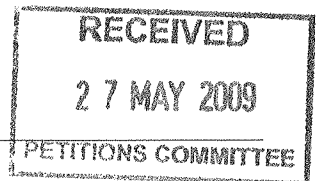




SENATOR THE HON STEPHEN CONROY

MINISTER FOR BROADBAND, COMMUNICATIONS AND THE DIGITAL ECONOMY
DEPUTY LEADER OF THE GOVERNMENT IN THE SENATE



Ms Julia Irwin MP
Chair
Standing Committee on Petitions
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Ms Irwin

Petition concerning sexual advertising and access to internet pornography

Thank you for your letter dated 8 May 2009 forwarding a copy of a petition concerning sexual advertising and access to pornographic material on the internet. I appreciate the petitioners' interest in these important issues. The Australian Government has a range of activities addressing these issues.

Sexual advertising

Complaints about advertising, including in public places, are handled by the Advertising Standards Bureau's Advertising Standards Board whose decisions may be reviewed by an Independent Reviewer. Complaints about an advertisement can be made to the Advertising Standards Bureau.

The Australian Communications and Media Authority (ACMA) administers codes of practice developed by the commercial television and pay television industries which include rules for prohibited content and classification guidelines for content that may be considered offensive, such as sexualised images of children, adult themes, offensive language, violence and drugs. The codes of practice are also designed to reflect community standards.

Under the *Commercial Television Industry Code of Practice*, the suitability for television of material that depicts sexual behaviour or nudity will depend on the frequency and intensity of the sexual behaviour and nudity portrayed, and the time of day it is to be shown. Intimate sexual behaviour may only be implied or simulated and must be justified by the story line or context. This material must be classified M for Mature (for persons aged 15 year or older) or higher, and can generally only be shown after 8.30 pm. Detailed genital nudity in a sexual context or explicit depiction of sexual acts must not be shown.

In addition, commercials for telephone sex lines or similar services must be classified as MA for Mature Audiences and only scheduled after 11.00 pm and before 5.00 am.

More generally, under the television codes, television commercials must also comply with the self-regulatory *Advertiser Code of Ethics* and the *Code for Advertising and Marketing Communications to Children* developed by the Australian Association of National Advertisers (AANA). These codes deal with the decency and social responsibility of advertisements, particularly in relation to children.

In April 2008, after extensive public consultation, the AANA released a revised *Code for Advertising and Marketing Communications to Children* which now specifically prohibits the use of sexual imagery of children in advertising or marketing, whether in print, on television, on radio, online or in public areas.

In relation to commercial radio, the *Commercial Radio Australia Codes of Practice and Guidelines* are registered with ACMA and are available from the Commercial Radio Australia website at www.commercialradio.com.au.

The radio codes provide that all program content must meet contemporary standards of decency, having regard to the likely characteristics of the audience, and that radio broadcasters must avoid the gratuitous use in a program of language likely to offend the anticipated audience.

Where ACMA finds there has been a breach of a television or radio code, it may take action against the relevant broadcaster, such as imposing an additional licence condition on the broadcaster to comply with the relevant code, or obtaining an enforceable undertaking from the broadcaster about its activities. More information can be found on the ACMA website at www.acma.gov.au.

The Senate Environment, Communications and the Arts Committee (the Committee) conducted an inquiry in early 2008 into the sexualisation of children in the contemporary media environment, which included the issue of sexual advertising. The Committee received over 160 submissions from a wide range of interested individuals and organisations. The Committee's report was tabled on 26 June 2008 and made 13 recommendations which the Government is now considering.

Online Content Scheme – offensive content

The Online Content Scheme (the Scheme) under the *Broadcasting Services Act 1992* (the Act) regulates illegal and offensive content.

Schedule 7 of the Act protects consumers from illegal or harmful content accessed through the internet, mobile phones and convergent devices, and applies to content delivered through content services such as subscription-based internet portals, chat rooms, live audio-visual streaming and link services.

Under Schedule 7, prohibited content includes:

- content that has been classified or is likely to be classified RC (Refused Classification);
- content that has been classified or is likely to be classified X18+;
- content that has been classified or is likely to be classified R18+ unless it is subject to a restricted access system; and

- content that has been classified or is likely to be classified MA15+ and is provided on a commercial basis (i.e. for a fee) unless it is subject to a restricted access system.

