

# Submission on Online Safety (Basic Online Safety Expectations) Determination 2021

November 2021

<b>Introduction</b>	2
Recommendations	5
Our approach	5
<b>Division 2</b>	9
6 Expectations	9
7 Expectations - provider will consult with Commissioner and refer to Commissioner's guidance in determining reasonable steps to ensure safe use.	9
8 Additional expectation - provider will take reasonable steps regarding encrypted services.	12
<b>Division 3 - Expectations regarding certain material and activity</b>	15
11 Core expectation - provider will take reasonable steps to minimise provision of certain material	15
12 Core expectation - provider will take reasonable steps to prevent access by children to class 2 material	21

# Introduction

Collective Shout ([www.collectiveshout.org](http://www.collectiveshout.org)) is a grassroots campaigning 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 we campaign to change their behaviour. More broadly we engage in issues relating to other forms of exploitation, 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<sup>1</sup> and in child sex abuse dolls and replica child body parts.<sup>2</sup>

Our work puts us in touch with the unique and specific ways children are at risk especially in their vulnerability to online grooming by predators and exposure to pornography. We have documented these harms over the past decade, including in the following:

- Submission on Harm Being Done to Australian Children Through Access to Pornography on the Internet to the Senate Environment and Communication References Committee 2016;<sup>3</sup>
- Submission to the Inquiry into Age Verification for Online Wagering and Online Pornography 2019;<sup>4</sup>
- Submission to the United Nations' review Children's Rights in the Digital Environment 2020;<sup>5</sup>
- Submission to the inquiry into Law Enforcement Capabilities in Relation to Child Exploitation 2021;<sup>6</sup> and
- numerous other publications and commentaries.<sup>7</sup>

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<sup>1</sup> Tankard Reist, Melinda (2017). Why are Australian Telcos and ISPs enabling a child abuse pandemic? ABC Religion and Ethics.

<https://www.abc.net.au/religion/why-are-australian-telcos-and-isps-enabling-a-child-sexual-abuse/10095644>; For a summary of recent global campaigns relating to on-line child protection see Collective Shout (6 September 2021). National Child Protection Week 2021: Join our campaigns to protect children and young people. [https://www.collectiveshout.org/child\\_protection\\_week\\_2021](https://www.collectiveshout.org/child_protection_week_2021)

<sup>2</sup> Roper, Caitlin (9 Jan 2020). "Better a doll than a real child:" The spurious logic used to justify child sex dolls. *ABC Religion and Ethics*.

<https://www.abc.net.au/religion/spurious-logic-used-to-justify-child-sex-dolls/11856284>

<sup>3</sup> Collective Shout (2016). Harm being done to Australian children through access to pornography on the internet: Submission to the Senate Environment and Communications References Committee. [https://d3n8a8pro7vhmx.cloudfront.net/collectiveshout/pages/1019/attachments/original/1457408234/CS\\_Submission\\_Harms\\_of\\_Pornography\\_Inquiry\\_March\\_2016.pdf?1457408234](https://d3n8a8pro7vhmx.cloudfront.net/collectiveshout/pages/1019/attachments/original/1457408234/CS_Submission_Harms_of_Pornography_Inquiry_March_2016.pdf?1457408234)

<sup>4</sup> Collective Shout (2019). Submission to Inquiry into Age Verification for Online Wagering and Online Pornography.

[https://www.collectiveshout.org/submission\\_to\\_inquiry\\_into\\_age\\_verification\\_for\\_online\\_pornography](https://www.collectiveshout.org/submission_to_inquiry_into_age_verification_for_online_pornography)

<sup>5</sup> Collective Shout (30 Nov 2020). UN Submission: Children's Rights in the Digital Environment.

[https://www.collectiveshout.org/un\\_sub\\_children\\_digital\\_rights](https://www.collectiveshout.org/un_sub_children_digital_rights)

<sup>6</sup> Collective Shout (20 Aug 2021). Submission: Law Enforcement Capabilities in Relation to Child Exploitation. [https://www.collectiveshout.org/submission\\_law\\_enforcement\\_child\\_exploitation](https://www.collectiveshout.org/submission_law_enforcement_child_exploitation)

<sup>7</sup> For example, see Tankard Reist, Melinda (2016). Early sexualisation and pornography exposure: the detrimental impacts on children, Australian Childhood Foundation blog.

<https://professionals.childhood.org.au/prosody/2016/07/melinda-tankard-reist/> ; Tankard Reist, M. (2016). Growing Up in Pornland: Girls Have Had It with Porn Conditioned Boys, *ABC Religion &*

We have also drawn connections between the commercial sex industry including the global pornography industry and intersections with violence against women, sexual harassment, coercive control and other harmful behaviours which negatively impact the status of women. For example:

- Submission to eSafety's inquiry into a Restricted Access System 2021;<sup>8</sup>
- Submission to the Department of Social Services National Summit on Women's Safety 2021;<sup>9</sup>
- Submission to Parliamentary Joint Committee on Law Enforcement: Law Enforcement Capabilities in Relation to Child Exploitation<sup>10</sup>
- Submission to Family, Domestic and Sexual Violence Inquiry 2020;<sup>11</sup>
- Submission to Victorian Review into Decriminalisation of Sex Work 2020;<sup>12</sup>
- Submission to the National Action Plan to Combat Modern Slavery 2020-2024;<sup>13</sup>
- Submission to Anti-Money Laundering and Counter-Terrorism 2020;<sup>14</sup>
- Submission to the Australian Human Rights Commission National Inquiry into Sexual Harassment in Australian Workplaces 2019;<sup>15</sup> and
- Submission to the Commonwealth Modern Slavery Bill 2018.<sup>16</sup>

We track the activities of online predators on popular social media sites, reporting and documenting thousands of accounts for preying on underage/prepubescent girls, attempting

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*Ethics.*

<https://www.abc.net.au/religion/growing-up-in-pornland-girls-have-had-it-with-porn-conditioned-b/10097244>; Tankard Reist, Melinda (2018). Never Again? Addressing Sexual Violence Must Include Pornography, *ABC Religion & Ethics*.

<https://www.abc.net.au/religion/never-again-addressing-sexual-violence-must-include-pornography/10094568>; Tankard Reist, Melinda (2021). Consent education does not stand a chance against pornography,

*ABC Religion & Ethics*,

<https://www.abc.net.au/religion/consent-education-does-not-stand-a-chance-against-pornography/13231364>.

<sup>8</sup> Collective Shout (2021). Submission on Restricted Access System.

[https://www.collectiveshout.org/submission\\_restricted\\_access\\_system](https://www.collectiveshout.org/submission_restricted_access_system)

<sup>9</sup> Collective Shout (2021). Submission to Department of Social Services National Summit on Women's Safety. [https://www.collectiveshout.org/submission\\_womens\\_safety](https://www.collectiveshout.org/submission_womens_safety)

<sup>10</sup> Collective Shout (9 September 2021). Submission to Parliamentary Joint Committee on Law Enforcement: Law Enforcement Capabilities in Relation to Child Exploitation.

[https://www.collectiveshout.org/submission\\_law\\_enforcement\\_child\\_exploitation](https://www.collectiveshout.org/submission_law_enforcement_child_exploitation)

<sup>11</sup> Collective Shout (27 Aug 2020). Submission to Family, Domestic and Sexual Violence Inquiry.

[https://www.collectiveshout.org/family\\_violence\\_submission](https://www.collectiveshout.org/family_violence_submission).

<sup>12</sup> Collective Shout (18 June 2020). Submission to Victoria Review into Decriminalisation of Sex Work.

[https://www.collectiveshout.org/decriminalisation\\_submission](https://www.collectiveshout.org/decriminalisation_submission)

<sup>13</sup> Collective Shout (7 July 2020). Submission to the National Action Plan to Combat Modern Slavery 2020-24.

[https://www.collectiveshout.org/submission\\_to\\_the\\_national\\_action\\_plan\\_to\\_combat\\_modern\\_slavery\\_2020\\_24](https://www.collectiveshout.org/submission_to_the_national_action_plan_to_combat_modern_slavery_2020_24).

