodhouse, Director, Strategic Policy, NSW Department of Family and Community Services, affirmed and examined.

Evidence concluded, the witness withdrew.

Dr David Sandifer, former National Director, Family Voice, sworn and examined.

Evidence concluded, the witness withdrew.

The Committee adjourned at 2.55pm and resumed at 3.05pm.

Ms Wendy Francis, Spokesperson on the sexualisation of society, Australian Christian Lobby, sworn and examined.

Ms Francis tabled the following document:

- 'Children's sexual development and behaviour – Pants aren't rude'.

Evidence concluded, the witness withdrew.

The Chair closed the public hearing at 4.05pm.

Witnesses and the public withdrew.

2.2.5 Publication of transcript

The Committee deliberated on the publication of the transcripts from the public hearings held on 7 and 8 April 2016.

Resolved, on the motion of Mr Johnsen, seconded by Ms Taylor: That the Committee publish the corrected transcripts of the public hearing subject to posting of an advisory message regarding explicit content on the Committee's website.

2.2.6 Documents tabled

The Committee deliberated on publication of documents tabled during the public hearings on 7 and 8 April.

Resolved, on the motion of Ms Taylor, seconded by Ms Harrison: That the Committee publish the following documents tabled during the public hearings, provided that no objections received from members by COB on Tuesday 12 April 2016:

- Supplementary submission – Australian Family Association
- 'The Federal review of Safe Schools was not independent'
- 'Camp Out 2016: A queer activist training camp promoted in Safe Schools'
- 'Children's sexual development and behaviour – Pants aren't rude'.

2.2.7 Australian Family Association submission

The Committee deliberated on the publication of Submission no. 30 from the Australian Family Association on the Committee's website.

Resolved, on the motion of Ms Taylor, seconded by Ms Harrison: That the Chair seek written advice from the Clerk of the Legislative Assembly regarding the publication of submission no. 30.

7. Next meeting

The Committee considered dates for its next meeting and agreed to meet during the sitting period in June.

8. Adjournment

The Committee adjourned at 4.37pm, until a date to be fixed.

MINUTES OF MEETING No 8

1.15pm, 10 May 2016
Room 814/15

Members Present

Ms Gibbons (Chair), Mr Donnelly, Mr Johnsen, Ms Taylor, Ms Harrison, Mr Green, Mr Tudehope.

Officers in Attendance

Jason Ardit, Abigail Groves, Jackie Linnane.

1. Minutes of previous meeting

Resolved, on the motion of Mr Johnsen, seconded by Mr Tudehope: That the minutes of meeting no 7 held on 7 and 8 April 2016 be confirmed.

2. Inquiry into sexualisation of children and young people

2.1 Answers to questions on notice

- Dr David Phillips, Family Voice Australia

Resolved, on the motion of Mr Donnelly, seconded by Mr Johnsen: That the answers to questions on notice received from Mr David Phillips, Nationals Director, Family Voice Australia dated 30 April 2016 be published.

2.2 Publication of Australian Family Association submission

Resolved, on the motion of Mr Donnelly, seconded by Mr Green: That the Committee publish submission no. 30 from the Australian Family Association on its website, subject to redaction of images on pages 3, 18, 21-23, and 26-27, and post a message indicating that the full submission is available on request.

2.3 Report

The Committee deliberated on the direction of the report.

3. Adjournment

The Committee adjourned at 1.33pm *sine die*.

MINUTES OF MEETING No 9

5.30pm, 25 August 2016
Room 814/15

Members Present

Ms Gibbons (Chair), Mr Donnelly, Mr Johnsen, Ms Taylor, Ms Harrison, Mr Green, Mr Tudehope.

Officers in Attendance

Jason Ardit, Abigail Groves.

1. Minutes of previous meeting

Resolved, on the motion of Mr Johnsen, seconded by Ms Taylor: That the minutes of meeting no 8 held on 10 May 2016 be confirmed.

