



**the australian  
universities' anti-bullying  
research alliance  
(AUARA)**

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*Submission to:*

## **Senate Select Committee on Cyber Safety**

**Inquiry into and report on options for addressing the issue of sexting by  
minors**

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***Labor Senator for Tasmania***

***Chair of the Senate Select Committee on Cyber Safety***

**MEDIA RELEASE**

**Cyber Safety Committee formed to inquire into 'sexting'**

Last week the Australian Senate passed a motion to create a Senate Select Committee on Cyber Safety to inquire into the issue of 'sexting' – the practice of sending nude or semi-nude images via a mobile phone or other technology.

Labor Senator for Tasmania, Senator Catryna Bilyk, was elected chair at the Committee's first meeting.

"I know that Tasmanian parents are concerned about the issue of 'sexting' amongst teenage children, in particular the issues relating to the legal ramifications," Senator Bilyk said.

"The previous Joint Select Committee on Cyber-Safety found that rates of sexting were continuing to rise and that sexting raises moral, ethical, legal and parenting concerns at a significant time in young people's lives."

"This Senate committee will inquire into and report on options for addressing the issue of sexting by minors," said Senator Bilyk.

While it is not clear how common sexting is in Australia, research from the United States of America shows that the percentage of young people that have received sexting images is considerably higher than the percentage of young people that have sent them.

"This would seem to indicate that images of this nature are commonly forwarded on from the original recipients to third parties, without the knowledge or consent of the person that has originally sent the image," said Senator Bilyk. "This is a disturbing breach of privacy and could have significant implications on an individual's self-esteem, future relationships and even future job prospects".

Once a message or image is sent, it is usually stored on the mobile phone, email inbox or on the social networking site of the individual or the group to whom it was sent. The image may be posted online by the original recipient or others, used to cyber-bully, or go into collections of such materials.

The Senate Committee will receive advice from experts and various Government departments in the coming weeks.

**Terms of Reference:**

That a select committee, to be known as the Select Committee on Cyber Safety be appointed to inquire into and report on options for addressing the issue of sexting by minors.

### Background to AUARA

The ***Australian Universities' Anti-bullying Research Alliance*** (AUARA) is a collaboration which aims to:

- inform policy and practice through evidence-based research; and
- to improve outcomes for young people in the area of cyberbullying in particular and cyber-safety in general.

AUARA comprises leading researchers from four Australian Universities:

- Edith Cowan University;
- Flinders University;
- Queensland University of Technology and the
- University of South Australia.

The Alliance has significant active international links with organizations concerned with the issue of cyberbullying and cyber-safety including the:

United States "Children's National Medical Centre"  
<http://www.childrensnational.org/advocacy/KeyIssues/Bullying.aspx>;

Canadian PREVNet "Promoting Relationships and Eliminating Violence"  
<http://prevnet.ca/Home/tabid/36/Default.aspx>

International Observatory on School Violence  
<http://www.ijvs.org/>

National Centre for Missing and Exploited Children  
[http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en\\_US&PageId=169](http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en_US&PageId=169)

COST ACTION IS0801 Cyberbullying: coping with negative and enhancing positive uses of new technologies, in relationships in educational settings.  
[COST https://sites.google.com/site/costis0801/](https://sites.google.com/site/costis0801/)

We commend the Senate on establishing the Select Committee on Cyber Safety to inquire into and report on options for addressing the issue of sexting by minors and appreciate the opportunity to make a submission to this significant Senate inquiry in terms of our expertise on cyberbullying.

This collaboration has a significant history in terms of informing policy development and Government initiatives. In 1994, the House of Representatives Standing Committee on Employment, Education and Training called for submissions for the *“Sticks and Stones: Report on Violence in Australian Schools”*. This was a timely inquiry, when national bullying research was in its infancy, and Professor Slee, as one of the country’s leading researchers in that emerging field, contributed significantly to that document which subsequently influenced policy, schools and education for the next decade or so. Professor Donna Cross has led the way with large scale national surveys on the extent and nature of covert and cyber bullying. Professor Campbell is nationally and internationally recognised for her research into cyber bullying, particularly in understanding the legal aspects. Dr. Barbara Spears is nationally and internationally known for her advocacy around the role of ‘student voice’ and its importance in the development of policy and practice to address school bullying, cyberbullying and promote wellbeing in young people.