<sup>14</sup> Collective Shout (15 June 2020). Submission to Anti-Money Laundering and Counter-Terrorism Financing Inquiry. [https://www.collectiveshout.org/submission\\_to\\_anti\\_money\\_laundering](https://www.collectiveshout.org/submission_to_anti_money_laundering).

<sup>15</sup> Collective Shout (2019). Submission to the Australian Human Rights Commission National Inquiry into Sexual Harassment in Australian Workplaces.

[https://www.collectiveshout.org/submission\\_on\\_national\\_inquiry\\_into\\_workplace\\_sexual\\_harassment](https://www.collectiveshout.org/submission_on_national_inquiry_into_workplace_sexual_harassment);

<sup>16</sup> Collective Shout (2018). *Commonwealth Modern Slavery Bill 2018 Submission*.

[https://www.collectiveshout.org/collective\\_shouts\\_submission\\_to\\_the\\_modern\\_slavery\\_bill\\_2018\\_provisions](https://www.collectiveshout.org/collective_shouts_submission_to_the_modern_slavery_bill_2018_provisions)

to engage with them privately, describing sex abuse acts they wish to carry out on the girls, and soliciting, selling and trading child exploitation material. We documented the tracking, tagging and sharing of hundreds of underage models' Instagram content to a paedophile forum operating on the open web.

Our joint global #WakeUpInstagram campaign, with the National Center on Sexual Exploitation (USA) and Defend Dignity (Canada), exposed Instagram, for example, as a platform for predators to access children, pornography companies to promote and link to hardcore porn sites, for hosting offers of paid sexual content featuring children, and for facilitating other practices harmful to children and young people.<sup>17</sup>

At the US Senate hearings in October, Facebook whistleblower and former data scientist Frances Haugen revealed that Facebook (owner of Instagram) has routinely put profit over user safety.<sup>18</sup> This confirms what we had observed for years and demonstrates the inability and/or unwillingness of Big Tech to regulate itself in the interests of consumers (especially young people). Haugen's evidence also shows the need for independent regulation beyond vested interests.

Our recommendations call for legislation that requires Big Tech to demonstrate a zero tolerance stance on predatory, grooming, sexualisation, fetishisation, eroticisation and harassing behaviour directed at minors.

We also recommend an increase in funding for those working on child sexual exploitation investigations. WeProtect Global Alliance wrote in its Global Threat Assessment 2021 that "the scale of child sexual exploitation and abuse online is increasing. This sustained growth is outstripping our global capacity to respond. Child sexual abuse remains a chronically underfunded issue."<sup>19</sup>

WeProtect's report revealed the scale of the challenge of fighting child sexual exploitation online. For example:

- From 2019 to 2020, reports made by the public about online sexual exploitation to Missing Kids doubled.
- There was a 77% increase in child self-generated sexual material.
- Child sexual abuse material is increasingly monetised.<sup>20</sup>

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<sup>17</sup> See [https://www.collectiveshout.org/\\_instagram](https://www.collectiveshout.org/_instagram)

<sup>18</sup> National Center on Sexual Exploitation (5 Oct 2021). Statement: Congress must hold Big Tech to account.

[https://endsexualexploitation.org/articles/facebook-chooses-profit-over-child-safety/?utm\\_source=facebook&utm\\_medium=social&utm\\_campaign=ncose](https://endsexualexploitation.org/articles/facebook-chooses-profit-over-child-safety/?utm_source=facebook&utm_medium=social&utm_campaign=ncose)

<sup>19</sup> WeProtect Global Alliance (2021). Global Threat Assessment 2021. *WeProtect Global Alliance*. <https://www.weprotect.org/global-threat-assessment-21/#report>

<sup>20</sup> WeProtect Global Alliance (2021). Global Threat Assessment 2021. *WeProtect Global Alliance*. <https://www.weprotect.org/global-threat-assessment-21/#report>

## Recommendations

- **Websites including gaming and social media platforms and other online service providers that host or provide pornographic content should be classified as Class 1 material.**
- **That expectations that providers “take reasonable steps to ensure safe use” be changed to “take necessary steps to ensure safe use”. (We note that “reasonable” is not defined in the draft determination materials).**
- **We support the requirements that providers consult with the Commissioner and refer to this guidance in ensuring safe use.**
- **Raise the lower age limit to 18 years for all platforms which host adults and adult content.**
- **Proactive human moderation should be conducted by child safety/welfare experts to find, remove, and document and report sexualisation, sexual exploitation, grooming and other predatory activity targeting a child.**
- **We urge the eSafety Commissioner to provide industry with explicit minimum standards for CSEM-related matters.**
- **That requirements that providers consult with the Commissioner and refer to this guidance in ensuring safe use be supported.**
- **That the list of types of material that must be minimised by providers is agreed to.**
- **That pornography labelled as ‘education’ should not be exempt from core expectations and must be restricted from children’s viewing.**
- **That intimate images for which consent has not been explicitly given or has been withdrawn qualify for rapid removal.**
- **That advertising of commercial sexual exploitation material (brothels, prostitution, massage parlours, sexual services of any kind) should be restricted from access by children.**
- **That BOSE specify that children must be protected from class 2 material on e-commerce platforms.**

## Our approach

Collective Shout takes a human rights and evidence-based approach. Australia is a signatory to many relevant human rights instruments which impact on Australia’s legislative responses to online safety:

- Both women and men have a fundamental human right to be free from violence and from cruel, degrading, and inhumane treatment.<sup>21</sup>

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<sup>21</sup> Universal Declaration of Human Rights (UNHDR), General Assembly Resolution 217A (III), Convention on the Rights of Persons with Disabilities 2006, article 16; Committee on the Elimination of Discrimination Against Women, General Recommendation No. 19 – Violence Against Women (1992), paragraphs 4, 17 and 14; Committee on the Rights of the Child, General Comment No. 13, article 19; The right of the child to freedom from all forms of violence, UN Doc CRC/C/GC/13 (2011) paragraph 12.

- Everyone has the right to the highest attainable standard of physical and mental health.<sup>22</sup> Cyberbullying and sexual exploitation have serious negative effects on physical and mental health.
- Children have a right to leisure and play, and should be able to safely play and socialise on social networking sites and websites just as much as playgrounds and leisure facilities.<sup>23</sup>
- Children have a right to education. Online education should be just as safe as in-person education, and should allow children to positively achieve and develop.<sup>24</sup>
- Children have a right to privacy.<sup>25</sup>
- All forms of trafficking in women and exploitation of the prostitution of women shall be suppressed.<sup>26</sup>
- Children shall be protected from all forms of sexual abuse and the exploitative use of children, including in pornography performances and materials.<sup>27</sup>

Our position is also founded on the growing body of global evidence that the commercial pornography industry is inherently harmful and gives rise to the harmful outcomes this legislation aims to address: child sexual abuse material (CSAM), image-based sexual abuse, the normalisation of sexual violence, and harmful sexual attitudes and behaviours.<sup>28</sup>

Recent research has established the following:<sup>29</sup>

- One in eight titles seen by first-time visitors to such sites depicts sexual activity that constitutes criminal sexual violence (relating to incest, physical aggression, sexual assault, image-based sexual abuse and depictions of coercion and exploitation).
- Commercial sexual exploitation material normalises sexual violence towards women, girls, and children, as well as vulnerable groups such as refugees, racial minorities, and people with disabilities.

Online pornography harms children by driving child sexual abuse:

- Depictions of sexual activity with children (performers made to look young, with children's props such as toys, lollipops and school uniforms) fuels demand for crimes

<sup>22</sup> Universal Declaration of Human Rights General Assembly Resolution 217A (III), UN Doc A/810 (1948), article 25; International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, article 12(1); Convention on the Rights of the Child, 1989, article 24.

<sup>23</sup> Convention on the Rights of the Child, 1989, article 31.

<sup>24</sup> Universal Declaration of Human Rights General Assembly Resolution 217A (III), UN Doc A/810 (1948), art 26; ICESCR, 1966, art 13(1); CRC, 1989, art 29; Committee on the Rights of the Child, General Comment no. 1- The Aims of Education, (2001) art 29 (1) paragraph 8.

<sup>25</sup> Convention on the Rights of the Child, 1989, article 16.

<sup>26</sup> CEDAW. Art 6.

