

# Submission to the Review of Australian Classification Regulation

Collective Shout

February 2020

## Introduction

Collective Shout ([www.collectiveshout.org](http://www.collectiveshout.org)) is a grassroots movement challenging the objectification of women and sexualisation of girls in media, advertising and popular culture. We target corporations, advertisers, marketers and media which exploit the bodies of women and girls to sell products and services, and campaign to change their behaviour.

More broadly we engage in issues relating to other forms of sexploitation, including the interconnected industries of pornography, prostitution and trafficking as well as the growing market in the sale of children for Live Distant Child Abuse.

Our focus in this submission is on the limits of the current system, resulting in harm to women and girls specifically and children generally.

The purpose of the classification system is two-fold. First, to inform adult consumers on media content so they can make informed choices about suitable media for themselves and also for children in their care. And second, to help regulators make decisive, timely rulings and issue appropriate penalties. Any review of the classification system must be based on evidence about harm to consumers, participants, and the wider community.

As we wrote in our submission to the 2011 inquiry into the Australian film and literature classification scheme, the National Classification Scheme has failed to even slow - let alone prevent - the proliferation of publications, films, television, billboards, images and words on mobile phones and the internet, as well as radio and music recordings, which demean women, reduce them to sexual objects, pressure girls to adopt pornified roles and behaviours and foster a culture that normalises and condones sexual violence. Our submission to the Australian Human Rights Commission National Inquiry into Sexual Harassment in Australian Workplaces (2019) explained that “through a pornified culture, women and girls are fed a message that their only value lies in their sex appeal and ability to attract the male gaze. The proliferation of sexualised images of women and girls is linked to mental health problems such as low self-esteem, poor body image, eating disorders, depression and self-harm.”

In this submission we provide an evidence-based case as to why the classification regulation system has failed, and call for its complete overhaul.

## Summary of Recommendations

We make the following recommendations:

- Replace the current system with an evidence-based and age-based classification system.
- Content that should be classified includes all professionally produced content for exhibition or distribution via all delivery formats (television, cinema, DVD, streaming, computer games).
- Broaden the provisions relating to 'sex' to reflect new research insights into sexual objectification.
- Any regulatory body (the existing or a new body) should be required to consult the international research along with child and youth development experts to ascertain the possible impact of content with sexualised content or messaging on this audience.
- 'Adult magazines' should continue to be classified, as well as being restricted to adults.
- If self-classification is to be introduced, it must be strongly regulated by the government using approved classification tools, overseen by a single regulator with powers of enforcement.
- Pornography should no longer be treated by default as 'adult content', but as commercialised sexual exploitation.
- Reliance on parents to control what their children access is unrealistic.
- Ensure that computer games continue to be classified taking into account evidence of harms of sexual objectification, and ensure compliance.
- An urgent investigation needs to be conducted into the Classification Board assigning M or MA15+ ratings to anime and manga genres featuring Child Sexual Abuse Material contrary to Australian law.

## Replace the current system with an evidence-based and age-based classification system.

We support the recommendation of the Australian Council on Children and the Media (ACCM) calling for broad changes to the age-based classification system, supported by a recent survey by ACCM which found that 88% of Australian parents of young children think an age-based system would be more useful to them than the present one:

*Parents of children under 15 years need far more useful information - age-based advice that could really support their choices of appropriate media, eg for children aged 4-5, or 9-10.*

*The present system is based on concepts of community standards and offence, not child development.*

*There is a reliable body of research that identifies the types of content that can disturb, scare, or in other ways cause harm to children, at different stages of their lives. That's what parents and carers want and need to know.*

*Other countries have such age-based systems and classification processes based on child development. The Netherlands has had its Kijkwijzer system for many years. It's scientifically- based, evaluated frequently and well received by parents (Australian Council on Children and the Media 2020a).*

**Content that should be classified includes all professionally produced content for exhibition or distribution via all delivery formats (television, cinema, DVD, streaming, computer games).**

We support making Australia's classification system consistent across all platforms, reflecting recent changes in delivery of content and accommodating future technologies as well.

**Broaden the provisions relating to 'sex' to reflect new research insights into sexual objectification.**

A well-established international body of research on the effects of a sexualised culture and sexual objectification should inform a review of the classification system, with the primary aim of reducing harm. To this end, we need an evidence-based approach to guidelines relating to the category of 'sex'.

Even where there is no sexual activity in children's media, it may still contain sexualised images of girls and women, which are known to be harmful to children's emotional and psychological development. There is a growing body of global research demonstrating the detrimental effect of these representations, especially on children and young people.

For example, see an overview of the literature by Women's Health Victoria (2018) describing the published evidence that sexist images in advertising impacts adversely on health and

wellbeing; self-objectification, body satisfaction, mental health, eating behaviours, cognitive performance, relationships and sexual health, physical activity, sense of safety and participation, perceptions of women's humanity, competence and morality, and violence-supporting attitudes.