### Selected Key References

#### Books

Costabile, A. & Spears, B.A., (Eds) (2012) *The Impact of Technology on Relationships in Educational Settings*. Routledge: London.

#### Published Journal Papers

Butler, D., Kift, S., Campbell, M., Slee, P & Spears, B. (2011). School policy responses to cyberbullying: An Australian Legal Perspective. *International Journal of Law & Education*, 16 (2), 7-28.

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Spears, B.A., Jennifer, D. and Williams, S. (2011). Girls, Verbal Sexual Harassment and Sexual Bullying: Implications for Wellbeing. In R Shute (Ed) *International perspectives on mental health and wellbeing in education* . Shannon Research Press: Adelaide

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Slee, P.T., Spears, B., Campbell, M., & Cross, D (2011). Addressing bullying and cyberbullying in schools: Translating theory into practice. Occasional Papers, 123. Melbourne, CSE.

## **RECOMMENDATIONS**

**THIS SUBMISSION MAKES THE FOLLOWING RECOMMENDATIONS CONCERNING SEXTING AND CYBER-SAFETY IN GENERAL:**

### **Research**

*That:*

- 1) Longitudinal, multi-disciplinary, cross cultural research into sexting practices be initiated and be ongoing to register changes in nature and prevalence across time, technological environments and location.
- 2) In relation to cyberbullying and sexting, a national audit of schools is conducted as a matter of priority to inform policy and practice, and specifically to determine: (i) strategies schools currently have in place to address the issue; (ii) challenges they face in addressing the issue and (iii) resources they need to provide a safe learning environment for students consistent with the National Safe Schools Framework

### **Youth Voice:**

*That:*

- 3) Students and young people from diverse and inclusive communities be encouraged to actively contribute their voice, to inform and shape policies and practices which are age-appropriate, concerning sexting, cyberbullying and cyber-safety strategies.

### **Multi-tiered Approach**

*That:*

- 4) Legal, technological and educative solutions be considered collaboratively and supportively in relation to sexting.

### Legal Approaches

#### *That:*

- 5) Serious consideration is given to ensuring there is some consistency between Commonwealth and State laws regarding consensual and non-consensual sexting taking into account the recommendations of the Victorian Law Reform Inquiry.
- 6) That existing laws be reviewed with contemporary communications in mind, e.g. sexual harassment.

### Schools

#### *That:*

- 7) Advice for schools is evidenced based and/or informed by research which ensures educational, ethical and legally defensible policies to be put in place to deal with sexting.

### Pre-service Teachers

#### *That:*

- 8) Significant consideration be given to the matter of pre-service teacher education in the prevention and intervention of all forms of bullying and cyber-safety issues

### Parents

#### *That:*

- 9) A public media campaign be funded to engage parents in issues of cyber safety, sexting and cyberbullying.



## The Submission

### Overview

*Evil Menace of Sexting. Shocking rise of nude photos, victimization, blackmail'*  
(Sunday Mail 21.7.13p.7).

*Friends the most likely to make your sexual images go viral says Women's Health*  
*Grampians The Telegraph, August 27, 2012.*

*On the website "More4kids Child Safety and Welfare" which outlines the dangers of sexting and the links with cyberbullying there is an advertisement for a newly developed "GPS child Tracking Device that can "track your child's location and the speed of the vehicle they are in".*

*In the website 'About.com.bullying' a headline post is 'What is sexting and how it leads to bullying'*

The above newspaper headline and websites highlights the level of concern in some sections of the community regarding the issue of sexting. A Google search for "sexting Australia" revealed nearly 6 million hits, and "teen sexting Australia" 1.5 million hits, suggesting that this is not only a teenage behaviour. Indeed, adults also engage in this activity. The term of reference however, only concerns how the issues of sexting by minors might be addressed, clearly establishing that there are age of consent, privacy, consensual and legal issues associated with this behaviour. In addition, the risks related to images circulated beyond those immediately concerned, opens up significant potential for cyberbullying, coercion and blackmail.

