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19 March 2011

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Submission by the Justice and International Mission Unit, Synod of Victoria and Tasmania, Uniting Church in Australia to Accession by Australia to the Council of Europe Convention on Cybercrime

The Justice and International Mission Unit welcomes this opportunity to make a submission in response to the Australian Government's intention to accede to the *Council of Europe Convention on Cybercrime*. The Unit's specific interest is in relation to addressing sexual abuse material on the internet, as much of this material is generated through human trafficking and sexual servitude and represents serious transnational criminal activities.

The Synod of Victoria and Tasmania is actively concerned about ending both the abuse of children that occurs in the production of child sexual abuse material, and in the trafficking of children for the purpose of producing child sexual abuse material. The Unit notes that most commercial child sexual abuse material is produced in countries with poor systems of enforcement to prevent the trafficking and abuse of vulnerable children and women.

The Unit notes the resolution of the UN Human Rights Council A/HRC/8/L.17 of 12 June 2008 calling for governments:

2(g) To establish mechanisms, where appropriate, in cooperation with the international community, to combat the use of the Internet to facilitate trafficking in persons and crimes related to sexual or other forms of exploitation and to strengthen international cooperation to investigate and prosecute trafficking facilitated by the use of the Internet.

The Unit supports Australia's accession to the *Council of Europe Convention on Cybercrime*. The Unit believes that greater international efforts are required to combat child sexual abuse online, which requires greater international cooperation. Available evidence suggests thousands of Australians purchase or share images of child sexual abuse electronically. Thus the Unit is supportive of legislative measures to allow for the rapid investigation of such offenders and enhanced cooperation with requests for mutual assistance from law enforcement officials of other countries. The Unit supports the proposal that in the cases of criminal activity covered by the Convention, telecommunications data be provided to foreign law enforcement agencies on a police to police basis.

The Unit notes that Article 15 of the Convention requires that domestic implementation of the Convention should be done in compliance with human rights obligations, including those contained within the *International Covenant on Civil and Political Rights*. The Unit urges that

the Australian Government implement the *Council of Europe Convention on Cybercrime* in compliance with this respect for human rights standards.

Commercial Child Sexual Abuse on the Internet

The Unit notes the release of the UN Office of Drugs and Crime (UNODC) report on *The Globalization of Crime: A Transnational Organized Crime Threat Assessment* on 17 June 2010 contains an assessment of the commercial child sexual abuse industry globally. The UNODC report estimates the commercial child sexual abuse industry on-line, as opposed to non-commercial peer-to-peer networks, generates an estimated 50,000 new child sexual abuse images each year and is worth about US\$250 million globally. It involves thousands of commercial child sex abuse sites. Commercial child sexual abuse sites are more likely to involve the abuse of very young children, with the Internet Watch Foundation noting that 69% of victims appearing to be younger than 10 and 24% being less than 7 years of age. Most of the victims are white and female, with the majority of the commercial child sexual abuse industry being based in Eastern Europe. However, the US holds the largest national share of the domains related to child pornography that have been detected by groups like the Internet Watch Foundation and Cybertip.ca.

Cybertip.ca also found that most commercial websites of child sexual abuse material sell memberships, and although on-line payment systems appear to be preferred, the majority also offered credit card payment options. The average cost of subscribing to a commercial site of child sexual abuse material was US\$53 per month. Commercial child sexual abuse vendors often set up fictitious businesses in order to obtain a merchant account for credit card processing. To evade detection by law enforcement, payment schemes used by commercial child pornography sites are increasingly complex. The demand for anonymous payments led to the development of virtual payment systems and virtual currencies enabling anonymous payments. Virtual currencies may not require identification and validation, thus preventing law enforcement agencies from tracing money-flows back of offenders.

The UNODC argue that child sexual abuse material is available in both commercial and non-commercial domains, but the ratio between the two remains unclear.

The UNODC commented that despite their use of the internet, child pornographers and their clients are not necessarily technologically sophisticated. Only 6% of the offenders in one sample used encryption technology. In another sample, 17% used password protection, 3% evidence – eliminating software and only 2% used remote storage systems. They note that it is possible that more sophisticated consumers have evaded detection.