We also draw your attention to a 2015 meta-analysis of research on the portrayal of women and girls in advertising and its effect on attitudes towards and treatment of women (Ward 2016):

*The findings provided consistent evidence that both laboratory exposure and regular, everyday exposure to this content are directly associated with a range of consequences, including higher levels of body dissatisfaction, greater self-objectification, greater support of sexist beliefs and of adversarial sexual beliefs, and greater tolerance of sexual violence toward women.*

*Moreover, experimental exposure to this content leads both women and men to have a diminished view of women's competence, morality, and humanity.*

The American Psychological Society documented as early as 2007:

- Ample evidence testing these theories indicates that sexualisation has negative effects in a variety of domains, including cognitive functioning, physical and mental health, sexuality, and attitudes and beliefs.
- Cognitively, self-objectification has been repeatedly shown to detract from the ability to concentrate and focus one's attention, thus leading to impaired performance on mental activities such as mathematical computations or logical reasoning.
- The association between self-objectification and anxiety about appearance and feelings of shame has been found in adolescent girls (12–13-year-olds) as well as in adult women.
- Research links sexualisation with three of the most common mental health problems of girls and women: eating disorders, low self-esteem, and depression or depressed mood.
- Several studies (on both teenage and adult women) have found associations between exposure to narrow representations of female beauty (e.g., the "thin ideal") and disordered eating attitudes and symptoms. Research also links exposure to sexualised female ideals with lower self-esteem, negative mood, and depressive symptoms among adolescent girls and women. In addition to mental health consequences of sexualisation, research suggests that girls' and women's physical health may also be negatively affected, albeit indirectly.
- Sexual well-being is an important part of healthy development and overall well-being, yet evidence suggests that the sexualisation of girls has negative consequences in terms of girls' ability to develop healthy sexuality.

A content assessment method for sexual objectification has been developed by Dr Caroline Heldman (2014). Called the CHIPS test, it asks five simple questions. If the answer is “yes” to any one of them, the material is sexually objectifying.

- 1) **Commodity:** Does the image show a sexualized person as a commodity, for example, as something that can be bought and sold?
- 2) **Harmed:** Does the image show a sexualized person being harmed, for example, being violated or unable to give consent?
- 3) **Interchangeable:** Does the image show a sexualized person as interchangeable, for example, a collection of similar bodies?
- 4) **Parts:** Does the image show a sexualized person as body parts, for example, a human reduced to breasts or buttocks?
- 5) **Stand-In:** Does the image present a sexualized person as a stand-in for an object, for example, a human body used as a chair or a table?

Any regulatory body (the existing or a new body) should be required to consult the international research along with child and youth development experts, to ascertain the possible impact of content with sexualised content or messaging on this audience.

We note that there is no child and youth development expert with membership in any current Australian regulatory body. In order to develop an evidence-based system, we recommend that such experts be identified as potential participants in the new regulatory process.

‘Adult magazines’ should continue to be classified, as well as being restricted to adults.

The discussion paper relating to this inquiry states: “the volume of publications being submitted to the Board has significantly declined as content has moved online... the ALRC review recommended that adult magazines need not be classified but if industry wished to classify publications they could do so. The ALRC recommended that the new regulator could approve industry codes that provide for the voluntary classification and marking of content that is not required to be classified, and the regulator should encourage the development of such a code for magazines likely to warrant restriction to adults” (p14 of the Discussion Paper).

It makes no sense that ‘adult’ magazines should not be classified because there are so few of them. It also does not fit with the historic behaviour of the ‘adult’ magazine industry in Australia, which has demonstrated its lack of respect for regulation of any kind.

For many years, unrestricted titles with serial classifications were freely available for purchase by any individual regardless of age, despite explicit content, such as Zoo Weekly, Picture and People, sporting headlines such as ‘X-rated Aussie teens’, ‘Giant Jugs’, ‘Asian Buffet’ and ‘Fresh young flesh’. It was only due to activism by Collective Shout and its supporters that these titles have been removed permanently.<sup>1</sup> Collective Shout’s experience with industry self-regulation, especially as applies to advertising, has confirmed that an industry oriented to maximising profits is unlikely to exercise the required restraint to ensure that content that exploits or demeans women or that sexualises children is excluded. Caitlin Roper (2018) has written about how the pornography industry aggressively markets its product to children using methods such as “studying children’s common keystroke errors in order to direct them to porn sites, and making pornography based on children’s favourite cartoon characters.” We have documented the long-standing and chronic failures of industry self-regulation since our formation ten years ago (Collective Shout 2019; Roper 2016), including recent calling to account of repeat corporate offenders such as sex store Honey Birdette in shopping malls (Roper 2018).

While dated, the following account relating to classification failures regarding publications, remains informative. Founder of Kids Free 2B Kids and our colleague (the late) Julie Gale, was at the forefront of exposing the prevalence of extreme and often illegal content in places such as corner stores and service stations.

Ms Gale identified a number of publications on sale at service stations and corner stores bearing Category 1 or Category 2 ‘Restricted’ labelling, but which contained material including pseudo child pornography and incitements to rape and incest, which should have resulted in the publications being assigned as Refused Classification.