The story below was gathered from a school counsellor as part of the *Behind the Scenes: Insights Into the Human Dimension of Covert Bullying* study (2008) and illustrates that the behaviours have been occurring for some years, and serves to highlight the complexity of the relationships which surround sexting behaviours and cyberbullying amongst young people. In this instance, a disgruntled sibling, in a fit of pay back, chose to forward private, intimate images, which were not his to forward. This act led to the humiliation and subsequent bullying and cyberbullying of the girl involved, dislocated her school relationships, her emerging romantic relationship, her familial relationship and her living situation. It raises issues such as: consensual and non-consensual image making and sexting; bullying and cyberbullying; cyber-safety

and image management; reputation damage; how schools intervene; how families cope; and how individuals are supported.

As evidenced through this example and others, the real possibility exists that digital images privately shared between teens can be disseminated to a broader online audience thereby profoundly affecting the participants, causing humiliation, threat to employment prospects and used as a means for bullying by peers or gathered by paedophiles for prurient interests.

### *\*Case Study 1: Stolen Pictures*

This particular story does not have a happy ending but does illustrate some of the dangers of cyber bullying.

In this particular case the girl concerned, who was 15 yrs old at the time and quite a sensible, popular student, allowed her boyfriend to take some pictures of her with a mobile phone while she was naked.

The brother of that boy, who was not a very friendly brother, ...in fact was at loggerheads with him, ...stole that phone with the images on it and then used the phone to send images out to large numbers of other people.

Those people in turn sent the same images out to lots of other people.

Obviously this caused a great deal of distress for the girl concerned because lots of people had those images and were teasing her about it.

When the school found out about it, the school endeavoured to remove as many of the images from the phones as possible, by confiscating the phones and manually deleting them.

In the end though it demonstrated that it was just about impossible to get rid of those images, and in fact there are probably still lots of phones out there that have those images on them.

The girl concerned left the school that she was at, she left her boyfriend and in the end left the town in which the school was, in order to escape the harassment she was getting.

\*Spears, B.A., Slee, P.T., Owens, L. & Johnson, B. (2008) Behind the Scenes: Insights into the Human Dimension of Covert Bullying. Report prepared for DEEWR: Canberra

According to the latest report from the Australian Communications and Media Authority (*Like, Post, Share*, August 2013, p 11), 13% of 16-17 year olds reported that within their group of friends, either they or someone else had sent sexually suggestive nude or nearly nude photos or videos of themselves to someone else, and 18% of this age group had either received or their friends had received sexually suggestive images or videos of someone else. Whilst more females than males reported receiving such images, there was little difference by gender found overall.

It is fair to say that there is disagreement over the appropriate societal response to sexting, with a range of legal, privacy, age-related and educative perspectives proposed from various sectors of the community.

In a number of states in the United States, teenagers have been charged with child pornography production, possession, and distribution leading to the possibility of being identified on the 'sex offenders' register. Similarly in Australia, minors can currently be charged under existing pornography laws, with little recognition however, of the inherent differences between their image sharing, and either those of paedophiles sharing and distributing images or adults sharing intimate images of partners. Whilst adult sexting is not illegal, there is still potentially irreparable harm done when images are spread recklessly and without permission.

Whilst some experts in the Internet safety community may support the hard-line approach to teenage sexting adopted by law enforcement authorities and the judicial system, youth educators and law makers would generally advocate a more moderated approach.

### Context

In our (AUARA) previous submission to the Australian Parliament Interim Report of the Joint Select Committee on Cyber-safety: High-Wire Act: Cyber-Safety and the Young, (2011) we noted that:

*“children and young people perceive the online environment as a wonderful, exciting opportunity for finding information, for learning and for socialising”.*

They perceive their learning and socialisation online as the same world as offline. In contrast to adults, who make distinctions between the online and offline environments, there are no parallel universes for them that separate a “real” and a “virtual” world”.

### Positive Uses of ICT

Newspaper headlines such as those previously quoted, suggest that social media as used by young people, is focussed on the harm that it perpetuates. That there can be harm is not denied, but the positive uses of ICTs and the benefits to learning and relationships must also be acknowledged.

Costabile & Spears (2012) in their book considering the impact of technology on relationships noted that

*“social media are re-writing how we interrelate socially and are forging reconsiderations and reassessments of social boundaries and the relationships which operate within and around them” (p. 1).*

It important to understand how young people are using technology in positive ways to support their learning and relationships, as these benefits must not be underestimated, particularly when considering interventions.