2. ***

3. ***

4. Inquiry into sexualisation of children and young people

4.1 Correspondence received

Resolved, on the motion of Mr Johnsen, seconded by Ms Taylor: That the Committee note the following correspondence received:

- Email from Ms Terri Kelleher re: publication of Submission 30, dated 20 May 2016
- Letter from Ms Simone Brandon, Australian Association of National Advertisers

Proposed resolution: That the Committee note the correspondence received.

4.2 Submissions received

Resolved, on the motion of Mr Johnsen, seconded by Ms Harrison: That the Committee publish Submission no. 40 on its website.

4.3 Answers to questions on notice and supplementary questions

Resolved, on the motion of Mr Johnsen, seconded by Mr Donnelly: That the Committee publish the following answers to questions on notice received on its website:

- Ms Rachel Lemon, NSW Department of Family and Community Services, dated 18 May 2016
- Ms Katie Acheson, Chief Executive Officer, Youth Action, dated 13 May 2016
- Ms Ann-Maree Ashburn, Director Policy, Family Planning Association NSW, dated 27 May 2016
- Ms Tess Phillips, General Manager, Government Relations, Outdoor Media Association, dated 27 May 2016
- Mrs Terri Kelleher, Victorian President, Australian Family Association, dated 13 May 2016
- Ms Wendy Francis, Spokesperson on the sexualisation of society, Australian Christian Lobby, dated 23 May 2016
- Ms Fiona Jolly, Chief Executive Officer, Advertising Standards Bureau, dated 6 June 2016
- Professor Elizabeth Handsley, President, Australian Council on Children and the Media, dated 27 June 2016
- Mr Andrew Johnson, NSW Advocate for Children and Young People, dated 27 May 2016.

9. Other business

The Chair brought the Committee's attention to a recent news item regarding non-consensual sharing of explicit images.

10. Adjournment

The Committee adjourned at 5.48pm, until 11am on Tuesday 6 September.

MINUTES OF MEETING No 10

Noon, 20 September 2016
Room 1254

Members Present

Ms Gibbons (Chair), Mr Donnelly, Mr Johnsen, Mr Franklin, Ms Harrison, Mr Green, Mr Tudehope.

Officers in Attendance

Jason Ardit, Emma Matthews, Jacqueline Linnane.

11. Minutes of previous meeting

Resolved, on the motion of Mr Johnsen seconded by Mr Green: That the minutes of meeting no 9 held on 25 August 2016 be confirmed.

12. Sexualisation of children and young people – draft report

The Committee considered the report as circulated by the Chair.

Resolved, on the motion of Mr Donnelly, that Family Voice Australia (FVA) be included on page X.

Resolved, on the motion of Mr Donnelly, that the term “SSCA NSW” be omitted and “SSCA” be inserted instead on page X.

Resolved, on the motion of Mr Donnelly, that the word “significant” be inserted after the word “including” at paragraph 1.8.

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and “program” be inserted instead at paragraph 1.8.

Resolved, on the motion of Mr Donnelly, that the words:

“There is no universally accepted definition of this term and Inquiry participants used it in different senses, with different priorities in doing so. Chapter One therefore canvasses the different definitions used by various stakeholders, and also considers the limitation of the evidence currently available about the effects of sexualisation.”

be omitted, and that the words:

“While there is no single definition of the term it is generally understood to be the act of giving or implying a sexual character to children and young people. Chapter two canvasses differing views around sexualisation but notes the serious concerns held by many of its impact on the health and well-being of children and young people.”

be inserted instead at paragraph 1.9.

Resolved, on the motion of Mr Donnelly, that the words:

“which was the policy measure posited as a remedy”

be omitted at paragraph 1.11

Resolved, on the motion of Mr Donnelly, that the word *“Some”* be omitted, and that the words *“A number”* be inserted instead at paragraph 1.14.

Resolved, on the motion of Mr Donnelly, that the words:

“This initiative was not the intended focus of this Inquiry, but these concerns are nonetheless canvassed in this Chapter.”

be omitted at paragraph 1.14.