<sup>27</sup> Convention on the Rights of the Child Art. 19 and 34. Optional Protocol to the CRC on the sale of children, child prostitution and child pornography.

<sup>28</sup> CEASE [Centre to End All Sexual Exploitation] (Sep 2021). Submission of Evidence to the Joint Pre-Legislative Scrutiny Committee on the Online Safety Bill.

<https://cease.org.uk/wp-content/uploads/2021/09/CEASE-Submission-of-Evidence-to-the-Joint-Committee-on-the-Online-Safety-Bill-Sep-21.pdf>. See also Tankard Reist, Melinda and Bray, Abigail (eds.) (2012). *Big Porn Inc: Exposing the harms of the global pornography industry*. Spinifex Press, South Melbourne.

<sup>29</sup> Vera-Gray, F., McGlynn, C., Kureshi, I. and Butterby, K. (2021). Sexual violence as a sexual script in mainstream online pornography. *Br J Criminology* 61(5):1243-1260.

against children. UK organisation CEASE reports that law enforcement and others have seen increasing cases of adult sex offenders whose interest was sparked by pseudo 'child pornography' on mainstream sites.<sup>30</sup>

- Children are groomed and made vulnerable by being exposed to mainstream pornography in which sexual abuse by men who are teachers, step-fathers or employers is portrayed as normal and desirable.<sup>31</sup>

We agree with CEASE (UK):

*The global online commercial pornography industry is not led by responsible corporate actors; free online porn sites were founded on criminal pirating, their business model is inherently high risk and safeguarding processes are weak, reactive and ineffective. Recent campaigns and investigations have demonstrated how the industry's poster child Pornhub's commercial success has come at the expense of countless victims, disproportionately represented by women, children, and other vulnerable minority groups. The high cost of such harms is borne by our law enforcement, counselling services, NHS, children's charities, and ultimately by the victims themselves.*<sup>32</sup>

Collective Shout has been active at a high level in the global campaign against the harm caused by the commercial sexual exploitation industry. We provided a Brief to assist Canada's House of Commons Standing Committee on Access to Information, Privacy and Ethics in its examination of the conduct of MindGeek, Pornhub's parent company. Allegations included facilitating and distributing Child Sexual Abuse Material, non-consensual sexual activity, non-consensually sharing images (image-based abuse), and content created using victims of sex trafficking.<sup>33</sup>

**Recommendation: Websites including gaming and social media platforms and other online service providers that host or provide pornographic content should be classified as Class 1 material.**

We welcome the powers given to eSafety requiring material to be removed no matter what country it is hosted in or provided from. However we are concerned that the BOSE is not legally enforceable. Non-compliance will be punished only by "naming and shaming."

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<sup>30</sup> CEASE [Centre to End All Sexual Exploitation] (Sep 2021). Submission of Evidence to the Joint Pre-Legislative Scrutiny Committee on the Online Safety Bill.  
<https://cease.org.uk/wp-content/uploads/2021/09/CEASE-Submission-of-Evidence-to-the-Joint-Committee-on-the-Online-Safety-Bill-Sep-21.pdf>

<sup>31</sup> CEASE [Centre to End All Sexual Exploitation] (Sep 2021). Submission of Evidence to the Joint Pre-Legislative Scrutiny Committee on the Online Safety Bill.  
<https://cease.org.uk/wp-content/uploads/2021/09/CEASE-Submission-of-Evidence-to-the-Joint-Committee-on-the-Online-Safety-Bill-Sep-21.pdf>

<sup>32</sup> CEASE [Centre to End All Sexual Exploitation] (Sep 2021). Submission of Evidence to the Joint Pre-Legislative Scrutiny Committee on the Online Safety Bill.  
<https://cease.org.uk/wp-content/uploads/2021/09/CEASE-Submission-of-Evidence-to-the-Joint-Committee-on-the-Online-Safety-Bill-Sep-21.pdf>

<sup>33</sup> Collective Shout (23 Mar 2021). Submission to Canadian Parliamentary Ethics Committee: Protection of Privacy and Reputation on Platforms such as Pornhub.  
[https://www.collectiveshout.org/submission\\_ethi\\_mindgeek](https://www.collectiveshout.org/submission_ethi_mindgeek)

Multi-billion dollar tech companies won't exactly struggle to pay any fines for non-compliance.

We commend Germany for its Code which requires mandatory compliance by industry. The Code targets content which is harmful to minors or impairs their development. Compliance is reviewed by a dedicated youth protection organisation. Enforcement measures include issuing an order to implement measures, and a fine of up to EUR 50 million.<sup>34</sup>

In our submission to the United Nations' Draft General Comment No. 25, Children's Rights in Relation to the Digital Environment, we cautioned against reliance on industry self-regulation, having publicly exposed and documented several major failings in the Australian context:

- The failure of industry self-regulation in advertising has served the vested interests of business ahead of the wellbeing of the community.<sup>35</sup> Despite parliamentary inquiries hearing evidence of the need for systemic reform—including the need for a co-regulatory system—self-regulation has failed to halt or even hinder the proliferation of hyper-sexualised imagery and messaging.<sup>36</sup>
- The failings of Classification systems allowed illegal animated CSEM depicting child rape, abuse and exploitation to be classified as suitable for audiences as young as 15—in some cases even younger.<sup>37</sup>
- Attempts to require online pornography platforms to require proof of age to help protect minors from exposure have failed until now due to organised opposition by industry.<sup>38</sup>
- ISPs and Telcos failed to protect children by facilitating Live Distant Child Abuse<sup>39</sup> and even charging law enforcement for access to IP addresses belonging to suspected child sexual exploitation offenders.<sup>40</sup>
- Replica, life-like children, infant and baby sex abuse dolls are being sold through e-commerce platforms eBay, Etsy, and Amazon.<sup>41</sup>

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<sup>34</sup> eSafety Commissioner (September 2021). Development of industry codes under the Online Safety Act, Position Paper. <https://www.esafety.gov.au/sites/default/files/2021-09/eSafety%20Industry%20Codes%20Position%20Paper.pdf>

<sup>35</sup> Collective Shout (2011-2020). Advertising Industry Self-Regulation.

[https://www.collectiveshout.org/advertising\\_industry\\_self\\_regulation](https://www.collectiveshout.org/advertising_industry_self_regulation)

<sup>36</sup> Kennedy, Lyn (2 Nov 2020). Submission to AANA Code of Ethics Review. Collective Shout.

[https://www.collectiveshout.org/submission\\_to\\_aana\\_code\\_of\\_ethics\\_review](https://www.collectiveshout.org/submission_to_aana_code_of_ethics_review)

<sup>37</sup> Liszewski, Melinda (5 Mar 2020). Submission to Review of Australian classification regulation. Collective Shout.

[https://www.collectiveshout.org/submission\\_to\\_review\\_of\\_australian\\_classification\\_regulation](https://www.collectiveshout.org/submission_to_review_of_australian_classification_regulation)

<sup>38</sup> Alison, Coralie (22 Nov 2019). Submission to Inquiry into Age Verification for Online Wagering and Online Pornography. Collective Shout.

[https://www.collectiveshout.org/submission\\_to\\_inquiry\\_into\\_age\\_verification\\_for\\_online\\_pornography](https://www.collectiveshout.org/submission_to_inquiry_into_age_verification_for_online_pornography)

<sup>39</sup> Tankard Reist, Melinda (6 Jul 2017). Why are Australian Telcos and ISPs Enabling a Child Sexual Abuse Pandemic? *ABC Religion and Ethics*.

<https://www.abc.net.au/religion/why-are-australian-telcos-and-isps-enabling-a-child-sexual-abuse/10095644>

<sup>40</sup> Personal communication, 7 Oct 2021.

<sup>41</sup> Roper, Caitlin (2020). Not a 'Victimless' Crime: How Child Sex Abuse Dolls Facilitate Crimes Against Children. *FiLia*.