After this material was submitted to the Classification Board the original classifications given to eight publications were eventually revoked: *Best of Cheri*, *Finally Legal*, *Swank*, *The Very Best of High Society*, *Hawk*, *Gallery*, *Purely 18* and *Live Young Girls*. Live Young Girls had been given repeated 24-month serial classifications as Category 1 Restricted based on issues Vol. 26, no. 5, May 2005 and Vol. 29, no. 5, May 2008. Further earlier classifications

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[https://www.collectiveshout.org/collective\\_shout\\_commends\\_bauer\\_decision\\_to\\_shut\\_down\\_picture\\_and\\_people\\_titles](https://www.collectiveshout.org/collective_shout_commends_bauer_decision_to_shut_down_picture_and_people_titles),  
[https://www.collectiveshout.org/bp\\_removes\\_sexist\\_mags\\_after\\_collective\\_shout\\_pressure](https://www.collectiveshout.org/bp_removes_sexist_mags_after_collective_shout_pressure),  
[https://www.collectiveshout.org/media\\_release\\_collective\\_shout\\_declares\\_victory\\_as\\_7\\_eleven\\_withdraws\\_sexual\\_harassment\\_magazines](https://www.collectiveshout.org/media_release_collective_shout_declares_victory_as_7_eleven_withdraws_sexual_harassment_magazines) ([https://www.collectiveshout.org/zoo\\_weekly](https://www.collectiveshout.org/zoo_weekly)

were revoked. All eight publications for which serial classifications were revoked were distributed by a company called Namda.<sup>2</sup>

Collective Shout founder Melinda Tankard Reist wrote in 2008:

*The titles imported by Namda/Windsor have been supplied to milkbars, supermarkets and petrol stations. The publishers claim the girls are 18+ years but the content and images deliberately make them appear younger. Words like 'tiny', 'tight' and 'tender' are used to describe body parts. The girls are often in pigtails and wearing braces... Headlines include 'Pigtail Perverts', 'Captive Virgins'. One young girl is shown exposing her sexual parts, with the words 'I'm ready for my first time'. She is holding a pink hand puppet. 'Cute' girls known as 'Little Miss Mischief', 'frolic' on their beds... there are headings like: 'Virgin Violations, forced entries'. Advertisements inside the magazines promote videos including 'Helpless Girls – tantalizing videos of sexual extremes'... Some issues advertise what sounds like incest: 'Disobedient daughter XXX DVD's... Don't tell mom!' and 'Like mother like daughter', 'Daddy's big xxxx' and 'All in the family'.*

*All these examples are from a magazine titled Live Young Girls and Purely 18, imported by companies linked to the secretary of the Eros Association. Allowing images that depict children as keen for sex makes them more vulnerable to abuse and violence...*

If self-classification is to be introduced, it must be strongly regulated by the government using approved classification tools, overseen by a single regulator with powers of enforcement.

The current system has failed in many respects to prevent unclassified or improperly classified material from being sold in public places. Pornography distributors and others have shown complete contempt for the system. If self-classification is to be introduced (which we would view as a last resort) it must be backed up by appropriate safeguards and oversight with penalties for non-compliance.

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<sup>2</sup> In the July/August 2005 issue of *Convenience & Impulse Retailing* the General Manager of Namda, David Watt, offered advice to retail stores on selling adult magazines: 'Retailers should be wary of distributors falsely claiming classification... We submit 30 regular monthly titles to the OFLC, and NAMDA is the second largest submitter to the office (behind newsagent suppliers Gordon & Gotch). If retailers are not sure, they should check the publication's status on the OFLC website.' ('Get classified and cashified', *Convenience & Impulse Retailing*, July/August 2005, <http://www.c--store.com.au/magazine/article.php?id=4077>, no longer available online.

We agree with the recommendations in the Australian Law Reform Commission Report (2011, p34):

*Recommendation 16–1: The Classification of Media Content Act should provide for enforcement of classification laws under Commonwealth law.*

*Recommendation 16–2: The Classification of Media Content Act should provide a flexible range of compliance and enforcement mechanisms allowing the Regulator, depending on the circumstances, to: (a) issue notices to comply with provisions of the Act, industry codes or standards; (b) accept enforceable undertakings; (c) pursue civil penalty orders; (d) refer matters for criminal prosecution; and (e) issue infringement notices.*

*Recommendation 16–3: The Classification of Media Content Act should provide for the imposition of criminal, civil and administrative penalties in relation to failing to comply with: (a) notices of the Regulator; (b) an industry code or standard; (c) restrictions on the sale, screening, online provision and distribution of media content; (d) statutory obligations to restrict access to media content; and (e) statutory obligations to classify and mark media content.*

Collective Shout has been dealing with Ad Standards for a decade. We have no confidence in a self-regulatory system where there are no fines for non-compliance and no powers of enforcement (Kennedy 2019). At times, the advertising regulator would not even look at complaints (Liszewski 2019). Some companies make a public show of refusing to abide by community standards. For example, Honey Birdette refuses to take down its advertising that violates the Australian Association of National Advertisers [AANA] Code of Ethics, highlighting the fact that Ad Standards - the very body responsible for handling advertising related complaints from members of the public - has no power to enforce community expectations. As a result, we see too many companies for whom ethics have little to no role in their operations - continue to flout ethical codes of practice (Alison 2020). Honey Birdette provides an instructive case study.