Resolved, on the motion of Mr Donnelly, that the words:

“In contrast, the American Psychological Association in their 2007 report entitled Report of the APA Task Force on the Sexualisation of Girls stated that there was ample evidence to show that sexualisation has negative effects in a variety of domains, including: cognitive functioning, physical and mental health, sexuality and beliefs.”

be inserted at the beginning of paragraph 2.28 and that an appropriate foot note be inserted to provide a reference for this inclusion.

Resolved, on the motion of Mr Donnelly, that the words:

“Some childhood sexual behaviours indicate more than harmless curiosity. In some cases, sexual behaviours pose a risk to the safety and wellbeing of the child and other children in his or her world.”

be inserted before the quoted text at paragraph 2.28.

Resolved, on the motion of Mr Donnelly, that the words:

“There are many possible reasons why children may show sexual behaviours that are inappropriate and unexpected for their age. Children’s sexual behaviour problems are rarely about sexual pleasure. These behaviours are far more likely to be related to anxiety, traumatic experiences, curiosity, exposure to online/media sexual content, poor impulse control and a range of other factors. These all need to be explored at the time of the identified/reported incidences by trained clinicians and/or school counsellors to guide appropriate response protocols.”

be inserted at the conclusion of the quoted text at paragraph 2.28.

Resolved, on the motion of Mr Donnelly, that the words:

“However, while researchers have measured the exposure of children and young people to pornography, evidence of its harmful effect is not conclusive.”

be omitted at paragraph 2.29.

Resolved, on the motion of Mr Donnelly, that the word *“should”* be omitted and that the word *“must”* be inserted instead at the first sentence of paragraph 2.34.

Resolved, on the motion of Mr Donnelly, that the words:

“considers that stakeholder concerns are justified and that a precautionary approach, to limit children’s exposure to sexualised material, is appropriate.”

be omitted and that the words:

“believes that the evidence supporting the negative impact of sexualisation on children and young people is both clear and strong. With this being the case, it is important that concrete steps are taken to reduce, if not eliminate, its impact.”

be inserted instead at paragraph 2.34

Resolved, on the motion of Mr Donnelly, that the word *“strong”* be inserted after the word *“that”* at paragraph 3.48.

Resolved, on the motion of Mr Donnelly, that the words:

“However, the Committee considers that self-regulation remains the most efficient model of regulation for the industry”

be omitted at paragraph 3.50:

Resolved, on the motion of Mr Donnelly, that the words:

“However, Family Planning NSW observed that it is ‘not aware of any rise in injuries during sexual activity presented through our clinical services’”

be omitted at paragraph 4.19

Resolved, on the motion of Mr Donnelly, that the words *“while noting that pornography was a risk factor”* be inserted after the third word *“research”* at paragraph 4.24

Resolved, on the motion of Mr Donnelly, that the words *“The research cited Dr Prichard”* be omitted and that the words *“Other research”* be inserted instead at paragraph 4.28 and that a subsequent amendment be made to the footnote.

Resolved, on the motion of Mr Donnelly, that the word *“potential”* be omitted from paragraph 4.48

Resolved, on the motion of Mr Donnelly that the words:

“are too great to ignore”

be omitted, and the words:

“are significant and must be pursued as a policy priority”

be inserted instead at paragraph 4.48

Resolved, on the motion of Ms Harrison, that the words *“opt-out”* be omitted and the words *“opt-in”* be inserted instead at paragraph 4.49

Resolved, on the motion of Mr Donnelly, that the word *“commission”* be omitted and the word *“monitor”* be inserted instead at recommendation 1.

Resolved, on the motion of Ms Harrison, that the words *“opt-out”* be committed and the words *“opt-in”* be inserted instead at recommendation 3.

