

Submission on the Draft Restricted Access Systems Declaration 2021

eSafety Consultation November 2021

Introduction

Since our inception a decade ago, Collective Shout has lobbied for legislative and social policy measures to protect children from the harms of exposure to online pornography. We therefore welcome this Draft RAS Declaration, with one exception – the lack of meaningful penalties for noncompliance. We will primarily address Restricted Access Systems in the context of pornography.

Summary of Recommendations:

Recommendation 1.1: Consideration of fines more reflective of the annual turnover of the offending corporations

Recommendation 2.1: Ensure the RAS does not limit the development of an improved National Classification Scheme.

Recommendation 2.2: Incorporate expert knowledge of childhood development into RAS guidelines.

Recommendation 2.3: Consider inclusion of MA15+ material being restricted from access by children under 15.

Recommendation 3.1: The eSafety Commissioner provide up-to-date evidence on the harms of pornography to children on the eSafety website and in its guidelines.

Recommendation 4.1: Pornography labeled as ‘sex education’ or ‘health promotion’ should not be exempt from the RAS.

Recommendation 5.1: The RAS should specify that children must be protected from class 2 material on e-commerce platforms.

Recommendation 6.1: Online advertising of commercial sexual exploitation material (brothels, prostitution, massage parlours, sexual services of any kind) should be restricted from access by children.

About Collective Shout

Collective Shout (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 campaign to change their behaviour. More broadly we engage in issues relating to other forms of sexploitation, including the interconnected industries of pornography, prostitution and trafficking as well as the growing market in the sale of children for Live Distant Child Abuse¹ and in child sex abuse dolls and replica child body parts.²

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;³
- Submission to the Inquiry into Age Verification for Online Wagering and Online Pornography 2019;⁴
- Submission to the United Nations' review Children's Rights in the Digital Environment 2020;⁵
- Submission to the inquiry into Law Enforcement Capabilities in Relation to Child Exploitation 2021;⁶ and
- Numerous other publications and commentaries.⁷

¹ 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 Sep 2021). National Child Protection Week 2021: Join our campaigns to protect children and young people. https://www.collectiveshout.org/child_protection_week_2021

² 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>

³ 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

⁴ 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

⁵ Collective Shout (30 Nov 2020). UN Submission: Children's Rights in the Digital Environment. https://www.collectiveshout.org/un_sub_children_digital_rights

⁶ Collective Shout (20 Aug 2021). Submission: Law Enforcement Capabilities in Relation to Child Exploitation. https://www.collectiveshout.org/submission_law_enforcement_child_exploitation

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

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;⁸
- Submission to the Department of Social Services National Summit on Women's Safety 2021;⁹
- Submission to Parliamentary Joint Committee on Law Enforcement: Law Enforcement Capabilities in Relation to Child Exploitation¹⁰
- Submission to Family, Domestic and Sexual Violence Inquiry 2020;¹¹
- Submission to Victorian Review into Decriminalisation of Sex Work 2020;¹²
- Submission to the National Action Plan to Combat Modern Slavery 2020-2024;¹³
- Submission to Anti-Money Laundering and Counter-Terrorism 2020;¹⁴
- Submission to the Australian Human Rights Commission National Inquiry into Sexual Harassment in Australian Workplaces 2019;¹⁵ and
- Submission to the Commonwealth Modern Slavery Bill 2018.¹⁶

<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 & 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>.

⁸ Collective Shout (18 Oct 2021). Submission on Restricted Access System.

https://www.collectiveshout.org/submission_restricted_access_system

⁹ Collective Shout (18 Oct 2021). Submission to Department of Social Services National Summit on Women's Safety. https://www.collectiveshout.org/submission_womens_safety

¹⁰ Collective Shout (9 Sep 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

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

https://www.collectiveshout.org/family_violence_submission.

¹² Collective Shout (18 Jun 2020). Submission to Victoria Review into Decriminalisation of Sex Work.

https://www.collectiveshout.org/decriminalisation_submission

¹³ Collective Shout (7 Jul 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.