[https://filia.org.uk/news/2020/9/10/not-a-victimless-crime-how-child-sex-abuse-dolls-facilitate-crimes-against-children?fbclid=IwAR2tll8kynxHmdZ3ZlxChNc\\_fQI9Fb9G9lBf13MuDr86ytFc7l-2p6tTfPY](https://filia.org.uk/news/2020/9/10/not-a-victimless-crime-how-child-sex-abuse-dolls-facilitate-crimes-against-children?fbclid=IwAR2tll8kynxHmdZ3ZlxChNc_fQI9Fb9G9lBf13MuDr86ytFc7l-2p6tTfPY)



## Division 2

### 6 Expectations

**Recommendation: We support the expectations that providers will take reasonable steps to ensure safe use. However we recommend that expectations that providers “take reasonable steps to ensure safe use” be changed to “take necessary steps to ensure safe use”. We note that “reasonable” is not defined in the draft determination materials.**

7 Expectations - provider will consult with Commissioner and refer to Commissioner’s guidance in determining reasonable steps to ensure safe use.

**Recommendations:**

- **We support the requirements that providers consult with the Commissioner and refer to this guidance in ensuring safe use.**
- **Raise the lower age limit to 18 years for all platforms which host adults and adult content.**
- **Proactive human moderation should be conducted by child safety/welfare experts to find, remove, and document and report sexualisation, sexual exploitation, grooming and other predatory activity targeting a child.**

While supporting requirements that providers consult with the eSafety Commissioner and refer to their guidance in determining reasonable steps to ensure safe use, we maintain reservations about industry to develop robust codes which place customer well being over profit. Our reservations stem from our serious concerns about the industry’s failures to self-regulate in the interests of vulnerable users, primarily children and young people. On October 5 (EST), former Facebook employee and whistleblower Frances Haugen appeared before the US Senate Subcommittee on Consumer Protection, Product Safety, and Data Security to give evidence about Facebook’s internal research documents which showed that the corporate knew Instagram harms teens - particularly young women - but failed to disclose it. Ms Haugen told senators that Facebook documents discuss the importance of getting younger users online - for example, ‘twens’ - and said, regarding Facebook’s disclosure that it recently removed 600,000 under-13’s accounts, that there were ‘probably more’.<sup>42</sup>

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<sup>42</sup> (5 October 2021). Protecting Kids Online: Testimony from a Facebook Whistleblower, *US Senate Committee on Commerce, Science, and Transportation*.

In April we exposed the popularity of pre-teen 'tween'-themed posts on Instagram, with the platform hosting over 1 million counts of content containing tween-related tags. These tags are used extensively by predatory men to flag, find and share content featuring underage girls. We repeatedly raise this concern with Facebook.

We are particularly concerned about a significantly-sized cohort of underage users - so-called "mini-models", "-influencers" and "-bloggers" - on Instagram. Often, these accounts are described as 'parent-led', 'parent-run' or 'parent-monitored'. However, this caveat does not protect the girls who are routinely harassed with sexualised, sex abuse and grooming-style comments, and connected to predators. We are also concerned about so-called "fan" accounts and "shout out" pages where content of underage girls - often exclusively pre-teens - is shared. Sometimes these pages host pre-teen girls' content alongside porn themed images featuring adults. Fan pages tag the young girls' accounts, making it easier for predatory men to connect with them. We have been calling on Facebook for the past two years to eliminate these accounts which pose serious risk of harm to underage girls from its platforms.

In our submission to the United Nations' Draft General Comment No. 25 on Children's Rights in Relation to the Digital Environment, we recommended that the Committee urge Member States to ensure these policies are developed by digital platforms and ISPs:<sup>43</sup>

- Apps and services must protect all minors from being direct messaged by adults.
- Privacy settings should be more visible to increase awareness of safety tools.
- Digital services should automatically provide children with maximum data protection whenever they download a new app, game or visit a website, as proposed in the UK.
- Privacy settings should be set at maximum by default.
- Nudge techniques should not be used to encourage children to weaken their settings.
- Location settings should be switched off by default.
- Data collection and sharing should be minimised and profiling which can allow children to be served up targeted content should be switched off by default.
- When an account is made private, remove the ability for strangers to send unsolicited direct messages to that account. Remove the ability for that person's account to be visible in Likes or Comments on other posts.
- Include links in safety sections to define sexual harassment, and how to get help.
- Revise 'Community Standards' so that all sexualised, predatory and grooming-style comments (text, slang, short-hand, hashtags, emojis and graphics) qualify as violations.
- Add 'sexualised/predatory/grooming comment directed at a minor' as a category for reporting violations of community guidelines and address these reports as a priority.
- Prohibit adults from using 'live' posts to contact minors.
- Update systems used to detect and remove sexualised, predatory comments.

In addition we recommend raising the lower age limit to 18 years for all platforms which host adults and adult content.

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<https://www.commerce.senate.gov/2021/10/protecting%20kids%20online:%20testimony%20from%20a%20facebook%20whistleblower>

<sup>43</sup> Collective Shout (30 Nov 2020). UN Submission: Children's Rights in the Digital Environment. [https://www.collectiveshout.org/un\\_sub\\_children\\_digital\\_rights](https://www.collectiveshout.org/un_sub_children_digital_rights)

We also recommend that proactive human moderation should be conducted by child safety/welfare experts to find, remove, and document and report sexualisation, sexual exploitation, grooming and other predatory activity targeting a child.

## 7.1 Expectations around CSEM-related matters

### **Recommendation: We urge the eSafety Commissioner to provide industry with explicit minimum standards for CSEM-related matters**

We note eSafety's definition of child sexual exploitation material (CSEM), based on the Luxembourg Guidelines, which describes this illegal content as "material that promotes or provides instruction of paedophile activity."<sup>44</sup> We are deeply concerned by the ubiquity of paedophilic activity on mainstream social media platforms such as Instagram. Enabling sexual discussions about children to take place on mainstream and public platforms is slowly eroding a generally agreed upon social code that children are sexually off-limits..<sup>45</sup>

Providers must ensure their services are not creating safe havens for child predators, and are not serving to normalise the egregious notion that children should be available for men's sexual enjoyment..

We urge the Commissioner to outline comprehensive expectations regarding CSEM, namely, that providers will

- include a full definition of CSEM as per the Luxembourg Guidelines and Australian legislation in all relevant codes, user terms of service, Parent Safety Advice, reporting tools and other documents.
- require users to agree explicitly to not engage in any activity which sexualises or otherwise exploits a child, or promotes pedophilic activity - including distributing virtual/digital/'deepfake' CSEM
- Advise users of consequences for CSEM-related activities/breach of this term of service (eg. alert users that their account has been flagged for CSEM activity; mandatory reporting to authorities; suspension of service to user; platform bans; prevention of creating new accounts etc).
- Encourage and support user reporting of CSEM-activities, including provision of simple, user-friendly reporting tools
- Provide simple, user-friendly reporting tools to report underage users - a group which is particularly vulnerable to sexualisation, grooming and exploitation
- Provide details of regulators/law enforcement agencies so that users can easily refer CSEM-related activities to relevant authorities
- Feature CSEM-related information prominently in all relevant documents, on corporate websites and in App Store descriptions

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<sup>44</sup>eSafety Commissioner (Sept 2021). Development of industry codes under the Online Safety Act, Position Paper.

<https://www.esafety.gov.au/sites/default/files/2021-09/eSafety%20Industry%20Codes%20Position%20Paper.pdf>

<sup>45</sup> Evans, James (26 Apr 2021). The mainstreaming of child exploitation material on Instagram, *Collective Shout*.