Resolved, on the motion of Ms Harrison, that the words:

“through her position on the Council of Australian Governments Law, Crime and Community Safety Council”

be omitted and that the words:

“through the Council of Australian Governments Law, Crime and Community Safety Council”

be inserted instead at the end of recommendation 3

Resolved, on the motion of Mr Donnelly, that the words:

“the Committee notes that education in relation to the ethics of relationships is the responsibility of both parents and schools. The Committee urges the Department of

Education to include age appropriate information about the risks and ethics of sexting in its Personal Development, Health and Physical Education curriculum."

be omitted and that the words:

"the Committee notes that education in relation to the ethics of relationships is primarily the responsibility of parents. Schools play a role in supporting parents in this role. The Committee notes material currently available on the Department of Education's website and commends the Department for incorporating sexting information into the Personal Development, Health and Physical Education curriculum.

be inserted instead at paragraph 6.40 and that an appropriate footnote be included.

Resolved, on the motion of Mr Donnelly, that the words "*non-consensual*" be inserted after the word "Where" at the second sentence of paragraph 6.43.

Resolved, on the motion of Mr Donnelly, that the words "*without consent*" be inserted at the end of paragraph 6.43.

Resolved, on the motion of Mr Donnelly, that the word: "*would*" be omitted and the word: "*may*" be inserted instead at paragraph 6.44.

Resolved, on the motion of Mr Donnelly, that the words:

"The Committee considers that the Victorian model introduced by the Crimes Amendment (Sexual Offences and Other Matters) Act 2014 (Victoria) may be a useful approach for the Attorney General to consider when drafting such exceptions."

be inserted at the end of paragraph 6.44.

Resolved, on the motion of Mr Donnelly, that the words:

"The Committee acknowledges the work of the Legislative Council's Standing Committee on Law and Justice, its report of 3 March 2016 and its recommendations relating to a statutory cause of action for serious invasions of privacy. The Committee also acknowledges that Senate Legal and Constitutional Affairs References Committee examined revenge pornography and recommended that the Commonwealth along with the states and territories enact criminal offences for the recording and sharing of intimate images without consent and for threatening to do so.

On 5 September 2016 the NSW Government provided a response to the Law and Justice Committee's report of 3 March 2016. The response noted that Committee's recommendations in relation to the introduction of a statutory cause of action for serious invasions of privacy. In its response, the Government has preferred to address the harm caused by revenge porn by reviewing and amending the criminal law.

The Government response outlined that it would consult with stakeholders on the terms of the new criminal offences and how they would be framed to ensure NSW criminal law adequately protects people from the harm caused by the non-consensual sharing of intimate images. With respect to the recommendation of the Law and Justice Committee for a statutory cause of action for serious invasions of privacy in NSW, the Government noted that it would explore the proposal for a statutory cause of action with other Australian jurisdictions."

be inserted following paragraph 6.44 and that appropriate footnotes be included.

Resolved, on the motion of Mr Donnelly, that the words “, as part of the review and amendment of the criminal law” be inserted after “The Committee recommends that” in recommendation 4.

Resolved, on the motion of Mr Donnelly, that the word “program” be inserted after “Safe schools” in the title of chapter seven.

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and the word “program” be inserted instead at paragraph 7.1.

Resolved, on the motion of Mr Donnelly, that the words “and was not intended as its focus” be omitted from paragraph 7.1.

The Committee adjourned at 2:12pm

The Committee reconvened at 6pm

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and the word “program” be inserted instead at the subheading preceding paragraph 7.3.

Resolved, on the motion of Mr Donnelly, that the word “is” be omitted and the words “was launched as” be inserted instead at the first sentence of paragraph 7.3.

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and the word “program” be inserted instead at paragraph 7.3.

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and the word “program” be inserted instead at paragraph 7.4.

Resolved, on the motion of Mr Donnelly, that the words “It was the evidence of Family Planning NSW that” be inserted at the beginning of paragraph 7.5

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and the word “program” be inserted instead at paragraph 7.5.