¹⁴ Collective Shout (15 Jun 2020). Submission to Anti-Money Laundering and Counter-Terrorism Financing Inquiry. https://www.collectiveshout.org/submission_to_anti_money_laundering.

¹⁵ 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;

¹⁶ Collective Shout (2018). *Commonwealth Modern Slavery Bill 2018 Submission*.

https://www.collectiveshout.org/collective_shouts_submission_to_the_modern_slavery_bill_2018_provisions

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 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 have also 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.¹⁷

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.¹⁸ 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 Approach

Collective Shout takes a human rights and evidence-based approach. Australia is a signatory to a number of 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.¹⁹
- Everyone has the right to the highest attainable standard of physical and mental health.²⁰ 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.²¹

¹⁷ See https://www.collectiveshout.org/_instagram

¹⁸ 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

¹⁹ 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.

²⁰ 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.

²¹ Convention on the Rights of the Child, 1989, article 31.

- 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.²²
- Children have a right to privacy.²³
- All forms of trafficking in women and exploitation of the prostitution of women shall be suppressed.²⁴
- Children shall be protected from all forms of sexual abuse and the exploitative use of children, including in pornography performances and materials.²⁵

1. Lack of meaningful penalties

The lack of meaningful penalties for companies failing to comply with remedial notices given by the eCommissioner is a significant concern. Our understanding is that non-complying individuals may be fined up to \$111,000 and companies up to \$555,000 and their names will be published by the eCommissioner. While being significant deterrents for individuals and small businesses, the fines are not as significant for mega tech companies whose profits run into the billions.

Recommendation 1.1: Consideration of fines more reflective of the offending corporation's annual turnover.

2. Lack of updated Classification Scheme

In our submission to the Review of Australian Classification Regulation (2020),²⁶ we wrote that the National Classification Scheme has failed to even slow - let alone prevent - the proliferation of publications, films, television, billboards, images and words on mobile phones and the internet, as well as radio and music recordings, which demean women, reduce them to sexual objects, pressure girls to adopt pornified roles and behaviours and foster a culture which normalises and condones sexual violence against women.

Our submission to the Australian Human Rights Commission National Inquiry into Sexual Harassment in Australian Workplaces (2019)²⁷ made this point also: "through a pornified

²² 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.

²³ Convention on the Rights of the Child, 1989, article 16.

²⁴ CEDAW. Art 6.

²⁵ 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.

²⁶ Collective Shout (2020). Submission to the Review of Australian Classification Regulation. *Collective Shout*.

https://www.collectiveshout.org/submission_to_review_of_australian_classification_regulation

²⁷ Collective Shout (2019). Submission to the Australian Human Rights Commission National Inquiry into Sexual Harassment in Australian Workplaces. *Collective Shout*.

https://www.collectiveshout.org/submission_on_national_inquiry_into_workplace_sexual_harassment

culture, women and girls are fed a message that their only value lies in their sex appeal and ability to attract the male gaze. The proliferation of sexualised images of women and girls is linked to mental health problems such as low self-esteem, poor body image, eating disorders, depression and self-harm.”

We made the following recommendations:

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

The Australian Government has not yet responded. We agree with other stakeholders that it would have been preferable if a new and improved Classification Scheme was in place before RAS requirements were established.

However due to the urgency of the risk to children posed by exposure to pornography, we accept that measures to prevent or at least limit this exposure cannot be delayed (while supporting an improved classification system being applied to the RAS in future).

We commend to you the recommendations submitted by the Australian Council on Children and the Media (ACCM) based on expert knowledge of child development. Professor Elizabeth Handsley, President of ACCM, writes that children have different needs as consumers as they grow and develop.²⁸ Along with ACCM, we are particularly concerned

²⁸ Handsley, Elizabeth (7 Oct 2021). Editorial: ACCM on the Restricted Access System Declaration. *Australian Council on Children and the Media*. <https://childrenandmedia.org.au/news/news-items/2021/editorial-accm-on-the-restricted-access-system-declaration>

with the lack of attention paid by the RAS Declaration to the category of MA15+, a category encompassing a vast amount of material which is unsuitable for children.