In fact, data from the Australian Communications and Media Authority (ACMA, 2009) provided strong evidence that the majority of young people used the Internet and related information and communication technologies (ICT) in positive and healthy ways (Costabile & Spears 2012). This is further supported through the most recent report (ACMA, 2013, p 7) which outlined the following:

*“The internet is a positive experience for the majority of 12-17 year olds. For*

*just over half, the internet makes them always feel good (52 to 57 per cent), and a further two in five say the internet makes them feel “mostly good”. Six to seven per cent of teenagers who reported bad experiences had annoying/irritating experiences every time or most times they are online.*

In our (AUARA) submission to The Australian Parliament Interim Report of the Joint Select Committee on cyber-safety: High-Wire Act: Cyber-Safety and the Young, 2011) we called for:

- ***education and support for young people which would enable them to function***
  - ***safely, respectfully, considerately, morally and ethically in the digital world of social media.***
- ***We argued strongly for the provision of developmentally safe boundaries and***
- ***greater understanding of digital citizenship and the responsibilities that go with that as young people learn to navigate their lives in the online environment.***

We continue to support ongoing education as the forefront to any approach to deal with sexting and to recognise that young people are generally using technology in positive ways to support their learning and relationships, however, it is acknowledged, that the misuse of ICTs can lead to negative acts, such as cyberbullying.

### Cyberbullying

Defined as repeated, harmful interactions which are deliberately offensive, humiliating, threatening and power-assertive, cyberbullying interactions are enacted using electronic equipment, such as cell (mobile) phones or the Internet, by one or more individuals towards another. Cyberbullying can take the form of instant or email messages, images, videos, calls, excluding or preventing someone to be part of a group or an online community (Spears et al., 2011; Cross et al., 2011). Scientific research into the prevalence and consequences associated with cyberbullying is increasing each year and, as such, we are beginning to understand more about these behaviours. It appears that the risk of being exposed to these behaviours is greatest during the school years with particular risk associated with transition years (Cross et al, 2009).

In contrast to face-to-face bullying, the limits of cyberbullying are difficult to define. For instance, a single image can be forwarded countless times to innumerable people, a message can be pervasive and difficult to stop, an aggressor can remain unidentified hiding through multiple profiles, maintaining anonymity and making it harder for the victim to defend, escape or identify (and as a result, act to stop the behaviours). Furthermore, cyberbullying behaviours can change and assume new forms according to different interactional settings, highlighting both the overt and covert nature of these behaviours (Spears et al, 2008; 2009). For example, the happy slapping phenomenon often targeted the most vulnerable; trolling and flaming in forums and chats are used to disturb and harass; social image is often manipulated and exploited in social networks; while abrupt and violent threats are often made using instant messages or malicious calls.

It is important to note that while young people are often considered the masters of the cyber-world (especially the socialising aspects of it) they are the ones who are at greatest risk of being exposed to cyberbullying behaviours. In addition, they are often the ones responsible for engaging in cyberbullying and other inappropriate behaviours. Campbell, Spears, Slee, Butler and Kift (2012) in their study of over 3000 young people from three states in Australia, noted that only 58.3% (n=1813, Mean age 14.2 (SD 1.9) of students were *uninvolved* in bullying of any kind:

traditional, cyber or both, highlighting the pervasiveness of this negative behaviour amongst young people.

Research evidence at the present time is however, a little conflicting: with some evidence suggesting that although there is an overlap between those who engage in face-to-face and cyberbullying, a large number of those who engage in cyberbullying behaviours or were victimised were not involved in face-to-face bullying (Campbell et al, 2010). Furthermore the impact of cyberbullying on mental health and emotional response, is only just beginning to be understood (Campbell et al , 2012; Campbell, Slee, Spears, Butler & Kift, 2013), though it has been posited that it will be greater, possibly due to the 24/7 nature of it, the anonymity aspects and the broader audience available, not to mention the power that the written and visual electronic media can have (Spears et al 2008; 2009; Cross, 2009; Campbell,2010).