To date, Honey Birdette has been found in breach of the AANA Code of Ethics 42 times, with 23 adverse rulings in a 15-month period between February 2018 and May 2019. Honey Birdette either ignores the rulings or responds with mockery toward those who make complaints. This company and its shopping centre landlords continue to act in violation of community standards. Given the Australian Human Rights Commission defines sexual harassment as including 'unwanted exposure to sexualised imagery', Honey Birdette and the property groups which host the company are also engaging in human rights violations. Over the Christmas period, these property companies continued to host Honey Birdette's explicit and objectified portrayals of women in their 'family-friendly' shopping centres including



full-size window displays, some just metres from where children had their photos taken with Santa and others serving as the backdrop to a children's Santa parade.<sup>3</sup>

Over a period of 10 years, Wicked Campers also responded with mockery to widespread community pressure to remove its harmful and sexually degrading slogans from vans being driven around Australia. In 2019, State Transport ministers announced a nation-wide approach that would give each State powers to deregister vehicles with harmful imagery and slogans, once Ad Standards has ruled the imagery and/or slogan in breach of the advertising Code. Wicked Campers has been reined in only after Collective Shout's decade of lobbying for regulatory measures. That is, a new mechanism had to be added precisely because Ad Standards had no teeth, further illustrating the failure of a self-regulatory approach.

When publication distributors fail to respond to call-in notices under the current regulatory scheme, or advertisers defy a regulator's directive ('Nobody tells Honey when to take down her signage!' Facebook; Roper 2016) why should we believe they would comply with community standards if left to regulate themselves? It is disturbing to read successive Senate Estimates committee hearings since 2008 and see the responses from the director of the Classification Board to questions about the almost total lack of response to call-in notices and the absence of centralised information about the follow-up, if any, by State and territory law enforcement officers to breaches of the national classification scheme. At the additional estimates hearing on 22 February 2011, Mr Donald McDonald, the director of the Classification Board confirmed that "to date, only one call-in notice for adult publications has been complied with" (Senate Legal and Constitutional Affairs Legislation Committee 2011).

## Pornography should no longer be treated by default as 'adult content', but rather as commercialised sexual exploitation.

We understand that regulation of sexually explicit content online is not addressed in this review. The ALRC report (2012) explained that it is not possible for the government to classify adult content, especially online content. Many argued in that inquiry that adults have the 'right to view and create whatever content they wish to'. According to the discussion paper, the only way forward is to restrict such content from minors, and to classify it with the intent to warn consumers of its sexually explicit content.

Recent years have seen two concurrent phenomena relevant to sexually explicit content. One is a deluge of graphic pornography normalising rape, incest, and extreme violence against women (Tankard Reist 2018). The other is growing research evidence of the harms of pornographic material on its consumers and the wider community, and the undeniable evidence that pornography is sometimes produced by means of rape, sex trafficking, and child sexual abuse.

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<sup>3</sup> See further: [https://www.collectiveshout.org/honey\\_birdette](https://www.collectiveshout.org/honey_birdette)

The pornography industry is not 'adult entertainment': it is commercialised sexual exploitation as described by Haley McNamara, Vice President of Advocacy and Outreach at the National Center on Sexual Exploitation (2020):

*The reality is that the pornography industry is a sexually exploitative industry. Recently, mainstream pornography websites such as PornHub have even been caught hosting videos of sex-trafficked women and of a child being sexually abused.*

*Pornhub has claimed that it removes videos shared without all parties' consent, yet it regularly fails to remove videos of sexual assault, including sex-trafficking videos that it left up on its website for months despite a civil lawsuit having been filed on the matter.*

*One young woman named Rose has spoken out about how videos of her rape at the age of 14 were uploaded to Pornhub and garnered over 40,000 views. The video titles included "passed out teen" and "teen crying and getting slapped around."*

*Rose has stated: "I sent Pornhub begging emails. I pleaded with them. I wrote, 'Please, I'm a minor, this was assault, please take it down.'" But the videos remained live until she resorted to impersonating a lawyer. Since speaking out about this experience, Rose says dozens of women have reached out to her with similar experiences of their assault videos being uploaded to Pornhub and the difficulty of getting them taken down.*

*It is essentially guaranteed that there are more videos of real-life rape and sex trafficking on Pornhub, considering the fact that the website has no age or ID verification requirement to upload a pornographic video to this site. This makes it a magnet for sex traffickers and abusers to upload content in order to control and manipulate victims further.*

*Further, many major pornography sites, including Pornhub, link to live webcam pornography. It is impossible for the company to verify the consent of such performers in real time. There have been many cases of sex-trafficking victims (including children) being forced to perform live webcam pornography from the Philippines, Australia, and other countries.*

