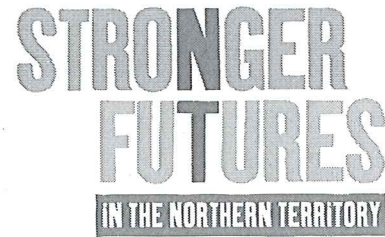


**SUBMISSION No. 3**  
**Inquiry into Cyber-safety for Indigenous Australians**



**Submission by the Department of Families, Housing, Community Services  
and Indigenous Affairs to the Joint Select Committee on Cyber-safety –  
Inquiry into issues surrounding Cyber-safety for Indigenous Australians**

29 May 2013

The Department of Broadband, Communications and the Digital Economy is the lead Australian Government agency on cyber-safety.

The Department of Families, Housing, Community Services and Indigenous Affairs is responsible for implementing some discrete initiatives that may contribute to reducing the risks and harm associated with inappropriate use of technology.

This submission provides background information on two initiatives: the publicly funded computer policy, and the Stronger Futures in the Northern Territory prohibited material measure.

### **Publicly funded computer measure**

Until the Stronger Futures in the Northern Territory Acts came into effect on 16 July 2012, the *Northern Territory National Emergency Response Act 2007* (Cth) had been in place in the Northern Territory since September 2007 and included a measure which required publicly funded service providers to remote Aboriginal communities to install filters and be subject to regular computer audits.

This legislative measure had been introduced against the background of complaints by Aboriginal women, not only in the Northern Territory, about their distress at finding pornographic, violent and possibly illegal material on computers provided by community organisations under government grants and other funding. The legislative measure was introduced to assist in protecting Indigenous people in remote Northern Territory communities from inadvertent exposure to sexually explicit and very violent material on publicly funded computers. The legislation was due to sunset in August 2012. This legislation was repealed by the Stronger Futures legislation in July 2012.

The Government announced in November 2011 in the Stronger Futures in the Northern Territory policy statement that this legislated requirement would be replaced with a non-legislated measure where all Commonwealth funding agreements would require publicly funded organisations to take steps to minimise inappropriate use of publicly funded computers. This policy is being implemented in a stepped approach and has commenced with Department of Families, Housing, Community Services and Indigenous Affairs funding agreements.

From 1 July 2012, all service providers funded under the Department of Families, Housing, Community Services and Indigenous Affairs standard funding agreement have been required to take reasonable steps to protect their clients, and particularly children, from the risks of harmful content and inappropriate use of computers and digital technology. Some 1,700 service providers were advised of the new policy.

In 2012, the Minister for Families, Housing, Community Services and Indigenous Affairs wrote to the Minister for Broadband, Communications and Digital Economy, the Minister for Health, the Attorney-General, the Minister for School Education, Early Childhood and Youth, and the Minister for Employment, Education and Workplace Relations to encourage implementation of the policy in their agencies. Several agencies have taken steps to implement the policy and the Department of Finance and Deregulation is assisting with its wider implementation as a grant-connected policy.

The policy applies where the funding recipient's computers and other technology are supported through public funding. This policy, unlike the previous legislated measure, applies to all service providers funded by the Department across Australia, that is, it is not confined to service providers servicing remote Indigenous communities in the Northern Territory.

The legislative measure was enacted in 2007 before smartphone use and tablet technology became widespread. There were complaints from medical services that elements of the legislative measure such as the compulsory filters restricted their ability to work with medical images on computers.

Further details of the policy implemented by the Department of Families, Housing, Community Services and Indigenous Affairs are on the Department's website at <http://www.fahcsia.gov.au/about-fahcsia/doing-business-with-fahcsia#s5-2>.

### **Stronger Futures in the Northern Territory Prohibited Material measure**

Stronger Futures in the Northern Territory continues the prohibited material restrictions that have applied in remote Northern Territory communities since September 2007. The restrictions are additional to classification restrictions that apply in the Northern Territory

under Northern Territory laws. The additional restrictions are set out in Part 10 of the *Classification (Publications, Films and Computer Games) Act 1995* (Cth).

The objective of the measure is “to enable special measures to be taken to protect children living in Indigenous communities in the Northern Territory from being exposed to prohibited material.”

Prohibited material may include extremely violent and/or sexually explicit publications such as magazines, films, photographs, computer games, mobile phone downloads, contents of USB/memory sticks and such material in any other medium which contains computer data or other forms of recording from which sounds or pictorial matter may be reproduced.

Prohibited material includes material that is Refused Classification or classified X 18+, or would likely be Refused Classification or would likely be classified X 18+. Refused Classification material is banned across Australia and X 18+ films are prohibited in the States. (For an explanation of the classifications see the Classification website [www.classification.gov.au](http://www.classification.gov.au).)

In the consultations that have been held with Aboriginal people in the Northern Territory since 2008, the Australian Government sought views about the benefits and problems of prohibited material restrictions and whether there is a need for them. This is a sensitive topic in many respects and often difficult for people to talk about. Where people did comment, they often said that the restrictions on this material should remain in place in order to protect children from seeing this material.