Furthermore, there is evidence that a large proportion of those who engage in cyberbullying behaviours do so against those individuals who are considered friends. Spears et al (2008; 2009) found that bullying behaviours cycled between school and online (cyber) and back again, suggesting a clear link with existing relationships. Ito (2010) further noted young people's online activities as being either "friendship-driven or interest-driven practices" again suggesting the importance of the teen relationships to their online practices.

One aspect of teen relationships which is relevant to this discussion of cyberbullying and subsequently sexting, is that of sexual harassment. Spears, Jennifer and Williams (2011) noted that girls' experiences of *male-to-female* sexual harassment impacts on their developing sexual identity, mental health and wellbeing through, for example, its association with poorer mental and physical health (Gruber and Fineran, 2008; Timmerman, 2005): lower self-esteem (Ormerod, Collinsworth & Perry, 2008; Timmerman, 2005); feeling unsafe while at school (Ormerod et al., 2008); and withdrawal from school, either temporarily or through transfer (Duncan, 2004; Ormerod et al., 2008; Osler, 2004).

Spears et al, (2011) in their review of two studies conducted a decade apart (1990s:2000s) from two different cultural contexts (UK and Australia): concerning

adolescent girls' perceptions and experiences of verbal sexual harassment (VSH) *by girls* (Leckie, 1997a; 1997 b ; 1999 a; 1999b; 2000) and sexual bullying *by boys*, found that little had changed for girls in school settings in this regard: sexual harassment was an ongoing issue, and girls were on the receiving end from *both* sexes, and technology was now also being employed.

This is relevant to the current issues under consideration: sexting and cyberbullying, as sexual harassment has been an ongoing issue in schools for a long time. Whilst verbal sexual harassment (VSH) and sexual bullying are more commonly conceived of as being a male-to-female behaviour, girls from Study 1, undertaken in the early 1990s, made it clear that *girls* were engaging in a *sexually abusive form of bullying towards each other*, in *both* schooling sectors: single-sex and co-educational, and that there were no differences found for school type or popularity. Indeed, Spears et al (2011, p8) noted that “this sexual denigration of each other appeared to be a normative behaviour for girls, having clear implications for girls’ wellbeing, occurring at a time of establishing sexual identity, sexual reputation formation and emerging sexuality”.

Girls in the second study, undertaken less than 5 years ago, confirmed previous studies where *boys* sexually harassed girls on a daily basis (e.g., Duncan, 1999; Shute, Owens & Slee, 2008), but determined that the online environment was now also being employed: girls *also spread sexualized rumours online*.

Stein (1995) argued that sexual harassment in schools is a form of gendered violence that is often played out in the public arena, (the school grounds) where the antecedents are found in teasing and bullying, and that it interferes with the right to receive an equal educational opportunity. Unwanted sexual behaviour by peers was reported by Timmerman (2003) as being an accepted form of sexual banter, sexual aggression or as an extension of adolescent bullying, where peerculture and attitudes accepted it as “part of school life”.

Spears (2012) however, noted this as a worrying trend particularly with the shift to online social networking and increasing use of social media, thus expanding the ‘public arena’ of which Stein wrote a decade ago, to that of the online environment.



The advent of sexting, and the uploading of intimate content to sharing websites, specifically to demean and humiliate, reflects a willingness and an acceptance of this form of sexual harassment by young people as part of their peer culture. The widespread online disinhibition and moral disengagement that occurs behind the screen would appear to support and exacerbate this trend.

It is evident that both boys and girls have engaged in sexually abusive forms of bullying in school settings for some time, and most recently online. This has implications for how the current sexting practices might be viewed and subsequently addressed. Spears et al (2011, p 9) noted at the time that “there is legislation to protect against sexual harassment in workplaces and educational settings, but not sexual *bullying*”. If harassment is construed as a sub-type of bullying, then how the sexual harassment legislation might be used in relation to sexting and cyberbullying warrants consideration.

Spears (2012) also commented that sexual harassment as a behaviour was morphing into a different iteration through the use of technology, and that this trend had the capacity to challenge what has taken decades to establish: a right to safe working and educational environments, free from sexual harassment.