Resolved, on the motion of Mr Donnelly, that the word “some” be omitted at paragraph 7.5

Resolved, on the motion of Mr Donnelly, that the words “It was in response to this criticism that” be inserted before the words “the Prime Minister” at paragraph 7.5

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and the word “program” be inserted instead at paragraph 7.6.

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and the word “program” be inserted instead at paragraph 7.7.

Moved by Mr Donnelly that the following words be inserted after paragraph 7.7

“In NSW the schools that had been listed as participating in the Safe Schools program were, on the 8th of July 2016, removed from the Safe Schools Coalition Australia website. This means that parents can no longer go to that website to establish if their school is, or is not, participating in the Safe Schools program.”

Discussion ensued.

The Committee resolved to hold over consideration of this amendment pending a response from the Minister for Education.

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and the word “program” be inserted instead at paragraph 7.8.

Resolved, on the motion of Mr Donnelly, that the words:

“the main issue of contention was resources produced by Safe Schools”
be omitted and the words

“the main issues of contention were resources produced by Safe Schools and parental consent”

be inserted instead at paragraph 7.8

Resolved, on the motion of Mr Donnelly, that the word “felt” be omitted and the word “argued” be inserted instead at paragraph 7.8.

Resolved, on the motion of Mr Donnelly, that the words “The Lobby” be omitted and the term “ACL” be inserted instead wherever appearing at paragraph 7.9

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and the word “program” be inserted instead at paragraph 7.14.

Resolved, on the motion of Mr Donnelly, that the words “, and the Victorian Department of Education and Training website” be inserted after the words “Minus18 website” at paragraph 7.14.

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and the word “program” be inserted instead at paragraph 7.26.

Resolved, on the motion of Mr Donnelly, that the words “would, presumably apply” be omitted and the word “applies” be inserted instead at paragraph 7.27.

Resolved, on the motion of Mr Donnelly, that the word “initiative” be omitted and the word “program” be inserted instead at paragraph 7.31.

Resolved, on the motion of Mr Donnelly, that the words “The Committee also notes that there has been some public controversy surrounding the program.” be inserted at the end of paragraph 7.31.

Resolved, on the motion of Mr Donnelly, that the words “The Committee believes that schools should be consulting parents prior to the implementation of the Safe Schools program, and parents should have the ability to opt-in.” be inserted at the end of paragraph 7.32.

Resolved, on the motion of Mr Donnelly, that the words:

“The Committee commends the Loudon review and considers that most of the concerns raised by parents about Safe Schools appear to have been addressed through this review”

be omitted and that the words:

"The Committee notes that it is voluntary in NSW for individual schools to implement the Safe Schools program."

be inserted instead at paragraph 7.33.

Resolved, on the motion of Mr Donnelly, that the word "to" be inserted after the words "particular websites appear" at paragraph 7.34.

Resolved, on the motion of Mr Donnelly, that the word "Louden" be inserted after the words "as a result of the" at paragraph 7.34.

Resolved, on the motion of Mr Donnelly that the words:

"The Committee recommends that the Department of Education remind schools of their obligations under the Controversial Issues in Schools policy and encourage schools to consult with parents in the implementation of the Safe Schools initiative in NSW"

be omitted and that the words:

"The Committee recommends that the Department of Education require schools under the Controversial Issues in Schools policy to consult with parents prior to any implementation of the Safe Schools program, and require that parents choose whether to opt in to this program. At any time parents may elect to have their child opt out of the program."

be inserted instead at recommendation 6.

Moved by Mr Tudehope, that the words:

"That the Department of Education carry out an audit of the implementation of, and compliance with, the Controversial Issues in Schools Policy with respect to the Safe Schools Program to ensure that the Safe Schools Program is delivered in compliance with the Policy."

be inserted as a new recommendation.

Discussion ensued.

The Committee resolved to hold over consideration of this amendment pending a response from the Minister for Education.