[https://www.collectiveshout.org/mainstreaming\\_child\\_exploitation\\_material\\_on\\_instagram](https://www.collectiveshout.org/mainstreaming_child_exploitation_material_on_instagram)

- Prohibit the promotion of purchasable content featuring children (eg. calendars, posters, digital images and videos accessible via linked websites and subscription-based content-sharing platforms (eg Patreon, Boosty, OnlyFans and SelectSets), direct payment services (eg Paypal, CashApp) or content which is offered in exchange for payment-in-kind (eg. gift cards, items purchased from Amazon wish lists).
- Prohibit the promotion of paedophile ‘chat groups’ via messaging services (eg Kik, Telegram, WhatsApp).
- Consult with law enforcement and child safety experts regarding trends in online child sexual exploitation and adapt policies and practices to optimise child safety provisions as per expert advice.
- Assist law enforcement agencies in all CSEM-related inquiries *free-of-charge*.
- Offer transparency around data related to CSEM-activity including:
  - Incidents/pieces of content/number of accounts detected +/- removed proactively and method of detection (AI vs human moderators)
  - Incidents/pieces of content/number of accounts reported by user community, and outcome (takedown/mandatory reporting requirements fulfilled vs dismissal, including reason for dismissal)
  - Number of incidents/users referred to regulators/authorities for CSEM-activities
  - Number and demographics (age, sex, country) of minors implicated by paedophile/CSEM activity

## 8 Additional expectation - provider will take reasonable steps regarding encrypted services.

We are pleased to see the expectation that providers will take reasonable steps to develop and implement processes to detect and address material or activity on the service that is or may be unlawful or harmful. As stated earlier, we would prefer the wording be changed to the stronger “necessary steps”. We have lobbied to prevent full end-to-end encryption since it was first proposed by social media platforms popular with young people.

Collective Shout has taken a strong position on the prevention and prosecution of Live Distant Child Abuse (LDCA), highlighting the gravest harms to children as a result of this growing criminal enterprise.<sup>46</sup> According to Australian Federal Police, paedophiles are “fuelling the market for online footage of children being tortured and murdered.”<sup>47</sup> We have participated in Australian Centre to Counter Child Exploitation (ACCCE) hosted roundtables

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<sup>46</sup> Tankard Reist, Melinda (6 Jul 2017). Why are Australian Telcos and ISPs Enabling a Child Sexual Abuse Pandemic? *ABC Religion and Ethics*. <https://www.abc.net.au/religion/why-are-australian-telcos-and-isps-enabling-a-child-sexual-abuse/10095644>

<sup>47</sup> Schliebs, M. (23-24 Nov 2019). Aussies fuel pedophile video surge, *The Weekend Australian*. Grigg, A. and Chenoweth, N. (23 Nov 2019). Westpac’s Dirty Laundering. *The Australian Financial Review*.

to address child exploitation and have supported Federal Government initiatives to address the issue.<sup>48</sup>

ISPs and Telcos provide the infrastructure for live-streaming the sexual abuse of children. We support the recommendation of UK's first Independent Anti-Slavery Commissioner (2014-2018, Kevin Hyland OBE) on the need for legal instruments in a binding legal framework to prevent transmission of this illegal content:

*With the increase of online trafficking, particularly for cybersex, legal instruments are long overdue to require those who supply and provide the internet 'virtual highways' to guarantee they will control the traffic and materials that transmit across their systems. This should be part of a legally binding framework and should be linked to the provision and upgrading as service providers seek to win contracts to supply 5G technology, which is expected to move to an even higher generation version in the near future.*<sup>49</sup>

We also share concerns expressed in a joint open letter signed by UK Home Secretary Priti Patel, US Attorney General William Barr, Acting US Homeland Security Secretary Kevin McAleenan, and (then) Australian Minister for Home Affairs Peter Dutton, about Facebook's plan to build end-to-end encryption into its messaging apps.<sup>50</sup> If the plan goes ahead, it will prevent law enforcement agencies from finding illegal activity—including CSEM—shared via Facebook. The signatories called on Facebook to prioritise public safety by enabling law enforcement to gain access to illegal content.

End-to-end-encryption violates Facebook's commitment to child safety. We support efforts to block this proposed move.

A platform which combines "inaccessible messaging services with open profiles, providing unique routes for prospective offenders to identify and groom our children," is an obvious risk to children's safety.<sup>51</sup> It is estimated 70 percent of cases relating to Facebook-hosted content will no longer be reported to the National Center for Missing & Exploited Children because users' conversations will be inaccessible to authorities. Facebook will no longer have access to users' conversations.<sup>52</sup>

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<sup>48</sup> Kennedy, Lyn (10 Sep 2020). "Australians should be outraged by this offending." *Collective Shout*. [https://www.collectiveshout.org/national\\_child\\_protection\\_week](https://www.collectiveshout.org/national_child_protection_week)

<sup>49</sup> Hyland, K. (9 Oct 2019). *Submission No. 87 to the Inquiry into Modern Slavery Act 2018 and Associated Matters*. <https://www.parliament.nsw.gov.au/lcdocs/submissions/66190/0087%20Mr%20Kevin%20Hyland%20OBE.pdf>

<sup>50</sup> Patel, P., Barr, W.P., Dutton, P., Little, A. and Blair, B. (2020). *International Statement: End-to-end encryption and public safety*. Home Office. <https://www.gov.uk/government/publications/international-statement-end-to-end-encryption-and-public-safety/international-statement-end-to-end-encryption-and-public-safety-accessible-version>

<sup>51</sup> Patel, P., Barr, W.P., Dutton, P., Little, A. and Blair, B. (2020). *International Statement: End-to-end encryption and public safety*. Home Office. <https://www.gov.uk/government/publications/international-statement-end-to-end-encryption-and-public-safety/international-statement-end-to-end-encryption-and-public-safety-accessible-version>

<sup>52</sup> Brookes, J. (2019). Update: Dutton tells Facebook to 'pick a side' on child exploitation, demands halt to encryption plans. *Which-50*. <https://which-50.com/dutton-demands-facebook-halt-encryption-plans/>

We also share the views of Rachael Falk, CEO of the Cyber Security Cooperative Research Centre, responding to those who want to keep encrypted messages beyond the reach of authorities:<sup>53</sup>

*This argument ignores the fundamental truth that we are just as vulnerable on messaging apps as we always have been on older platforms. The same crooks, fraudsters, pedophiles and terrorists have not restricted themselves to monitorable platforms, they now use messaging apps to plot their malevolent acts. They continue to scam us, defraud us, menace our children and threaten our public safety. Only now the convenience of messaging apps allows them to find one another and conspire more easily in a cyber world that is invisible, encrypted and beyond the reach of the law... The idea of privileging online privacy over these people's welfare is mind-boggling....*

We also commend to you the Open Letter to the Technology Industry by the National Center for Missing and Exploited Children in 2020:<sup>54</sup>

*... we are alarmed by the continued march toward end-to-end encryption without safeguards for children. We call on you to implement technological solutions that enhance consumer privacy while prioritizing child safety. Robust safeguards should transfer to a child's digital experience in an end-to-end encrypted environment. Without proper protections, children will be even more susceptible to potential online sexual exploitation. And countless survivors of child sexual abuse will continue to suffer knowing images depicting their sexual abuse are being shared with impunity.*

We support the Voluntary Principles to Counter Online Child Sexual Exploitation and Abuse, developed by the Five Country Governments (Australia, New Zealand, Canada, UK, and USA) in consultation with Facebook, Google, Microsoft, Twitter, Snap, and Roblox, and backed by the WePROTECT Global Alliance.<sup>55, 56</sup> The Principles aim to prevent the distribution of CSEM, child grooming and LDCA. However we believe stronger action will be needed to give them force.

The stakes are extremely high. UK children's charity the NSPCC estimated in November that Facebook has allowed over half a million child abuse images - 1600 each day - to go undetected after switching off software that blocks CSEM, in response to European privacy laws. The software remains switched off, although the EU has confirmed the software is

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<sup>53</sup> Falk, R. (21 Feb 2020). We are powerless as evil is encrypted all around. *The Australian*.

