

Submission on options for addressing the issue of sexting by minors

To: The Senate Select Committee on Cyber Safety,

PO Box 6100

Parliament House Canberra ACT 2600

Email: cybersafety.sen@aph.gov.au

Phone: (02) 6277 3530

From: **THE AUSTRALIAN FAMILY ASSOCIATION**

35 Whitehorse Road,

Balwyn Vic 3103

Phone: (03) 9816 0800

Email: info@family.org.au

Website: www.family.org.au

The Australian Family Association, as an interested organisation, makes the following comments and recommendations to the Senate Select Committee on Cyber Safety Inquiry into options for addressing the issue of sexting by minors:

COMMENTS:

Introductory:

1. Sexting means the use of an electronic device, usually a mobile phone, to take sexually explicit images and transmit them to another.
2. The Australian Family Association is of the view that the inquiry into sexting by minors should not be limited only to a narrow inquiry into the legal consequences of this behaviour. The impact of pornography and the premature sexualisation of children on the healthy development of young people must be considered. The message we want to send to young people about sexting needs to be clear – that sexting is not acceptable or advisable.

Specific:

3. Young people involved in sexting often participate without being aware of the legal or social consequences of their behaviour nor of the serious effect it may have on their reputations and therefore on their career prospects and character profile.
4. The legal situation is that anyone who takes an indecent picture of a person aged under 18 years may be charged with producing child pornography. Anyone who is involved in the posting or forwarding the picture may be charged with possessing or sending child pornography. An adult (18 years or over) who is found guilty of possessing or sending child pornography is placed on a Sex Offenders Register which will have a significant impact on future employment prospects and volunteer opportunities.
5. However the Australian Family Association is of the view that sexting should not be decriminalised. That would send the message it is alright. However, where sexting offenses involve minors the court could be allowed to exercise discretion about whether or not the offender is placed on the Sex Offender Register.
6. There is a need to raise awareness among young people and to educate them about the social and legal effects and ramifications of sexting. Schools could implement a Code of Conduct setting out appropriate online behaviour.
7. The dangers of sexting include permanent damage to the subject's online profile and reputation, exploitation, and bullying by sending or threatening to send the images to others. At its most extreme, there have been cases of suicide linked to harassment and abuse suffered as a result of sexting. (http://www.today.com/id/34236377/ns/today-today_news/t/sexting-bullying-cited-teens-suicide/)
8. The Australian Family Association is strongly of the view that sexting cannot and should not be considered in isolation from broader cultural factors. Widespread normalisation of pornography and the increasing sexualisation of children are closely connected to sexting and cannot be ignored. The technology has not created the

problem – it is just the means used to participate in a socially and personally destructive behaviour.

9. Sexting occurs against the background of easily accessible pornography on the internet and through mobile phones and increasing sexualisation of other forms of media, such as movies, TV, and advertising.
10. Exposure to sexualised media, and to explicit pornography online, serves to desensitise young people to the harms of sexting and makes it more difficult for them to consider the potential long-term consequences of their actions.
11. Sexually charged advertising routinely appears on billboards in prominent locations visible to children. Highly sexualised television advertising and shows and music videos are becoming more common. Exposure to pornography is an incitement to sexting and desensitises young people to the harms of sexting.
12. The Australian Family Association is of the view that sexting should continue to be covered by child pornography legislation but that there should be a defence for minors who voluntarily produce images of themselves and distribute such images to other minors, the elements of the defence being intent, consent and non-distribution of the offending images. This would protect young people who produce sexualised images of themselves. It would also protect some minors who receive them, depending on whether they can show that they did not coerce the young person who produced the image(s) and did not further distribute them.
13. In providing for such a defence for minors care would be needed to ensure that there are no loopholes which would allow genuinely predatory adults to avoid being placed on a Sex Offender Register when guilty of producing or distributing child pornography.
14. The Australian Family Association is also strongly of the view the government must implement its promised mandatory IPS filtering scheme to block “Refused Classification” material.
15. The Australian Family Association is also of the view that the government should implement internet filtering technology to limit the exposure of children to pornography through computers and smart phones.

RECOMMENDATIONS:

1. Recommend Australia adopt an “opt-in” system of internet filtering at ISP level, where pornography is blocked by ISPs and adults who wish to access such material may opt-in by contacting their ISPs.
2. Recommend that sexting should not be decriminalised as that would send the message it is alright.
3. Recommend that, where sexting offenses involve minors, the court be allowed to exercise discretion as to whether or not the offender is placed on the Sex Offender Register.
4. Recommend continuing to include sexting under child pornography legislation while providing a defence for minors who voluntarily produce images of themselves and distribute such images to other minors.
5. Recommend particular attention to ensuring that there are no loopholes in any such legislation which would allow genuinely predatory adults to avoid being placed on a Sex Offender Register when guilty of producing or distributing child pornography.

6. Recommend the Committee request the government implement its promised mandatory IPS filtering scheme to block “Refused Classification” material.
7. Recommend the Committee request the government also implement internet filtering technology to limit the exposure of children to pornography through computers and smart phones.
8. Recommend increasing awareness and education of young people about the social and legal effect and ramifications of sexting. Schools could implement a Code of Conduct setting out appropriate online behaviour.

The Australian Family Association respectfully asks the Secretariat to consider this submission.

David Perrin,

National President,

For and on behalf of the Australian Family Association