How young people perceive sexting as a bullying behaviour in the first instance requires further consideration, as it only becomes cyber/bullying when the images are deliberately (mis)used to humiliate and denigrate another person, and are shared viral-like across the community. Consensual sharing of images within a teen relationship, whilst perhaps not an entirely sensible act amongst young people, is not a bullying behaviour per se.

Given that bullying is a social, relationship problem, (Pepler, 2006) and that cyberbullying is an *online* social relationship problem, which cycles between online and offline settings, and that online activities of young people are both “friendship-driven and interest-driven”, how sexting relates to cyberbullying is important to consider, as sexting in and of itself, is not a cyberbullying behaviour. Once the images are deliberately disseminated to those outside of the relationship in which

they were taken, and are used without permission, with the express purpose of humiliating, or demeaning another, then cyberbullying can be said to have occurred.

### Sexting

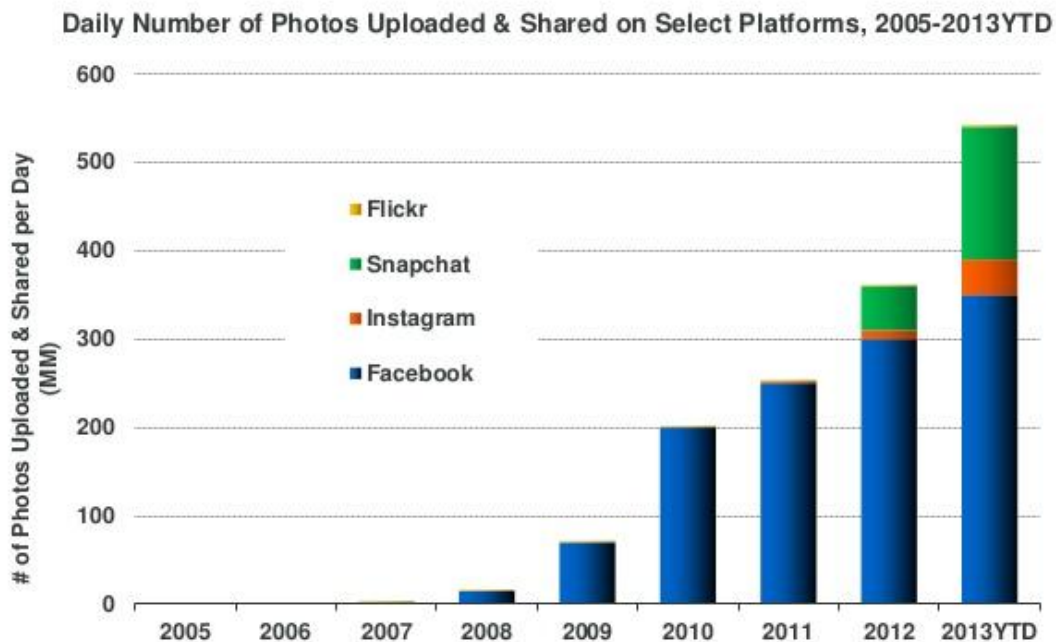
The advent of sexting amongst young people - often between intimate partners (Pew Internet and American Life Group, 2009), occurs when they take sexually explicit, intimate, nude or near nude photographs and video footage of one or both parties. When that relationship falters, the images are often then distributed to others for the purposes of humiliation and denigration of reputation. This raises moral, ethical, legal and parenting concerns. This is particularly important as it is occurring at a significant period in young people's lives, just as they are developing their sexual identity and engaging in early romantic relationships.

Albury, Crawford, Byron and Matthews (2013, p4) reviewed media stories about sexting in Australia from 2008, locating 400 news stories about sexting that had been published in Australian newspapers. They noted that they were predominantly concerned with sexting as a crime, or an aspect of cyberbullying, suggesting that young people are unable to safely navigate sex and technology. Albury, et al (2013) then interviewed young people aged 16-17 years old, who were over the age of consent, but who are still considered children under the law (p 8). The young people argued that sexting was an adult-generated term, and did not adequately reflect their everyday practices and experiences of creating and sharing digital images.

The inference from this is, that photo sharing and creating digital content is part of their daily social activity, and not much of it relates to sexting. Indeed the advent of such apps as Instagram and Pinterest reflect this explosion of image sharing.