Resolved, on the motion of Mr Donnelly, that the words:

"Family Planning NSW also expressed its concern that private schools are not obliged to follow the PDHPE curriculum. Instead, non-government schools are required to meet the standards of the Commonwealth. Professor Brassil expressed the view that NSW standards are superior:

One of the things that I am concerned about, having a Catholic background myself and sending my children to Catholic schools, is that the engagement of the non-government sector is not developed enough. Across the PDHPE curriculum as well, because they are not obliged to follow the New South Wales curriculum, they are obliged to follow the Commonwealth curriculum coming down through the Australian Curriculum, Assessment and Reporting Authority [ACARA], which is not as good as the New South Wales programs."

be omitted from paragraph 8.14.

Resolved, on the motion of Mr Donnelly, that the word *“help”* be inserted following the words *“is a key measure to”* in the first sentence of paragraph 8.42.

Resolved, on the motion of Mr Donnelly, that the words:

“In providing such education, schools should respect the cultural and religious sensibilities of parents and families.”

be inserted at the end of paragraph 8.42.

Resolved, on the motion of Mr Donnelly, that the word *“accurate,”* be inserted after the words *“and parents – to”* at paragraph 8.43.

Resolved, on the motion of Mr Donnelly, that the words *“acknowledges and”* be inserted in the first sentence after the words *“The Committee”* at paragraph 8.50.

Resolved, on the motion of Mr Donnelly that the words:

“The Committee encourages the Advocate to research and promote credible, evidence-based websites.”

be omitted and that the words:

“The Committee encourages the Advocate to research and promote credible, age-appropriate evidence-based websites.”

be inserted instead at the end of paragraph 8.50.

Resolved, on the motion of Mr Donnelly, that the words:

“The Committee recommends that the NSW Advocate for Children and Young People research and promote credible, evidence-based websites and other materials about online safety, sex and relationship education, and sexualisation of children and young people.”

be omitted and that the words:

“The Committee recommends that the NSW Advocate for Children and Young People research and promote credible, age-appropriate, evidence-based websites and other materials in relation to children and young people.”

be inserted instead at recommendation 7.

Resolved, on the motion of Mr Donnelly, that the words:

“Given the concerns regarding revenge porn and the exchange of Child Exploitation Material online – which may include images of revenge porn – the Committee recommends that the Advocate for Children and Young People monitor research concerning the creation and distribution of sexts and pornography by minors.”

be inserted as a new recommendation after recommendation 8, being recommendation 9.

Resolved, on the motion of Mr Donnelly, that the words:

“The Committee recommends that the Advocate for Children and Young People work with the Children’s e-Safety Commissioner to investigate the processes currently available on online social media platforms for adults to review content flagged as harmful to children. The Advocate should work in conjunction with the Children’s e-Safety Commissioner to establish a mechanism for adults to report inappropriate content exchanged on social media platforms.”

be inserted as a new recommendation after recommendation 9, being recommendation 10.

Moved by Mr Donnelly, seconded by Mr Tudehope that the words:

“The Committee recommends that the Department of Education publish on its website on an ongoing basis an up to date list of the schools participating in the Safe Schools Program.”

be inserted as a new recommendation.

Discussion ensued.

Question put.

The Committee divided.

Ayes 3 (Mr Donnelly, Mr Tudehope, Mr Green)

Noes 4 (Ms Gibbons, Ms Harrison, Mr Johnsen, Mr Franklin)

Negatived.

Moved by Mr Green, seconded by Mr Tudehope that the words

That the Department of Education give consideration to issuing a direction to all State Schools that because of the divisive nature of the Safe Schools program that it be abolished with no further steps taken to promote the program.

be inserted as a new recommendation.

Discussion ensued.

Question put.

The Committee divided.

Ayes 3 (Mr Green, Mr Tudehope, Mr Donnelly)

Noes 4 (Ms Gibbons, Ms Harrison, Mr Johnsen, Mr Franklin)

Negatived.