<sup>54</sup> Missing Kids (2020). *End-to-End Encryption: Principles to Safeguard Children*. <https://www.missingkids.org/blog/2020/an-open-letter-to-the-technology-industry>

<sup>55</sup> Five Country Ministerial (2020). *Voluntary Principles to Counter Online Child Sexual Exploitation and Abuse*. <https://www.justice.gov/opa/press-release/file/1256061/download>

<sup>56</sup> Patel, P., Barr, W.P., Dutton, P., Little, A. and Blair, B. (2020). *International Statement: End-to-end encryption and public safety*. Home Office. <https://www.gov.uk/government/publications/international-statement-end-to-end-encryption-and-public-safety/international-statement-end-to-end-encryption-and-public-safety-accessible-version>

legitimate under new laws. Microsoft and Google did not stop use of their own CSEM scanning software.<sup>57</sup>

In October, we joined a global coalition of child protection experts and organisations in signing an open letter to Facebook CEO Mark Zuckerberg calling on the tech giant to improve child safety on its platforms. The letter spelled out five steps for Facebook to take to demonstrate its commitment to children's safety and wellbeing, including to 'review the child protection implications of end-to-end encryption.'<sup>58</sup>

## Division 3 - Expectations regarding certain material and activity

### 11 Core expectation - provider will take reasonable steps to minimise provision of certain material

#### Recommendations:

- **As per previous, change 'reasonable steps' to 'necessary steps'**
- **We support this list of types of material that must be minimised by providers.**
- **Pornography labelled as 'education' should not be exempt from core expectations and must be restricted from children's viewing.**
- **Intimate images for which consent has been withdrawn should qualify for removal.**
- **The shortest possible take-down times should be required.**

We support the inclusion of (d) class 1 material in this core expectation. Based on years of research into the impact of pornographic material on the minds and bodies of participants and consumers, class 1 material should be understood as harmful rather than merely 'offensive'. A public health and legislative response is urgently needed.

We have witnessed in recent years a deluge of popular genres of pornography normalising extreme violence against women: rape, sadism, torture, incest, and other violations of women.<sup>59</sup> Evidence has emerged in recent times that some of this content has been

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<sup>57</sup> Wright, Mike (7 Nov 2021). Facebook flooded with child abuse images since switching off scanning software, says NSPCC. *The Telegraph*.  
<https://www.telegraph.co.uk/news/2021/11/07/facebook-flooded-child-abuse-images-since-switching-scanning/>

<sup>58</sup> Collective Shout (20 Oct 2021). Collective Shout joins global coalition calling for child protections on Facebook, [https://www.collectiveshout.org/global\\_coalition\\_facebook\\_letter](https://www.collectiveshout.org/global_coalition_facebook_letter)

<sup>59</sup> Tankard Reist, Melinda (3 Jul 2018). Never Again? Addressing sexual violence must include pornography. *ABC Religion and Ethics*  
<https://www.abc.net.au/religion/never-again-addressing-sexual-violence-must-include-pornography/10094568>

produced through coercion, sexual assault/rape, non-consensual image sharing/image-based abuse sex trafficking, and child sexual exploitation. In other words, while the amount of violent pornography available and accessible has risen dramatically, so too has the body of empirical data verifying the real world harms of exposure to such material.

Pornography is commercialised sexual exploitation, as described by Haley McNamara, Vice President of Advocacy and Outreach at the National Center on Sexual Exploitation:<sup>60</sup>

*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*

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<sup>60</sup> McNamara, Haley (24 Feb 2020). Credit Card companies should stop partnering with porn websites. *Washington Examiner*.  
<https://www.washingtonexaminer.com/opinion/op-eds/credit-card-companies-should-stop-partnering-with-porn-websites>



*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 traumatic impacts of employment in the porn industry on women is highlighted by the fact that women spend on average just three months in the industry. Surveys show that almost all women in the industry would like to exit it.<sup>61</sup>

The pornography industry profits from eroticising violence against women through acts which would be illegal outside the industry. Pornography is associated with acceptance of rape myths and increased risk of violence against women as summarised below:

- The most recent Australian research shows that pornography both contributes to and reinforces social norms and attitudes that have been identified as drivers of violence against women.<sup>62</sup>
- Common themes of male aggression and degradation of females, displayed as consensual and pleasurable for the women.<sup>63</sup>
- Physical and verbal aggression are extremely common.<sup>64</sup>
- Mainstream pornography involves a “fairly homogeneous script involving violence and female degradation.”<sup>65</sup>

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<sup>61</sup> Dines, G (2 Oct 2021). Presentation at *Taking on Porn: Developing Resilience and Resistance Through Sex Education*. A Culture Reframed Virtual Conference.

<sup>62</sup> Our Watch (2021). *Pornography, Young People, and Preventing Violence Against Women*. <https://www.ourwatch.org.au/resource/pornography-young-people-and-preventing-violence-against-women-background-paper-2020/>

<sup>63</sup> Shor, E. (2019). Age, aggression, and pleasure in popular online pornographic videos. *Violence Against Women* 25(8):1018-1036. See also: Tankard Reist, M (26 Feb 2021). The impact of the pornography industry of performer health, MTR presentation at credit card company briefing, *Collective Shout*. [https://d3n8a8pro7vhmx.cloudfront.net/collectiveshout/pages/7358/attachments/original/1636706209/The\\_Impact\\_of\\_the\\_Pornography\\_Industry\\_on\\_Performer\\_Health\\_CREDIT\\_CARD\\_company\\_briefing\\_February\\_26\\_2021\\_FINAL\\_FINAL.pdf?1636706209](https://d3n8a8pro7vhmx.cloudfront.net/collectiveshout/pages/7358/attachments/original/1636706209/The_Impact_of_the_Pornography_Industry_on_Performer_Health_CREDIT_CARD_company_briefing_February_26_2021_FINAL_FINAL.pdf?1636706209)

<sup>64</sup> Bridges, A. J., Wosnitzer, R., Scharrer, E., Sun, C. and Liberman, R. (2010). Aggression and Sexual Behavior in Best-Selling Pornography Videos: A Content Analysis Update. *Violence Against Women* 16(10):1065–1085; Wright, P. J., Tokunaga R. S. and Kraus, A. (2016). A Meta-Analysis of Pornography Consumption and Actual Acts of Sexual Aggression in General Population Studies. *J Communications* 66(1):183-205.

<sup>65</sup> Sun, C., Bridges, A., Johnson, J. and Ezzell, M. (2016). Pornography and the Male Sexual Script: An Analysis of Consumption and Sexual Relations, *Arch Sexual Behavior* 45(4): 983–94.

- 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.<sup>66</sup>
- “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.”<sup>67</sup>
- Females who watched pornographic videos were at greater risk of becoming victims of sexual harassment or sexual assault.<sup>68</sup>
- 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.<sup>69</sup>
- 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 myths, 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.<sup>70</sup>
- Pornography normalizes the notion that women are sex objects among both adolescent boys and girls.<sup>71</sup>
- 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

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<sup>66</sup> Paolucci-Oddone, E., Genuis, M. and Violato, C. (2000). A Meta-Analysis of the Published Research on the Effects of Pornography. In Violato, C. and Paolucci-Oddone, R. and Genuis, M. (eds.), *The Changing Family and Child Development*. Aldershot, England, pp48–59.

<sup>67</sup> Latzman, N. E., Viljoen, J. L., Scalora, M. J., and Ullman, D. (2011). Sexual Offending in Adolescence: A Comparison of Sibling Offenders and Non-sibling Offenders Across Domains of Risk and Treatment Need. *J Child Sexual Abuse* 20(3):245-263.

<sup>68</sup> Bonino, S., Ciairano, S., Rabagliette, E. and Cattelino, E. (2006). Use of Pornography and Self-Reported Engagement in Sexual Violence among Adolescents. *Eur J Dev Psychol* 3(3): 265–288.

<sup>69</sup> Seigfried-Spellar, K. C. and Rogers, M. K. (2013). Does deviant pornography use follow a Guttman-like progression? *Comput Human Behavior* 29:1997–2003.

<sup>70</sup> Fubert, J. D., Brosi, M. W., and Bannon, R. S. (2011). Effects of fraternity men’s pornography use on bystander intervention, rape myth acceptance and behavioral intent to commit sexual assault. *Sexual Addiction Compulsivity* 18(4):212–231.