*Beyond these horrific problems, the day-to-day functioning of the pornography industry is anything but respectable. The mainstream pornography industry is churning out videos with themes of incest, racism, and nearly omnipresent violence against women. Pornhub hosts popular videos featuring themes of homeless teens, assaulting drunk women and girls, and kidnapping. Further, Pornhub hosts several racist channels, including Exploited Black Teens, Exploited African Immigrants, African Sex Slaves, and more.*

*Research also shows that the pornography industry inflicts both physical and mental trauma on performers. A 2011 study found that “female adult film performers have significantly worse mental health and higher rates of depression than other California women of similar ages.” Another study reported that pornography performers can experience physical trauma on the film set, often leave the industry with financial insecurity and mental health problems, and also experience health risks that aren’t limited to sexually transmitted diseases.*

*Female pornography performers have even been sex trafficked and sexually abused by high-profile pornography producers and male fellow performers.*

The evidence signals an urgent need for legislative and public health approaches to sexually explicit/pornographic content.

Rape, sex trafficking, and child sex abuse are real, provable harms in the pornography industry where content is often produced by committing crimes.

This was addressed in the Australian Law Reform Final Report (2012, p274):

*Some stakeholders commented that, because this kind of ‘illegal’ content is already subject to criminal law enforcement, there may be no need to target it through the classification scheme. 107 MLCS Management, for example, submitted that the interface between entertainment and criminal law ‘is a major flaw’ of the present classification cooperative scheme as: one of the reasons for banning content (refusing classification) is because it not only offends reasonable adults, but because it may in some way break the law. However, the prime reason for the [national classification scheme] is to advise consumers about product suitability. There must be very clear and consistent linkages between any classification framework and other legislative schemes, such as criminal codes and customs regulations.” (Australian Law Reform Commission Final Report 2012, p274).*

Pornography depicts violence, and is associated with acceptance of rape myths and increased risk of committing or being victims of sexual offences:

- Common themes of male aggression and degradation of females, displayed as consensual and pleasurable for the women (Shor 2019).
- Physical and verbal aggression are extremely common (Bridges, Wosnitzer, Scharrer, Sun and Liberman 2010, Wright, Tokunaga and Kraus 2016).
- In fact, mainstream pornography involves a “fairly homogeneous script involving violence and female degradation” (Sun, Bridges, Johnson and Ezzell 2016).
- The effects of exposure to pornographic material are “clear and consistent”: pornography use puts people at increased risk for committing sexual offenses and accepting rape myths (Paolucci-Oddone, Genius and Violato 2000).
- “Exposure to domestic violence and a sexualized home environment (in this case, exposure to pornography and/or child sexual abuse) may render adolescents

particularly at risk for sexual violence.” “Exposure to pornography may negatively impact the sibling-victim in addition to the sibling-offender,” and “early exposure to pornography may impact a child’s view of what is normative and impair the ability to avoid, deter, or negotiate from dangerous situations” (Latzman, Viljoen, Scalora and Ullman 2011).

- Females who watched pornographic videos were at greater risk of becoming victims of sexual harassment or sexual assault (Bonino, Ciairano, Rabagliette and Cattelino, 2006).
- Mainstream, deviant, and child sexual abuse consumption is interconnected. A survey from a general population of Internet pornography users found that users of pornography depicting sexual abuse of children also consume both hardcore pornography (featuring ostensibly adult performers), as well as animal pornography. There were no consumers of child sexual abuse images who only collected child sexual abuse images (Seigfried-Spellar and Rogers 2013; Endrass et al, 2009).
- Men who consumed mainstream pornography expressed a greater intent to commit rape if they knew they would not be caught than those who did not consume pornography. Those who consumed sadomasochistic pornography expressed significantly less willingness to intervene in situations of sexual violence, greater belief in rape myths, and greater intent to commit rape. Among those who consumed rape-themed pornography, the researchers described “serious effects” including less bystander willingness to intervene, greater belief in rape myth, and greater intent to commit rape. In other words, there was no type of pornography that did not result in a greater intent to commit rape by a user if they knew they would not be caught (Foubert, Brosi, and Bannon 2011).
- Pornography normalizes the notion that women are sex objects among both adolescent boys and girls (Peter and Valkenburg, 2007; Brown and L’Engle 2009).
- Internet pornography use is linked to increases in problematic sexual activity at younger ages, and a greater likelihood of engaging in risky sexual behavior, such as hookups, multiple sex partners, anal sex, group sex, and using substances during sex as young adolescents (Braun-Courville and Rojas 2009; Marston and Lewis, 2016; Rothman, et al. 2011; Häggström-Nordin, Hanson, and Tydén, 2005).
- 44% of males aged 11–16 who viewed pornography reported that online pornography gave them ideas about the type of sex they wanted to try (Martellozzo et al. 2016).
- In a meta-analysis of eight studies, male adolescent sex offenders reported more exposure to sex or pornography than non-sex offenders (Seto and Lalumière, 2010).