To illustrate this, some of the comments made by individuals in the consultations are presented below:

2008 consultations

*How do people control porn on television through cable TV? So what is the difference between watching porn on cable TV and not on video and what does this mean, how [are] they going to control this?*



*Child abuse and neglect is a problem world wide for all of us, as is school truancy, pornography and alcohol.*

*Little kids are also using obscene language, using mobile phones and sending photos.*

#### 2009 consultations

*Don't want kids to see pornography or violent movies.*

*Don't have pornography here now and don't want it in future.*

*Restrictions are good because we need to protect the children from this.*

#### 2011 consultations

*I don't want the ban lifted because it protects young people. Adults should be able to access it if they want but it is bad for kids to grow up with it. It is my worst nightmare for my daughter to think that it is okay.*

*Mobile phone porn is a problem. Young people getting it on their phones.*

*This stuff is foreign to us, this stuff coming into the community. We learned the right way through our parents in the past. There is still a problem with the internet and mobile phones, we need a block for the pornography. What can the Government do about this? Can they stop it?*

There is little research on the prevalence or effects of sexually explicit and very violent material in Aboriginal communities. The *Little Children are Sacred* (2007) report referred to such material as a problem in many remote communities. The physical and social conditions in remote communities and the ways that these communities have changed over time leaving Aboriginal children possibly more vulnerable to risk of harm from exposure to such material is described in the 2010 book edited by John Altman and Melinda Hinkson, *Culture Crisis, Anthropology and Politics in Aboriginal Australia* (pages 128-9).

It is important to appreciate that when people talked about prohibited material, pornography and very violent and disturbing material in the consultations conducted by the Government in remote Northern Territory communities since 2008, they were not referring to the prohibited material and pornography managed under the National

Classification Scheme but to their beliefs and values about this kind of material. This means that material referred to as ‘prohibited material’ or ‘pornography’ in the consultations is likely to encompass a much broader range of material than ‘prohibited material’ under the National Classification Scheme and as defined in the *Classification (Publications, Films and Computer Games) Act 1995*.

The point is articulated in author, Jeff Sparrow’s 2012 book, *Money Shot, A Journey into Porn and Censorship* (pages 263-4):

“Rather in conversations the [2009 consultation] report recorded, pornography often stood as a catch-all, a stand-in for all the sexed-up cultural products of modernity. When people from these communities decried pornography, they were using the term in the broadest sense.”

The vulnerability of Aboriginal people in remote communities and the need for special measures such as the prohibited material restrictions is related to the fact many people in remote Aboriginal communities maintain traditional beliefs and values and at the same time are attempting to also manage the impact of Western, sexualised culture.

Because of the limited research, it is also unclear how recent, more violent forms of pornography such as gonzo and its wide availability through the internet and mobile phones may be affecting young people in Aboriginal communities, gender relations, and attitudes to violence against women.

The legislation applying the additional prohibited material restrictions will continue until 2022. The Stronger Futures legislation also requires that the prohibited material restrictions be reviewed and reported on to the Australian Parliament by September 2015.

A fact sheet to inform people about the restrictions was developed by Aboriginal people through a small amount of project funding to the Northern Territory Government in 2012. The fact sheet is available from the Department’s website at <http://www.fahcsia.gov.au/our-responsibilities/indigenous-australians/programs-services/stronger-futures-fact-sheet>. A copy is attached.

The income management arrangements operating in the Northern Territory do not allow people to spend their welfare income on pornography or alcohol. The aim of income management is to help people spend their money on the essentials for themselves, their family and children such as food, clothing and rent.

### **Stronger Futures in the Northern Territory Classification Education Project**

To complement the prohibited material restrictions in the Northern Territory, the Australian Government is also providing \$1.1 million in funding for a community education project.

The objective of the education project is the same as the prohibited materials legislative objective, that is, to enable special measures to be taken to protect children living in Indigenous communities from being exposed to prohibited material. The Stronger Futures Classification Education Project is intended to deliver a community education program which will raise community awareness on the National Classification Scheme, including how to determine content that is suitable for children, what a family or child can do if they are exposed to material they find harmful or disturbing, and avenues to make complaints and get help.

The National Association for Prevention of Child Abuse and Neglect (NAPCAN) will receive this funding over the next five years to deliver a project to remote Aboriginal communities in the Northern Territory to help parents protect their children from being exposed to sexually explicit or very violent material.

The funding is part of the Australian Government's \$3.4 billion *Stronger Futures in the Northern Territory* initiative which works with Aboriginal people in the Northern Territory to tackle the unacceptable levels of disadvantage too many Aboriginal people still experience. Protecting children from material that may cause harm is a key principle that has informed Australia's media classification system and it continues to be relevant and important. NAPCAN has a long history of advocating for change in attitudes, behaviour and policies to ensure the safety and wellbeing of all Australian children and young people.

NAPCAN will also work directly with Aboriginal organisations nationally and in the Territory to ensure that information is developed and delivered in a culturally sensitive manner and will look to employ Aboriginal people in the delivery of the project.