<sup>71</sup> Peter, J. and Valkenburg, P.M. (2007). Adolescents’ exposure to a sexualized media environment and their notions of women as sex objects. *Sex Roles* 56:381-395. Brown, J. K. and L’Engle, K. L. (2009). X-Rated: Sexual attitudes and behaviors associated with U.S. early adolescents’ exposure to sexually explicit media. *Communication Research* 36(1):129–1.

hookups, multiple sex partners, anal sex, group sex, and using substances during sex as young adolescents.<sup>72</sup>

- 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.<sup>73</sup>
- In a meta-analysis of eight studies, male adolescent sex offenders reported more exposure to sex or pornography than non-sex offenders.<sup>74</sup>

Di MacLeod, director of a domestic violence centre on the Gold Coast, wrote to Melinda Tankard Reist 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.*

**Recommendation: Pornography as 'education' should not be exempt from this core expectation, and should also be restricted from access by children using Age Verification.**

We note an organised campaign by the sex industry, claiming explicit “sex education” material will be restricted by the BOSE as it currently stands. The industry may be referring to kink ‘educational’ material, in which participants are taught how to carry out dangerous and/or painful sex acts (for example, BDSM, choking/strangulation),<sup>75</sup> as well as materials to demonstrate unusual sex acts.<sup>76</sup>

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<sup>72</sup> Braun-Courville D. K. and Rojas, M. (2009). Exposure to sexually explicit web sites and adolescent sexual attitudes and behaviors. *J Adolescent Health* 45:156–162. Marston, C. and Lewis, R. (4th February 2016). Anal heterosex among young people and implications for health promotion: a qualitative study in the UK. *BJM Open* 4:1–6. Rothman, E. R. et al. (2011). Multi-person sex among a sample of adolescent female urban health clinic patients. *J Urban Health: Bulletin of the New York Academy of Medicine* 89(1):129–137. Häggström-Nordin, E., Hanson, U. and Tydén, T. (2005). Association between pornography consumption and sexual practices among adolescents in Sweden. *Int J STD AIDS* 16:102–107.

<sup>73</sup> Martellozzo, E. et al. (2016). ‘I wasn’t sure it was normal to watch it . . .’ A quantitative and qualitative examination of the impact of online pornography on the values, attitudes, beliefs and behaviours of children and young people. London: Middlesex University. [https://www.mdx.ac.uk/\\_data/as-sets/pdf\\_file/0021/223266/MDX-NSPCC-OCC-pornographY-report.pdf](https://www.mdx.ac.uk/_data/as-sets/pdf_file/0021/223266/MDX-NSPCC-OCC-pornographY-report.pdf)

<sup>74</sup> Seto, M. C. and Lalumière, M. L. (2010). What is so special about male adolescent sexual offending? A review and test of explanations through meta-analysis. *Psychol Bull* 136(4):526–575.

<sup>75</sup> Pybus, L. (20 Sep 2021). “My ex-husband killed Sophie Moss and used the rough sex defence to evade real justice.” *Grazia Daily*. <https://graziadaily.co.uk/amp/life/real-life/sophie-moss-rough-sex-defence-louise-pybus-sam-pybus-wife/>

<sup>76</sup> For example, submissions to the Online Safety Inquiry 2020 at <https://www.infrastructure.gov.au/sites/default/files/submissions/osb-talise-wickham.pdf> or <https://www.infrastructure.gov.au/sites/default/files/submissions/osb-shaun-murphy.pdf>

Some advocate against removing “offensive” class 1 material arguing that moderation of this would disproportionately penalise Black, indigenous, overweight, and LGBTQ+ people.<sup>77</sup> We would argue instead that this reveals that harmful material disproportionately *features* these vulnerable populations. CEASE (UK) points out that a 2021 study by Durham University revealed titles on mainstream pornography sites normalised sexual violence and criminal behaviour towards vulnerable groups including LGBTQ+ individuals, racial minorities and people with disabilities.<sup>78</sup>

Staple acts in mainstream pornography include fellatio-induced gagging, heterosexual anal sex, ejaculating on women’s faces and breasts, and double penetration; women are frequently referred to as bitches, whores, sluts, ‘cumdumpsters.’ When sex industry advocates conjure the notion of ‘consenting adults,’ it is worth keeping in mind that many of the staple sex acts in mainstream pornography are violent, degrading acts that most women do not find pleasurable.

Collective Shout Campaigns Manager Caitlin Roper strongly refutes the idea that violent pornography is compatible with equality.<sup>79</sup> Arguing that violent pornography denies women’s human rights, Roper points out:

- Content analysis finds 88.2% of scenes contain physical aggression, almost always by men towards women.
- Dangerous and painful sex acts are becoming expectations for women including underage girls.
- Pornography consumption is significantly correlated with physical abuse victimisation and perpetration, sexual abuse, acceptance of rape myths, and negative gender equitable attitudes.
- A quarter of women in a USA study have felt scared during sex, being choked without warning.
- At least 60 UK women have been killed by men who claimed it was due to “rough sex” or a “sex game gone wrong” according to the UK campaign ‘We can’t consent to this’.<sup>80</sup>

We are particularly concerned about the way so-called ‘educational’ pornography could be used to groom children. Publishers and hosts of such content must be held to the same standards as all other publishers and hosts of other pornographic material.

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<sup>77</sup> For example, Digital Rights Watch and Eros submissions to the 2020 Online Safety Review. <https://www.infrastructure.gov.au/sites/default/files/submissions/osb-digital-rights-watch.pdf>, <https://www.infrastructure.gov.au/sites/default/files/submissions/osb-eros-association.pdf>

<sup>78</sup> Vera-Gray, F., McGlynn, C., Kureshi, I. and Butterby, K. (2021). Sexual violence as a sexual script in mainstream online pornography. *Br J Criminology* 61(5):1243-1260. See also: West, Carolyn (21 March 2020). Why Does The Porn Industry Get Away With Racist Portrayals Of Black People. [https://www.researchgate.net/publication/340247120\\_Why\\_Does\\_The\\_Porn\\_Industry\\_Get\\_Away\\_With\\_Racist\\_Portrayals\\_Of\\_Black\\_People\\_By\\_Dr\\_Carolyn\\_M\\_West](https://www.researchgate.net/publication/340247120_Why_Does_The_Porn_Industry_Get_Away_With_Racist_Portrayals_Of_Black_People_By_Dr_Carolyn_M_West)

<sup>79</sup> Roper, Caitlin (20 Sep 2021). Violent porn denies women’s human rights - Caitlin Roper on the Ethics Centre. *Collective Shout*.

[https://www.collectiveshout.org/violent\\_porn\\_denies\\_women\\_s\\_human\\_rights](https://www.collectiveshout.org/violent_porn_denies_women_s_human_rights)

<sup>80</sup> <https://wecantconsenttothis.uk/>

**Recommendation: Intimate images for which consent was not given or has been withdrawn should qualify for rapid removal**

We support calls for (c) to include intimate images for which the person has withdrawn consent as expressed by Google and YouTube in a submission to the Online Safety inquiry.

*We have been asked in the past to consider instances where an individual has previously consented to intimate images being taken and published, often as part of a professional photo shoot where the individual has presumably been compensated, and has subsequently changed their mind. There should be further consideration of whether such instances should qualify for removal under the Bill (or indeed the existing Enhancing Online Safety (Non-Consensual Intimate Images) given the lack of information available about the commercial relationship between the individual and whomever took the photo, the terms under which they were compensated etc. We note that Section 86 includes a list of exempt posts and suggest that consideration is given to whether this category of image might be included there.<sup>81</sup>*

**Recommendation: The shortest possible take-down times should be required.**

In our submission to the Online Safety Legislative Reform inquiry in 2020, we recommended short take-down times for cyberbullying and image-based abuse images, noting the severe consequences for victims and evidence of little public understanding of the criminal nature of these actions.<sup>82</sup>

## 12 Core expectation - provider will take reasonable steps to prevent access by children to class 2 material

Having lobbied for age verification to reduce children's exposure to harmful sexual content, we are pleased to see age assurance mechanisms included in this section. Our arguments were outlined in our submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs into age verification for online wagering and online pornography.<sup>83</sup>

OfCom (UK) has called on UK video-sharing platforms to fulfil their regulatory obligations, including requirements to take measures to protect users from harmful material in videos by implementing strong age verification measures.<sup>84</sup> To protect Australian children from exploitation and harm, Australian electronic services must be required to do the same.

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<sup>81</sup> Google (14 Feb 2021). *Submission to Online Safety Bill*.

<https://www.infrastructure.gov.au/sites/default/files/submissions/osb-google.pdf>

<sup>82</sup> Powell, A., Scott, A. J., Flynn, A. and Henry, N. (2020). *Image-Based Sexual Abuse: An International Study of Victims and Perpetrators: A Summary Report*. Melbourne: RMIT University.