Recommendation 2.1: Ensure the RAS does not limit the development of an improved National Classification Scheme.

Recommendation 2.2: Incorporate expert knowledge of childhood development into RAS guidelines.

Recommendation 2.3: Consider inclusion of MA15+ material being restricted from access by children under 15.

3. The harms of pornography to children

A growing body of global evidence demonstrates that the commercial pornography industry gives rise to the harmful outcomes that this legislation aims to address.²⁹

Child Sexual Exploitation Material (CSEM) investigators and child protection authorities understand well the role of pornography - and porn culture³⁰ - in grooming children for abuse. 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.³¹

Children are exposed to rape porn, sadism porn, incest porn and other violent and degrading depictions of sex, before their first kiss.³² This is an unprecedented experiment on the sexual development of children and young people. We are beginning to see the results. Our Movement Director Melinda Tankard Reist reports from her extensive work with young

²⁹ 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.

³⁰ See Dines, Gail (29 Apr 2015). Growing Up in a Pornified Culture, *Tedx Talks*. <https://www.youtube.com/watch?v=YpHNImNsx8> (Accessed 23 Nov 2021); Kennedy, L. (10 Sep 2021). "Australians should be outraged by this offending", *Collective Shout*. https://www.collectiveshout.org/national_child_protection_week; Tankard Reist, M. (13 Apr 2014). The dark world of paedophilia exposed, *Sydney Morning Herald*. <https://www.smh.com.au/opinion/the-dark-world-of-paedophilia-exposed-20140413-zqu8v.html>

³¹ 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>

³² Tankard Reist, M. (6 Jul 2016). Early sexualisation and pornography exposure: the detrimental impacts on children, *Australian Childhood Foundation*. <https://professionals.childhood.org.au/prosody/2016/07/melinda-tankard-reist/>; Tankard Reist, M. et al, *Getting Real: Challenging the Sexualisation of Girls*, Spinifex Press, 2009; Tankard Reist, M. and Bray, A. (eds.). *Big Porn Inc: Exposing the Harms of the Global Porn Industry*, Spinifex Press, 2011.

people in schools across Australia that girls and young women describe boys pressuring them to provide acts based on what they have seen in pornography. Girls are expected to put up with dangerous and painful acts that they do not enjoy and learning that they exist as service stations for male gratification and pleasure.³³

We strongly refute the suggestion by sex industry representatives that pornography can contribute to normal, healthy sexual development of young people.³⁴ Recent research has established that one-in-eight titles seen by first-time visitors to pornographic 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).³⁵ 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.

This has been well known for at least a decade. In 2016, child protection advocate (the late) Professor Freda Briggs AO described the child-on-child abuse attributed to children's exposure to pornography in her submission to the Inquiry, reporting that preschool-aged children are "acting out what they have seen and experienced, sexually abusing others in schools, kindergartens and child care settings."³⁶

- Pornography is frequently an influencing factor for children who initiate invasive sexual behaviours against other children.³⁷
- A meta-analysis of 59 different studies comparing adolescent male sex offenders to male non-sex offenders found that adolescents who had sexually offended were significantly more likely to have had early exposure to pornography and to report higher rates of exposure to pornography.³⁸

³³ Tankard Reist, Melinda (7 Mar 2016). Growing Up in Pornland: Girls have had it with porn conditioned boys. *ABC Religion and Ethics*.
<https://www.abc.net.au/religion/growing-up-in-pornland-girls-have-had-it-with-porn-conditioned-b/10097244>

³⁴ For example, Vanting, G. (2021). *Submission to Restricted Access System Inquiry*. Scarlet Alliance. https://www.esafety.gov.au/sites/default/files/2021-09/Scarlet%20Alliance%20RAS%20submission%20%28September%202021%29_0.pdf; Payne, Rachel (2021). Submission to age verification call for evidence and restricted access system call for submissions. *Eros: the adults only association*. https://www.esafety.gov.au/sites/default/files/2021-09/Eros%20Association%20RAS%20submission%20%28September%202021%29_0.pdf; Floreani, Samantha (2021). Submission to the eSafety Commission on the discussion paper on the Restricted Access System Declaration. *Digital Rights Watch*.
https://www.esafety.gov.au/sites/default/files/2021-09/Digital%20Rights%20Watch%20RAS%20submission%20%28September%202021%29_0.pdf

³⁵ 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.