Di MacLeod, director of a domestic violence centre on the Gold Coast, wrote to Melinda Tankard Reist (2019) about the increase in porn-related injuries to girls aged 14 and up, including torture:

*In the past few years we have had a huge increase in intimate partner rape of women from 14 to 80+. The biggest common denominator is consumption of porn by the offender. With offenders not able to differentiate between fantasy and reality,*

*believing women are 'up for it' 24/7, ascribing to the myth that 'no means yes and yes means anal', oblivious to injuries caused and never ever considering consent. We have seen a huge increase in deprivation of liberty, physical injuries, torture, drugging, filming and sharing footage without consent.*

## Reliance on parents to control what their children access is unrealistic and an unfair burden

In the Australian Law Reform Commission's Final Report (2012), it was recommended that a new Act

*should provide that content providers should take reasonable steps to restrict access to adult content that is sold, screened, provided online, or otherwise distributed to the Australian public...*

*Compliance by media providers with a large reach in Australia is likely to mean that large volumes of media content delivered to Australians will come with appropriate warnings and other means to help prevent minors from accessing content that is not suitable for them....*

*Current laws that provide that some adult content must be classified on some platforms before being sold in some jurisdictions (for example, pornography on DVDs in the ACT and NT) should be replaced with media-neutral laws that mandate access restrictions on all adult content distributed in Australia. The new Act should not, however, provide that this content must be classified.*

An extensive discussion ensued in the ALRC Report, including various methods by which providers could restrict access to protect children. Classification of explicit content was precluded, and age verification was not recommended. It is concerning that the ALRC recommended these restriction methods be set out in industry codes, not as a legislated requirement. Industry representatives favoured non-legislative approaches, of course. There was a strong emphasis on expecting parents to restrict children's access to adult content.

In the present review, 'adult content' is not discussed. This is unfortunate, given 'adult content' constitutes a serious danger to children online, due to the vast amount of prohibited content online, as well as the requirement for children to access the internet for school and social purposes.

It appears that the restriction of sexually explicit content by providers will not be legislated, and the responsibility will instead fall to parents, backed up by the (already over-stretched) eSafety Commissioner when a parent makes a complaint.

Offloading (what should be) regulatory responsibility to parents cannot work.. Children do access pornography, sometimes inadvertently, sometimes deliberately. It appears that some pornography creators and distributors intend for their product to be accessed by children

(Roper 2018, reproduced below). We see the results in terms of harmful outcomes for those children, their families and peers.

Melinda Tankard Reist has documented girls' accounts of encounters with porn-consuming boys. (2016). Children and young people are being groomed by a multi-billion-dollar pornography industry, giving them harmful ideas about bodies, relationships and sexuality. They are learning a destructive view of sexuality; depersonalised, violent, and frequently degrading. We are seeing a rise of child-on-child sexual assault at rates never seen before; girls experiencing fear and suffering injuries after boys have tried porn-inspired sex acts on them (most commonly anal sex or choking; see Herbenick et al. 2019).

Researchers have found that sex offences by school-aged children have quadrupled in Australia in four years (Australian Bureau of Statistics data cited by Cornish 2012), and authorities attribute this to children's exposure to porn. 75% of 7 to 11-year-old boys and 67% of 7 to 11-year-old girls in treatment for PSB reported early sexualisation through online pornography (Etheredge and Lemon 2015).

The late Emeritus Professor Freda Briggs AO (2015) wrote a disturbing submission to the 2016 Senate Inquiry into the harm being done to Australian children through access to pornography on the internet, drawing links between pornography and child sex abuse, paedophilia and child-on-child sex abuse.

The evidence cited by Briggs included a four-year-old boy requiring a chaperone to stop him assaulting other children in 'sex games' at a South Australian kindergarten, a six-year-old boy who forced oral sex on kindergarten boys in the school cubbyhouse, and a group of boys who followed a five-year-old girl into the toilets, held her down and urinated in a 'golden shower'.

The Australian Medical Association former vice-president Stephen Parnis (2015) says the internet is exposing children to sexually explicit content that teaches that sex is about "use and abuse... There are increasing levels of aggression and the physical harm resulting from sexual acts is becoming more apparent."

The Australian Psychological Association added its voice to rising concern, describing the "impact on young people's expectations of sex, sexuality and relationships [and] increases in sexual violence amongst children and young people" (2015). Just one of the many findings being published is a study of 4564 young people aged 14 to 17 in five European countries; researchers found a significant association between boys' regular viewing of pornography and perpetration of sexual abuse and coercion (Stanley et al, 2016). Most boys think porn is 'realistic', according to research from the UK Council for Child Internet Safety (2017).

Caitlin Roper (2018) describes how the battle between parents and the porn industry is not a fair one.