Online photo blogs such as Tumblr also capture this visual approach to online communications. The image below clearly illustrates the trend towards photo sharing as a normative aspect of online behaviours.

**Photos = 500MM+ Uploaded & Shared Per Day,  
Growth Accelerating, on Trend to Rise 2x Y/Y...**



KPCB

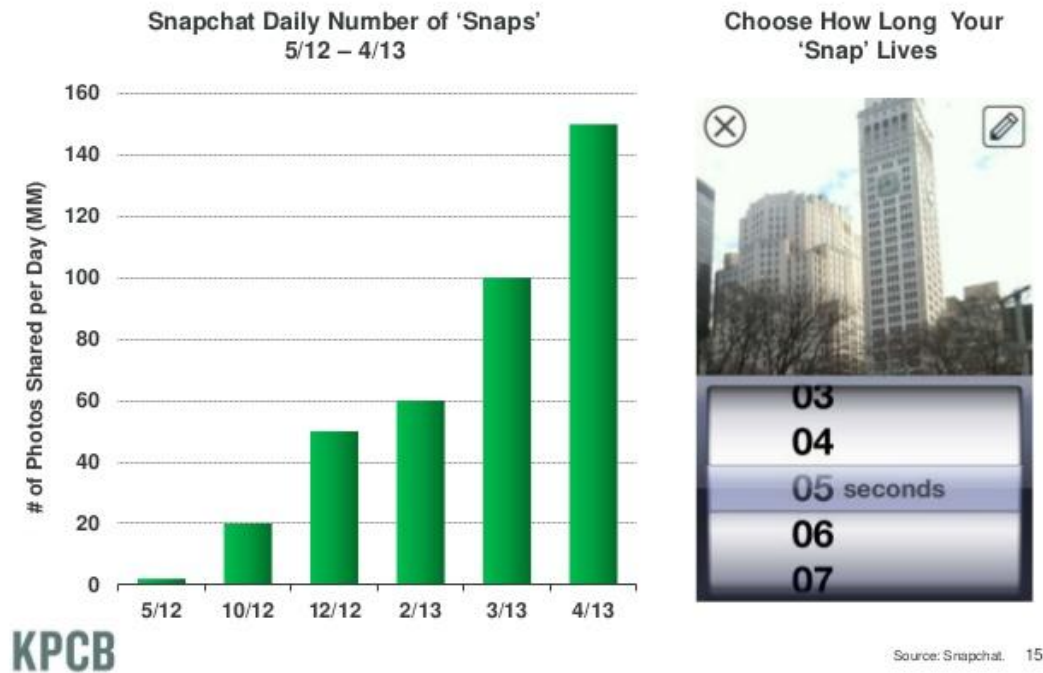
Source: KPCB estimates based on publicly disclosed company data. 14

Mary Meeker/Liang Wu <http://www.kpcb.com/partner/mary-meeker>

What is of interest, is the growth in apps such as Snapchat (see below), which argues it is the fastest way of sharing photos on iPhones, enabling disintegration of the sent image within 10 seconds of it appearing. It has also been nicknamed the “sexting app”, as users think they are safe sending risqué or pornographic images (<http://denver.cbslocal.com/2013/05/05/hidden-dangers-in-smartphone-app-nicknamed-the-sexting-app/>)

Unfortunately, anyone can take a screen shot of the image, and upload it anywhere, anytime, overcoming the seeming “safety” aspect of using this app.

### Short-Term Sharing Exploding – Snapchat Growth From Content That Disappears, Up >2x in 2 Months



e.

Mary Meeker/Liang Wu <http://www.kpcb.com/partner/mary-meeker>

The Australian Parliament Interim Report of the Joint Select Committee on cyber-safety: High-Wire Act: Cyber-Safety and the Young, 2011) considered the issue of sexting in terms of definition, prevalence, impact, sanction and research.

Generally as reported in this Senate Inquiry sexting increased with age so that by year 11 approximately 17% of young people had sent such photos. This resonates with the current ACMA report (2013) which indicated that 13% of young people aged 16-17 had sent, and 18% had received, sexually suggestive images or videos of someone else. The Inquiry noted the clear negative impact in relation to invasion of privacy, impact on reputation and shame. The impact is exacerbated by the difficulty in removing this 'digital footprint' and the 'data mining' by employers that occurs.