³⁶ Briggs, F. (2016). Submission to Senate Environment and Communications References Committee, Inquiry into harm being done to Australian children through access to pornography on the internet, p20.
https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Onlineaccessstoporn45/Report/c02#c02f77

³⁷ De Lago, C., Schroder, C. M., Cooper, B., Deblinger, E., Dudek, E., Yu, R. and Finkel, M. A. (2020). Children who engaged in interpersonal problematic sexual behaviors. *Child Abuse Negl.* 105:104260.

³⁸ 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. *Psychological Bulletin*, 136(4), 526-575.

- In a US study of 472 boys and young men (aged 12-20 years; mean age 16 years) with criminal offenses, researchers evaluated and compared the self-reported childhood traumatic experiences of three groups: sexually victimised boys/young men with sexual offenses, nonsexually victimised boys/young men with sexual offenses, and nonsexually victimised boys/young men with general criminal offenses (eg assault, theft). They found that persons who were sexually victimised and who had committed sexual offences showed greater developmental antecedents including early exposure to pornography and pornography use.³⁹

A number of authorities believe that pornography provides viewers with a sexual script, portraying often violent and aggressive sexual behaviours as normal, appropriate, and rewarding.⁴⁰ This message is especially dangerous for young people whose brains and sexual templates are still under development.

Dillard et al. list the possible consequences of child and adolescent exposure to pornography:⁴¹

- Sexual aggression
- Gender role distortion
- Objectification of women
- Unrealistic expectations of sexual relationships
- Brain changes
- Development of internet disorder
- Development of internet pornography disorder

Parents and carers have shared with Melinda Tankard Reist many distressing stories of how young children's ideas of sexuality are influenced by pornography. For example:

- "My 10 year old granddaughter was approached by a boy while waiting for the school bus and asked, 'Do you do arse?'"
- "My 8 yr old found a note in her school bag which read, 'Ready for sex?'"
- "An 8 yr old boy told my 8 yr old girl he wanted to 'f**k you hard'."
- "10 yr old boy told my 10 yr old daughter that he was going to break in and rape her."

³⁹ Cited in National Center on Sexual Exploitation (12 Mar 2019). *Confronting the rise of child-on-child harmful sexual behaviour: Research Summary*. NCOSE.

https://endsexualexploitation.org/wp-content/uploads/COCSA_Research-Summary_FINAL_3-12-19-1.pdf

Source: Leibowitz, G et al (2012). Part II: Differences between Sexually Victimized and Nonsexually Victimized Male Adolescent Sexual Abusers and Delinquent Youth: Further Group Comparisons of Developmental Antecedents and Behavioral Challenges, *J Child Sexual Abuse*, <https://www.tandfonline.com/doi/full/10.1080/10538712.2012.675421?scroll=top&needAccess=true>

⁴⁰ Hornor, G. (2020). Child and Adolescent Pornography Exposure. *J Pediatric Health Care* 34:191-199.

⁴¹ Dillard, R., Maguire-Jack, K., Showalter, K., Wolf, K.G., and Letson, M. M. (2019). Abuse disclosures of youth with problem sexualized behaviors and trauma symptomatology. *Child Abuse and Neglect* 88:201-211.

We draw attention to the following Articles in the Convention on the Rights of the Child to which Australia is a signatory:⁴²

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 .

The evidence overwhelmingly points to pornography as a danger to children. Australia's human rights commitments require that we prioritise the protection of children from exposure to it.

Recommendation 3.1: The eSafety Commissioner provide up-to-date evidence on the harms of pornography to children on the eSafety website and in guidelines for sex industry and tech businesses.