*Mainstream pornography is not where one might find healthy or positive approaches to sexuality. Rather, porn is a “distortion of respect-based sexuality” and a poor educational tool, one that routinely fails to depict consent, safe sexual practices or mutually pleasurable sexual experiences.*

*As Meghan Donevan put it in ‘Freedom Fallacy: The Limits of Liberal Feminism’, pornography “portrays sex as an encounter predicated on submission and domination...in a fantasy world where women are always ready for sex, enjoy all types of sexual activity, including aggressive and degrading acts.”*

*Despite this, pornography has become the primary means of sexual education for young people, with porn serving as the introduction to intimacy for many children, and parents reporting feeling powerless to stop it.*

*While parents certainly have a responsibility to be engaged and to monitor their children’s internet access, it’s hardly a fair fight. Parents are going up against a massive almost \$100 billion industry, one that has successfully embedded its product into mainstream culture. Media, advertising and popular culture have become increasingly pornified. Playboy is a global empire and porn performers are household names. Billboards for sex industry venues including strip clubs and brothels are positioned outside schools and government owned public buses are emblazoned with ads for live-streamed sex shows. Parents need to be vigilant, yes, but it’s impossible for parents alone to counter the dominant messages of a porn culture.*

*The porn industry also aggressively markets its product to children in a number of ways. These include studying children’s common keystroke errors in order to direct them to porn sites, and making pornography based on children’s favourite cartoon characters. The industry has also opposed measures like age verification on pornographic websites that could limit children’s exposure - and impinge on their profits.*

*According to the porn industry, when children and young people are harmed by their product- and they are- this is merely due to parental neglect, and not the dehumanising and abusive content they consistently churn out. Based on this logic, it is parents, not pornographers, who are responsible for pornography’s harmful impacts on kids.*

*In deflecting responsibility for harm to parents, the porn industry can continue unimpeded, releasing content like “punished teen”, “extreme teen humiliation” and “crying teen gangbang”, all categories found on Pornhub, the largest porn site on the Internet. The only problem with pornography premised on the humiliation, cruelty and abuse of women for men’s pleasure, then, is that children are accessing material intended for adults.*

*Performer Bellucci rightly condemned the inappropriate behaviour from boys as young as twelve who approached her for nude photos and sexual favours. But where do twelve-year-olds learn to relate to women in this way? Where do they learn that they are entitled to women's bodies, and that women exist for their sexual use and enjoyment? What industry grooms and shapes young people's sexual expectations, attitudes and behaviours in this way?*

*This very disrespect of women is sanctioned in pornography. In porn, it is considered appropriate for men to view women in terms of male sexual gratification- that's the point. But the porn industry can't have it both ways. The sexually harassing and abusive treatment of women that is endemic to mainstream pornography can't be unacceptable in the 'real world' and simultaneously endorsed when it takes place on a porn set. The abuse and degradation of women is either a barrier to women's rights and humanity, or it isn't.*

*In the end, the porn industry is concerned with profits, not our kids.*

Parents need the help of government and the wider community to protect their children from pornography. We support the development of legislation requiring providers to ensure that children cannot access sexually explicit content.

## Ensure that computer games continue to be classified taking into account evidence of harms of sexual objectification, and ensure compliance.

Computer games classification should be approached from an evidence-base, rather than the subjective concepts currently utilised: "the standards of morality, decency and propriety generally accepted by reasonable adults", "the importance of context" and so on, as stated in the *Guidelines for Classification of Computer Games 2012*.<sup>4</sup>

Selected computer games have been refused classification in Australia, rightly because they contained scenes of sexual violence, drug use, abhorrent scenes, etc.<sup>5</sup> We are concerned that at times, these games have remained available despite being refused classification. For example, *DayZ* was refused classification in the disc format in Australia, but was nonetheless available on Steam, Bohemia interactive Humble Bundle, PlayStation Store, and Xbox Live (Plunkett 2019).

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<sup>4</sup> <https://www.legislation.gov.au/Details/F2012L01934>

<sup>5</sup> For more information on the harms of computer games, see Anita Sarkeesian's work at <https://feministfrequency.com/>



We therefore strongly support the expansion of classification to cover all platforms by which computer games might be made available.

Research shows that video games have a stronger self-objectifying effect than other media (Karsay, Knoll and Matthes 2017). Sexual violence, including towards children (for example *RapeLay* which simulated the rape of a mother and her two daughters), is excluded because it causes “offence to a reasonable adult”. We accept that some gamers may not be offended by paedophilia and rape. But the impact on attitudes and behaviours towards children and the broader community is neglected in most documentation of this Classification review and the previous reports as well. There is no mention of the impact on children’s wellbeing here:

*11.27 The depiction of sexual activity involving a minor need not be ‘real’: the Classification Review Board determined that a Japanese animé film should be classified RC, because the impact of the sex scenes involving the blonde novice are exploitative and as she is depicted as a child under 18 years ... [T]he depictions are likely to cause offence to a reasonable adult. (ALRC Final Report p265)*

*Song of Memories* is a game that was refused classification in 2018: “The offending passage involves a sequence where the player witnesses a cut-scene implying the sexual assault of one of the female characters by a gaggle of teenage boys with the intent of murdering her afterward.” (Bardwell 2019). It remained on the Steam store until at least a year later, apparently because it ‘slipped through the net’.