<sup>83</sup> Collective Shout (22 Nov 2019). Submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs into age verification for online wagering and online pornography. [https://www.collectiveshout.org/submission to inquiry into age verification for online pornography](https://www.collectiveshout.org/submission%20to%20inquiry%20into%20age%20verification%20for%20online%20pornography)

<sup>84</sup> Ofcom (6 Oct 2021). Video-sharing platform guidance: Guidance for providers on measures to protect users from harmful material.

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0015/226302/vsp-harms-guidance.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0015/226302/vsp-harms-guidance.pdf)

To uphold Australia's human rights obligations, we draw attention to the following Articles in the Convention on the Rights of the Child:<sup>85</sup>

*Article 19*

*1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.*

*Article 34*

*States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:*

*(a) The inducement or coercion of a child to engage in any unlawful sexual activity .*

**Recommendation: Advertising of commercial sexual exploitation material (brothels, prostitution, massage parlours, sexual services of any kind) should be restricted from access by children.**

As a decade-old organisation with expertise in the sexual exploitation of women in Australia and globally, having authored papers in the field, contributed to a number of inquiries into the sex trade, trafficking and modern day slavery, as well as having supported a significant number of women who once worked in the sex industry and whose experiences and unique knowledge has informed our work since our formation, the impacts of the BOSE on addressing the sexual exploitation of women are included in our consideration here.

The element of the BOSE which aims to prevent children from accessing class 2 material has triggered complaints by the sex industry that it will be unable to advertise its services. This suggests that the industry's advertisements are sexually explicit in nature. The industry opposes age assurance methods, as this might limit their reach.

We note the industry's campaign claiming the new Online Safety Act 2021 and the BOSE Determination 2021 would have a "chilling effect" on the sex industry by preventing it from advertising its services, drawing parallels with FOSTA-SESTA laws in the USA.

The passage of FOSTA-SESTA in 2018 was a major win for survivors of sex trafficking, providing them a way to achieve justice through civil action. State Attorney Generals were able to prosecute websites which facilitated sex trafficking. Its impact was immediate; websites such as Craigslist and Reddit responded within 48 hours, and one particularly notorious sexual exploitation medium shut down. Backpage.com, the largest sex trafficking website in the world, was seized and shut down by the US Department of Justice.

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<sup>85</sup> United Nations Convention on the Rights of the Child, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

Due to a lack of enforcement, it is difficult to assess the real outcomes of FOSTA-SESTA. The sex industry had always dismissed any concerns about the safety of women, blaming the body count on “stigma” or laws suppressing the sex trade. However the fact remains that prostitution is the most dangerous “occupation” in the world, and that it is men who kill women, not laws or attitudes. The sex industry is by its very nature exploitative and violent.

Important also is that fact that the average age of entry into prostitution is between 12 and 14, with young women being economically and emotionally vulnerable from childhood sexual abuse and other forms of family dysfunction. Important predictors of being sexually exploited include running away from home, and homelessness. Women who are sexually exploited tend to have high levels of childhood truancy, poor education, poor work skills, and high debt.<sup>86</sup> Submissions to the Online Safety review in early 2021 acknowledge that sexually exploited women are “in desperate financial situations,”<sup>87</sup> and that prostitution is inherently dangerous and so use social media platforms to warn each other of violence and abusive clients.<sup>88</sup>

We call for the suppression of sex industry content online by acknowledging it as exploitative and harmful. This call is made in the context of our long-standing advocacy for the Nordic Model of legislation. The main features of the Nordic Model are listed below. All elements of the model must be enacted for the model to succeed. This includes Exit programs to assist women to find housing, healthcare, and safe, meaningful employment.

### **1. Decriminalisation of those who are prostituted**

Prostitution is inherently violent. Women should not be criminalised for the exploitation and abuse they endure.

### **2. Buying sex becomes a criminal offence**

Buying human beings for sex is harmful, exploitative and can never be safe. We need to reduce the demand that drives sex trafficking.

### **3. Support and exit services**

High quality, non-judgemental services to support those in prostitution and help them build a new life outside it, including: access to safe affordable housing; training and further education; child care; legal, debt and benefit advice; emotional and psychological support.

### **4. A holistic approach**

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<sup>86</sup> Sanchez, Alexandra (2020). FOSTA: A necessary step in advancement of the women’s rights movement. *Touro Law Review* 36(2), article 11.

<sup>87</sup> <https://www.infrastructure.gov.au/sites/default/files/submissions/osb-tilka-biasion-fosmale.pdf>

<sup>88</sup> <https://www.infrastructure.gov.au/sites/default/files/submissions/osb-rachel-ellis.pdf>

A public information campaign; training for police and CPS; tackling the inequality and poverty that drive people into prostitution; effective laws against pimping and sex trafficking, with penalties that reflect the enormous damage they cause.<sup>89</sup>

**Recommendation: The BOSE should specify that children must be protected from class 2 material on e-commerce platforms.**

In our extensive campaign work documenting the promotion and sale of child sexual exploitation material - particularly childlike sexual abuse dolls and replica body parts marketed for men's sexual use<sup>90</sup> - on e-commerce platforms we have noted a range of age-inappropriate (and illegal) content freely available for viewing online, hosted by these corporates including:

- Explicit pornographic images used to advertise products.
- Explicit pornographic images uploaded by users to "customer review" sections.
- Customer reviews used as paedophile forums for sexualised (implied and explicit) discussions about prepubescent children in undergarments, swimwear and "cosplay" items. In some instances users provided email addresses for other users to contact them through. Girls' genitals are often visible, lending to our belief that the images constitute child exploitation material.<sup>91</sup>
- Customers are uploading images of underage girls wearing items purchased through the platforms in the review sections, placing the girls at risk of sexual exploitation.
- Products with messages which normalise, trivialise and fetishise child sexual abuse.<sup>92</sup>
- Images depicting graphic, sexualised violence and degradation of women.
- Child sex abuse dolls including replica toddler-children with orifices for sexual penetration, and instructional videos on how these can be used. Several sellers offer customised dolls made in the likeness of real children, based on customer-supplied photos. Other products include child-like/child-size replica body parts such as heads, mouths and feet with orifices for men's sexual penetration.

Examples of current age ratings for popular e-commerce online shopping apps where we have documented this activity include:<sup>93</sup>

- Alibaba: 4+
- Amazon: 4+
- Etsy: 4+

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<sup>89</sup> Nordic Model Now (2021). What is the Nordic Model? <https://nordicmodelnow.org/>

<sup>90</sup> Roper, C. (6 Oct 2020). Our investigation exposing Etsy for selling child sex abuse dolls, Collective Shout. [https://www.collectiveshout.org/etsy\\_selling\\_child\\_sex\\_abuse\\_dolls](https://www.collectiveshout.org/etsy_selling_child_sex_abuse_dolls); Kennedy, L. (10 Jul 2020). Alibaba Group: Stop selling child sex abuse dolls, Collective Shout. [https://www.collectiveshout.org/alibaba\\_child\\_sex\\_abuse\\_dolls](https://www.collectiveshout.org/alibaba_child_sex_abuse_dolls)

<sup>91</sup> In an email to our Alibaba and Amazon contacts August 28, 2020 we alerted both platforms to a number of concerning listings where prepubescent girls were being sexualised. One product was called 'Fantasy String Thong Panties'. We said that 'the review and Q+A sections connected to some of the Alibaba listings appear to contain paedophilic comments, illegal requests for child exploitation material and paedophile networking.'

<sup>92</sup> Collective Shout (19 Jan 2021). 'Daddy's little c\*ck whore': How Etsy profits from child abuse + incest-themed products, Collective Shout. [https://www.collectiveshout.org/etsy\\_incest\\_products](https://www.collectiveshout.org/etsy_incest_products)

<sup>93</sup> Apple App Store, September 10, 2021



- Wish: 12+
- Shein: 12+

Each of these platforms and content described above were freely accessible online. We do not believe that these age ratings are appropriate, and urge that e-commerce platforms must comply with age verification and BOSE requirements to protect children from exposure to pornographic and other age-inappropriate content.

We commend our submission to you and look forward to working with you further,

Collective Shout  
November 12, 2021