4. Publishers and hosts of pornographic materials under the banner of sex education and health promotion should be held to the same standards.

We note an organised campaign by the sex industry, claiming explicit "sex education" material will be restricted by the BOSE and the RAS. The industry is likely 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).^{43, 44}

Some advocate against removing "offensive" class 1 material, arguing that removal of this content would disproportionately penalise Black, indigenous, overweight, and LGBTQ+

⁴² United Nations Convention on the Rights of the Child,
<https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁴³ 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/>

⁴⁴ 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>

people.⁴⁵ 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.⁴⁶

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 should be noted 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.⁴⁷ 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'.⁴⁸

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 pornographic material.

Recommendation 4.1: Pornography labeled as 'sex education' or 'health promotion' should not be exempt from the RAS.

⁴⁵ 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>

⁴⁶ 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 Mar 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

⁴⁷ 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

⁴⁸ <https://wecantconsenttothis.uk/>

5. The RAS should extend to eCommerce 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 use⁴⁹ - 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.⁵⁰
- 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.⁵¹
- 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:⁵²

- Alibaba: 4+
- Amazon: 4+
- Etsy: 4+
- Wish: 12+
- Shein: 12+

⁴⁹ 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; Kennedy, L. (10 Jul 2020). Alibaba Group: Stop selling child sex abuse dolls, Collective Shout. https://www.collectiveshout.org/alibaba_child_sex_abuse_dolls

⁵⁰ 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.'

⁵¹ 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

⁵² Apple App Store, September 10, 2021

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 the RAS and BOSE requirements to protect children from exposure to pornographic and other age-inappropriate content.

Recommendation 5.1: The RAS should specify that children must be protected from class 2 material on e-commerce platforms.

6. Impacts of the RAS on the commercial sexual exploitation of women

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 RAS on the commercial sexual exploitation of women are included in our consideration here.

The element of the RAS 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 sex industry's campaign claiming that the new Online Safety Act 2021, the BOSE Determination 2021, and now the RAS 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.

Due to a lack of enforcement since then, 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 of women killed in the industry 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.⁵³ Submissions to the Online Safety review in early 2021 acknowledge that sexually exploited women are “in desperate financial situations,”⁵⁴ and that prostitution is inherently dangerous and so use social media platforms to warn each other of violence and abusive clients.⁵⁵

This call is made in the context of our long-standing advocacy for the Nordic Model of legislation. 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.⁵⁶

Because advertising serves to normalise and legitimise industry activities, the sex industry is inherently harmful and exploitative to women and girls, and children are particularly vulnerable to predatory approaches by sex industry proponents, we believe all online advertising pertaining to the commercial sex industry should be restricted from access by children.

We note the promotion of the online sex industry by mainstream media - particularly paid subscription-based platform OnlyFans - as a viable career option for vulnerable women during the COVID pandemic. We commend for your consideration our forthcoming joint report on this subject, prepared in collaboration with our colleagues at the Coalition Against Trafficking in Women Australia (CATWA). (We would be pleased to forward you a copy of the report once it is published.) We believe this type of content (which we have argued presents as advertorials rather than media articles) should also be restricted from access by children.

Recommendation 6.1: Online advertising of commercial sexual exploitation material (brothels, prostitution, massage parlours, sexual services of any kind) should be restricted from access by children.

Thank you for the opportunity to contribute to this important consultation .

Collective Shout

November 2021

⁵³ Sanchez, Alexandra (2020). FOSTA: A necessary step in advancement of the women’s rights movement. *Touro Law Review* 36(2), article 11.

<https://digitalcommons.tourolaw.edu/cgi/viewcontent.cgi?article=3249&context=lawreview>

⁵⁴ <https://www.infrastructure.gov.au/sites/default/files/submissions/osb-tilka-biasion-fosmale.pdf>

⁵⁵ <https://www.infrastructure.gov.au/sites/default/files/submissions/osb-rachel-ellis.pdf>

⁵⁶ Nordic Model Now (2021). What is the Nordic Model? <https://nordicmodelnow.org/>