*Rape Day* was pulled from the Steam online store in 2019, not because of children’s wellbeing nor even community standards, but because of costs and risks to the business (Roper 2019):

*Developers describe the content as including violence, sexual assault, non-consensual sex (which is more accurately described as rape), obscene language, necrophilia and incest.*

*The game features a range of scenarios where the male persona preys on and rapes naked women with cartoonish large breasts, who are positioned as vulnerable and depicted frightened, screaming and in pain. In a scene where the man rapes a non-responsive woman, text appears on the screen: “Because she is no longer struggling against you, you grow bored.” In another scenario, the man puts a gun in a woman’s mouth, threatening to “blow [her] brains all over the dirt” and rape her corpse.*

*In response to backlash over the game’s blatant promotion of rape and violence against women, distributor Valve pulled the game from the platform. Valve issued a weak, vague statement explaining their reasons for withdrawing the game. At no point did Valve condemn any of the sexually violent material, content that would be illegal under Australia’s classification laws. Instead, their decision to pull the game*

*appears to have more to do with protecting their financial interests than any objection to violence against women:*

*“After significant fact-finding and discussion, we think ‘Rape Day’ poses unknown costs and risks and therefore won’t be on Steam.”*

Computer games can certainly be an art form, and as such they should not need ‘fan service’ nor sexual violence to be engaging. A review of *Hotline Miami 2: Wrong Number* (banned in Australia) states:

*The first decision you're faced with is the choice to enable or disable scenes of sexual violence: then, in the prologue, there's a suggested rape by your character that turns out to be a scene from a video nasty (or does it, and so on). Sexual violence does not occur again after that point, and its inclusion adds nothing, says nothing, and plays no role in the overall plot. It's artless and alienating, and giving the player the choice to switch it off suggests a lack of confidence in the entire idea. If it's unnecessary enough that it can be removed without consequence, why include it? (Thursten 2015)*

A stronger and more reliable rating system would give parents more confidence. We recommend that the new system finds a way to ensure that classification decisions are appropriate and respected by developers and game platforms.

## **An urgent investigation needs to be conducted into the Classification Board assigning M or MA15+ ratings to anime and manga genres featuring Child Sexual Abuse Material contrary to Australian law.**

As revealed by South Australian Centre Alliance Senator Stirling Griff in a speech to the Senate February 25 (Parliament of Australia, 2020) and subsequent motion February 26 (Parliament of Australia, 2020) the Classification Board has classified anime containing Child Sexual Exploitation Material as M and MA15+ contrary to Australian law.

We are deeply concerned about the discovery of illegal animated child sexual abuse material that the current Board has classified as M and therefore unrestricted and accessible to any age. Other illegal anime content has been classified as MA, suitable for people 15 years and over.

Senator Griff exposed the Board’s deeply disturbing failure to exercise its responsibilities under Australian law in this most recent example of systemic failure by this government agency.

Senator Griff described anime-style movies featuring “wide-eyed children, usually in school uniforms, engaged in explicit sexual activities and poses, and often being sexually abused.” He called for an immediate review of all Japanese anime movies accessible in Australia which we supported in a media release issued February 27, 2020. (For more detail see Liszewski, 2020).

The Commonwealth Criminal Code prohibits the sale, production, possession and distribution of offensive and abusive material that depicts a person, or is a representation of a person, who is or appears to be under 18.

Senator Griff cited a number of anime series that feature the sexual abuse of children. One of these, *Sword Art Online*, which depicts rape and sexual assault of children, was given an unrestricted M rating by the Classifications Board, despite the fact it constitutes illegal child exploitation material. According to Senator Griff, in this series the character Asuna is raped by her captor Sugu, who threatens to also rape her in the real world, where she is lying in a hospital room in a catatonic state. Sugu also states that he'll make a recording of the virtual rape to shame her.

Senator Griff said that the Classification Board justified the M rating in their report, saying that the nudity through the film is 'moderate in impact' and 'justified by context'. We would like to know how Board members could possibly justify the sexual violation of children for entertainment as justifiable in any way.

Other anime series depicting sexual abuse of children as well as strong incest themes were given an MA 15+ rating by the Board, despite the content being illegal. In *Goblin Slayer* children are portrayed as frightened or resisting - at the same time enjoying the sexual abuse inflicted on them.

In regard to *Sword Art Online*, Senator Griffs said:

*Whilst the series has a restricted MA15+ classification, I say again that this falls within the definition of 'child abuse material' contained in the Commonwealth Criminal Code and should be banned. It beggars belief how it passed through the classification board who, in their decision report, provide justification for scenes including 'upskirting' as comedic. There is nothing funny about it. It is repellent. The series should have been denied classification and should be banned.*

Our experience working with child sexual abuse survivors and clinicians supports Senator Griff's statement that this type of anime and manga is “a gateway to the abuse of actual children” and can be used as a grooming tool to normalise abuse.

The Classifications Board's failure to properly classify such abhorrent material warrants immediate attention of Minister Fletcher and the Australian Federal Police and cannot wait for the findings of this review to be addressed.

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