# STRONGER FUTURE FUTURE IN THE NORTHERN TERRITORY

## STRONGER FUTURE PROHIBITED MATERIAL MEASURE AND CLASSIFICATION MARKINGS

A classification shows the most suitable audience for a magazine, movie, television program, DVD or computer game. It helps to guide you about their content. Classification markings of G and PG help you to choose appropriate entertainment for your children.

Throughout Australia it is the law that films, computer games and certain publications have to be classified before they can be sold, hired or publicly shown.

Once they are classified, magazines, DVDs, computer games and movies must be marked with classification information. Classification markings are symbols on the packaging or advertising for the product.

The classification categories are:

Australian Government  
Attorney-General's Department

### Use Classifications to Choose Computer Games and Films

	General	Very mild impact
	Parental guidance recommended	Mild impact
	Recommended for mature audiences	Moderate impact Not recommended for people under 15
	Not suitable for people under 15 unless accompanied by a parent or adult guardian	Strong impact People under 15 must be accompanied by a parent or adult guardian to hire or buy these films or games or to see these films in a cinema. These games cannot be demonstrated in a public place
	Restricted to 18 and over	High impact People under 18 are not permitted to buy or hire these films or games or to see these films in a cinema. These games cannot be demonstrated in a public place

AGE RESTRICTIONS APPLY

Check the Classification

Films or computer games can be advertised prior to being classified. Check the classification at the cinema or before hiring or buying films or computer games

[www.classification.gov.au](http://www.classification.gov.au) or (02) 9289 7100

For more information about classifications and the National Classification Scheme go to

[www.classification.gov.au](http://www.classification.gov.au).

### **Classification laws**

In every State and Territory in Australia, including the Northern Territory, there are laws that set out how movies, DVDs, adult publications and computer games can be sold, hired, advertised and shown.

These laws make it an offence to show, hire or give children restricted movies, DVDs, and games that could harm or disturb them.

### **Additional restrictions in remote Aboriginal communities**

In the Northern Territory, additional laws to the Northern Territory's classification laws make it an offence to possess or supply prohibited material in certain remote Aboriginal communities. These areas are declared 'prohibited material areas' by the Commonwealth Minister for Indigenous Affairs. Prohibited material includes sexually explicit or very violent material – more extreme than material you might see on late night broadcast television.

When Aboriginal people in remote communities have been asked if they want these additional restrictions to stay, or not, men and women have said they want them so children are protected from seeing this material. These laws apply to **everyone** in these communities - not just Aboriginal people. The restrictions are in place until 2022, with a review date scheduled for 2014.

Communities can ask the Commonwealth Minister for Indigenous Affairs to consider changing or removing a prohibited material area. They can do this by writing to the Minister. The Minister must consider the views of people living in the area, the protection of children, the well-being of people in the area and evidence about violence and abuse in the area before deciding whether a prohibited material area is removed, changed or stays the same. The Minister will have the interests of children in the community as the first priority in making any decision to change, remove or keep the restrictions.

### **Penalties under the additional restrictions in remote Aboriginal communities**

If a person brings, possesses or transports prohibited material into a prohibited material area, they could be fined up to \$17,000, depending on the type of prohibited material.

A person could also face fines of up to \$17,000 for supplying less than five items of prohibited material in a prohibited material area, or fines of up to \$34,000 and/or two years imprisonment for supplying five items or more.

### **Internet, mobile phones and electronic devices**

Similar laws are in place that prohibit illegal and offensive material being distributed online (e.g. through internet, mobile phones and devices such as iPods).

### **Kids Helpline**



If you are a child reading this and something has happened online or in another place to make you feel uncomfortable, scared or sad, Cybersmart, through Kids Helpline, provides you with free and private advice online.

## Complaints

### Movie, DVD, computer game and adult publication complaints

If a person has a complaint about a movie, DVD, computer game or adult publication, they can contact the Classification Branch of the Commonwealth Attorney-General's Department on one of the following:

Phone: **02 9289 7100**

Email: [enquiries@classification.gov.au](mailto:enquiries@classification.gov.au)

Internet: [www.classification.gov.au](http://www.classification.gov.au)

Mail: Locked Bag 3 Haymarket, New South Wales, 1240

### Online content/internet complaints

If people have complaints about online content they can contact the Australian Communications and Media Authority (ACMA) on one of the following:

Phone: **1800 226 667**

Email: [online@acma.gov.au](mailto:online@acma.gov.au)

Internet: [www.acma.gov.au](http://www.acma.gov.au)

Mail: Australian Communications and Media Authority  
GPO Box Q500  
QUEEN VICTORIA BUILDING NSW 1230

If ACMA considers the content to be of a sufficiently serious nature, such as depicting child sexual abuse, it must notify the police.

### Television complaints

Commercial television broadcasters operate under codes of practice that are designed to meet community expectations, particularly in relation to offensive language and the portrayal of sex and violence.

If a person has a complaint about material that has been broadcast on TV, they should firstly write to the TV station within 30 days of the broadcast.

If there has been no answer within 30 days, or if the response is considered unsatisfactory, the complaint can be referred to ACMA.