They estimate the upper limit of consumers of commercial child sexual abuse materials to be in the order of two million people globally.

The UNODC report suggests that law enforcement efforts may be catching as little as 1% of all consumers of child sexual abuse materials. Further, in addition to the UNODC report, it should be noted that many countries do not have laws to prosecute child pornography. A 2006 study by the International Centre for Missing and Exploited Children found that of the 184 member States of Interpol, 95 had no legislation at all that specifically addresses child pornography, and of those that do, 41 countries did not criminalise possession of child pornography, regardless of the intent to distribute.

An example of commercial sites of sexual abuse material being set up in our region has been raised by UNICEF in the Philippines:¹

¹ Arnie Trinidad, *Child Pornography in the Philippines*, Psychosocial Trauma and Human Rights Program UP Centre for Integrative and Development Studies and UNICEF Manila, 2005, pp. 48-49.

In recent times, coinciding with the Internet boom, cybersex joints have opened. These are establishments that employ men, women and children to perform live sexual acts, which are then broadcast on the Internet via webcam. These sexual acts range from taking their clothes off to masturbating for the customers and doing other similar acts. It is also reported that there are cybersex joints where both heterosexual and homosexual acts are caught on webcam. Customers with Internet connections and credit cards may view these from a computer at home anywhere in the world.

A number of these joints are found in Central Luzon. Lani (not her real name), who works full time for a local NGO, confirms the existence of numerous cybersex joints in their area. Most of these joints are operated by foreigners, mostly Australians and Americans, who have made the country their home. Usually, these foreigners have Filipino partners for their front men. She suspects that the owners of these joints have business partners abroad. Moreover, she also confirms that these cybersex joints employ children as young as 15 years old.

The NBI [National Bureau of Investigation] also confirms that adult online entertainment providers exist in the country. These joints are offshore offices of adult online service providers in Western countries such as the United States. In May 2003, the NBI raided one of these joints, located at the plush San Lorenzo Village in Makati. According to the Inquirer (2003), the company was run by an American national. The joint's main office, however, is located somewhere in Nevada. It keeps an offshore office in the Philippines because it is much cheaper to operate here; Filipinas are paid much less than their US counterparts, and less money is spent on office maintenance. The company set up shop in a Makati mansion, which they subdivided into 10 different rooms, each room having two computers each complete with web cameras.

The company, according to a NBI agent interviewed for the report, employed more than 20 women who went on eight hour shifts, twenty four hours a day. Not surprisingly, the company also employed teenage children. In the raid, the NBI were able to rescue two children aged 16 and 17. The women and girls who worked for the company were not regular women in prostitution, as some were found to be college students while others were waitresses who were either recruited directly by the owners or by their friends.

The Unit notes the on-going evidence of the commercial child sexual abuse industry online. In late November 2010 six Virtual Global Taskforce partner agencies, including the Australian Federal Police, came together to dismantle a network of some 230 commercial child sexual abuse websites selling images and videos of children as young as three years old. Five members of an organised crime group in the Ukraine were arrested.²

Evidence of the need for greater international co-operation in combating online child sexual abuse

The Unit notes that Australia could seek to play a greater role in international co-operation on take down notices for child sexual abuse sites. A study by Cambridge University compared times taken to take down different forms of content.³ It was found that Phishing sites and sites which threaten banks commercial interests are taken down very quickly. The child abuse image sites are by contrast likely to stay up for many weeks due to the complexities of

² The Hon Brendan O'Connor, Launch of the Virtual Global Taskforce Conference, Opening Address, 2 December 2010.

³ Moore, T & Clayton R, 'The Impact of Incentives on Notice and Take-down', (2008), www.cl.cam.ac.uk/~rnc1/takedown.pdf

the fact that different jurisdictions do not work together effectively, and reports are routed via local law enforcement which may not prioritise the issue or be properly trained to deal with it.

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