Submissions to the previous Cyber-Safety inquiry commented on the legal and ethical issues involved, particularly those which could lead to the 'criminalization' of

young people. Submissions to the Inquiry however, also emphasised the important role of education.

The issue of how and when an image is taken, and to whom and how it is given, raises several important areas of consideration.

Young people naturally explore their sexual identity, sexuality and emerging sexual and romantic relationships as they develop and pass through adolescence. They are simultaneously surrounded by peer influences, and the need to conform and belong to peer cultures. Developmentally, there are neurological, social and emotional issues to consider. Technology is increasingly employing visual media, converging devices and seeing growth in new areas of wearables and 'everywhere' computing. The shift from Web 1.0 which involved predominantly passive interaction from the 1980s and 1990s, to Web 2.0 which involves young people as active creators of content, to the development of increasingly mobile technologies in the 2000s has been occurring in typically ten year cycles.

This means that the laws which we currently have are being outstripped at a rapid rate. They have been written for a previous era, by adults who have never experienced being adolescents surrounded by this avalanche of technology which is changing the ways they think, operate and relate.

The existing laws: those involving the dissemination and distribution of child pornography; and sexual harassment in particular, need to be viewed in terms of what are considered normative social practices, and how the wisdom of the previous generation, can support the advancement of the next, safely into adulthood and a world where they will be the leaders.

*In this AUARA submission to the present Senate Inquiry we add the following points for consideration:*

- the need to distinguish between consensual and non-consensual engagement in sexting;
  - as well as the private and public domains of communication
- the gender dimension
  - what it means for males and females to engage in the behaviour of sexting
- the legal consequences
  - once an image has been moved out of the consensual relationship, it is not consensual so has the potential to be used by others for cyber bullying
- whether current laws, including sexual harassment legislation, in place are sufficient for addressing the issue of sexting
- the matter of state and federal jurisdictions
- the potential that exists for the criminalization of young people for 'normal exploratory sexual behaviour'
  - and contemporary image sharing by young people as a normative cultural communication component
- the developmental aspect of young people's behaviour
  - which should also consider the often transitory nature of adolescent romantic relationships
- the increasing scientific evidence that neural development extends well beyond 18 and 21 years of age
  - particularly that relating to impulse control and decision making

## **RECOMMENDATIONS**

### **THIS SUBMISSION MAKES THE FOLLOWING RECOMMENDATIONS CONCERNING SEXTING AND CYBER-SAFETY IN GENERAL:**

#### **Research**

##### *That:*

- 1) Longitudinal, multi-disciplinary, cross cultural research into sexting practices be initiated and be ongoing to register changes in nature and prevalence across time, technological environments and location.
- 2) In relation to cyberbullying and sexting, a national audit of schools is conducted as a matter of priority to inform policy and practice, and specifically to determine: (i) strategies schools currently have in place to address the issue; (ii) challenges they face in addressing the issue and (iii) resources they need to provide a safe learning environment for students consistent with the National Safe Schools Framework

#### **Youth Voice:**

##### *That:*

- 3) Students and young people from diverse and inclusive communities be encouraged to actively contribute their voice, to inform and shape policies and practices which are age-appropriate, concerning sexting, cyberbullying and cyber-safety strategies.

#### **Multi-tiered Approach**

##### *That:*

- 4) Legal, technological and educative solutions be considered collaboratively and supportively in relation to sexting.

### Legal Approaches

#### *That:*

- 5) Serious consideration is given to ensuring there is some consistency between Commonwealth and State laws regarding consensual and non-consensual sexting taking into account the recommendations of the Victorian Law Reform Inquiry.
- 6) That existing laws be reviewed with contemporary communications in mind, e.g. sexual harassment.

### Schools

#### *That:*

- 7) Advice for schools is evidenced based and/or informed by research which ensures educational, ethical and legally defensible policies to be put in place to deal with sexting.

### Pre-service Teachers

#### *That:*

- 8) Significant consideration be given to the matter of pre-service teacher education in the prevention and intervention of all forms of bullying and cyber-safety issues

### Parents

#### *That:*

- 9) A public media campaign be funded to engage parents in issues of cyber safety, sexting and cyberbullying.



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