R18+ content and MA15+ content which is provided for a fee must be subject to a restricted access system. ACMA requires a restricted access system to verify the age of the person seeking access based on evidence of age and identity, or require that a personal information number (PIN) be used to obtain access if age and identity have been verified before. ACMA can require content providers to take down content hosted in Australia that does not meet this requirement.

These prohibitions are backed by strong sanctions for non-compliance including criminal penalties for serious offences.

Where content is hosted in Australia and is found by ACMA to be prohibited, ACMA has the authority to direct the relevant content service provider to remove the content from their service. Where content is not hosted in Australia and is prohibited, ACMA will notify the content to the suppliers of approved filters so that access to the content using such filters is blocked.

In addition, regardless of where the content is hosted, if ACMA considers the content to be of a sufficiently serious nature, it must notify the content to an Australian police force.

Schedule 7 includes a complaints-based mechanism administered by ACMA. Persons wanting to submit a complaint about online content must contact ACMA directly. Information, including instructions for making a valid complaint to ACMA, is available online at www.acma.gov.au/hotline.

Cyber-safety

Creating a safe online environment is both complex and challenging.

The Government has committed funding of \$125.8 million over four years in the 2008-09 Budget for a comprehensive range of cyber-safety measures that involve education, international co-operation, research, law enforcement and internet service provider (ISP) filtering.

Measures include:

- expansion of the Australian Federal Police (AFP) Child Protection Operations Team—funding to detect and investigate online child sex exploitation;
- Commonwealth Director of Public Prosecutions—funding to help deal with the increased activity resulting from the work of the AFP to ensure that prosecutions are handled quickly;
- ISP-level filtering—funding to develop and implement ISP filtering, including undertaking a real world ‘live’ pilot;
- education activities—funding to ACMA to implement a comprehensive range of education activities such as:
 - Cybersafety Outreach Professional Development of Educators program and expanded Internet Safety Awareness Presentations and
 - a professional development program for trainee teachers

- websites / online helpline—funding to ACMA to improve current government cyber-safety website resources and to make them easier for parents to use, and to provide up-to-date information. ACMA is also developing a children’s cyber-safety website to provide information specifically for children, and improve the online helpline to provide a quick and easy way for children to report online incidents that cause them concern;
- Consultative Working Group—funding for an expanded Consultative Working Group. This group considers the broad range of cyber-safety issues and advises the Government to ensure properly developed and targeted policy initiatives;
- Youth Advisory Group—funding for a Youth Advisory Group which will provide advice to the Consultative Working Group on cyber-safety issues from a young person’s perspective; and
- Research—funding for ongoing research into the changing digital environment to identify issues and target future policy and funding.

ISP filtering

A part of the Government’s cyber-safety plan is to examine the introduction of mandatory ISP-level filtering for RC material. Content defined under the National Classification Scheme as RC material includes child sexual abuse imagery, bestiality, sexual violence, detailed instruction in crime, violence or drug use and/or material that advocates the doing of a terrorist act.

The Government is also considering additional ISP content filtering options for those families who wish to have such a service. These services would provide additional filtering options that could be configured to suit the needs of individual users.

The Government’s policy is being developed through an informed and considered approach, including industry consultation and close examination of overseas models to assess their suitability for Australia.

A live ISP filtering pilot is also being conducted to inform the Government’s ISP filtering policy. The pilot is being conducted with the cooperation of ISPs and their customers, and is testing potential impacts of filtering solutions on internet speeds, accuracy, circumvention, costs and customer experiences.

The pilot is scheduled to conclude around the middle of 2009. I have undertaken to release the report of findings from the Pilot.

Consultative Working Group and Youth Advisory Group

The Consultative Working Group on cyber-safety has the important role of providing advice to the Government on measures to protect Australian children from risks and illegal or inappropriate content they could encounter online. This group meets four times a year and has members drawn from community groups, ISPs, industry associations, business and government.

The Youth Advisory Group has been established to reflect the Government's recognition that young Australians need to be involved in the development of effective responses to cyber-safety risks. The Youth Advisory Group is made up of more than 300 young people aged between 11 and 17 years from across Australia. Members of the Youth Advisory Group consider and communicate to Government the cyber-safety risks faced by Australian children, how best to address these and how to communicate cyber-safety messages to other young Australians.

Both the Consultative Working Group and the Youth Advisory Group will advise the Government on priorities for action by government and industry.

Thank you for your interest in this matter. I trust this information will be of assistance.

Yours sincerely

Stephen Conroy
Minister for Broadband,
Communications and the Digital Economy