Resolved, on the motion of Mr Donnelly, that the Committee write to the Minister for Education to confirm the following:

- a. The number of schools currently participating in the Safe Schools Program;
- b. Whether the Department has audited or reviewed the roll out of the Safe Schools program;
- c. Whether the Department has undertaken work to ensure that schools are following the Controversial Issues in Schools policy when considering opting in to the Safe Schools Program;
- d. Whether such audits or review are ongoing;
- e. Whether NSW Schools were removed from the Safe Schools coalition website on 8 July 2016;
- f. What proper process parents should follow should they wish to confirm whether their school is participating in the Safe Schools Program;
- g. With reference to reports in The Australian on 20 July 2016, 7 September 2016, 12 September 2016 and 19 September 2016, seeking further information and clarification in relation to the substance of those media reports.

Resolved, on the motion of Mr Green, seconded Mr Donnelly, that Chapter 1 of the Chair's Report on the sexualisation of children and young people, as amended, be adopted by the Committee.

Resolved, on the motion of Mr Johnsen, seconded Ms Harrison, that Chapter 2 of the Chair's Report on the sexualisation of children and young people, as amended, be adopted by the Committee.

Resolved, on the motion of Mr Johnsen, seconded Ms Harrison, that Chapter 3 of the Chair's Report on the sexualisation of children and young people, as amended, be adopted by the Committee.

Resolved, on the motion of Mr Johnsen, seconded Ms Harrison, that Chapter 4 of the Chair's Report on the sexualisation of children and young people, as amended, be adopted by the Committee.

Resolved, on the motion of Mr Johnsen, seconded Ms Harrison, that Chapter 5 of the Chair's Report on the sexualisation of children and young people be adopted by the Committee.

Resolved, on the motion of Mr Donnelly, seconded Mr Johnsen, that Chapter 6 of the Chair's Report on the sexualisation of children and young people, as amended, be adopted by the Committee.

Resolved, on the motion of Ms Harrison, seconded Mr Johnsen, that Chapter 8 of the Chair's Report on the sexualisation of children and young people, as amended, be adopted by the Committee.

The Committee adjourned at 8:27pm sine die

13. Other business

14. Adjournment

The Committee adjourned at 8:27pm *sine die*.

MINUTES OF MEETING No 11

1.35pm, 16 October 2016
Room 1043, Parliament House

Members Present

Ms Gibbons (Chair), Mr Tudehope, Mr Donnelly, Mr Green, Ms Harrison, Mr Johnsen, and Mr Franklin

Officers in Attendance

Jason Ardit, Jacqueline Linnane.

1. Confirmation of Minutes

Resolved, on the motion of Mr Johnsen: That the draft minutes of meeting no 10, held on 20 September 2016, be confirmed.

2. Correspondence

The Committee noted the following item of correspondence received:

- Mr Mark Scott AO, Secretary of the Department of Education, dated 16 November 2016 regarding the Committee's request for clarification on several issues relating to the Safe Schools program.

Resolved, on the motion of Mr Johnsen: That the correspondence be noted.

4. Inquiry into the sexualisation of children and young people – continuing consideration

Chapter Seven read.

Resolved, on the motion of Mr Donnelly:

“That paragraph 7.32 be amended by:

- Omitting the word ‘some’ and inserting instead ‘major’

“That paragraph 7.33 be amended by:

- Omitting the word ‘remind’ and inserting instead ‘inform all’
- Omitting the word ‘of’ and inserting instead ‘about’
- Omitting the words ‘should be consulting’ and inserting instead ‘must consult’
- Inserting ‘Furthermore the school must obtain consent from parents before their child participates in the program. Parents may, at any time, elect to withdraw their child from the program.’

Resolved on the motion of Mr Johnsen, seconded by Mr Donnelly:

That the Committee adopt the Chair’s draft report as amended and that it be signed by the Chair for presentation to the House.

That the Chair and the Committee staff be permitted to correct stylistic, typographic and grammatical errors and that, once tabled, the report be posted on the Committee’s website

5. General business

6. Next meeting

The Committee adjourned at 2:10pm until a date and time to be determined.