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Jackie Morris
Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Ms Morris

Re: Senate Inquiry into the Provisions of the NT Emergency Response Bill 2007 and Associated Bills

ACL is pleased to make a submission to the above Inquiry. The problem of child abuse in indigenous communities is a long-standing one and it is pleasing to see some proposed action. This is a deeply entrenched and multi-faceted problem, which needs to be addressed on many different levels.

ACL is particularly pleased to see that the Government appears to recognise the strong link between the availability of pornography and sexual abuse of children. However, we fear that the Government's commendable intentions will be negated if the restrictions on pornography apply only to Aboriginal communities. To be effective, these restrictions must apply across all or most of the Northern Territory.

A comparison with petrol sniffing demonstrates the point and is explored in Annex A. In its 2006 report, *Beyond petrol sniffing: renewing hope for Indigenous communities*, the Senate Community Affairs Committee concluded that:

The supply of Opal fuel to communities has been shown to reduce the incidence of petrol sniffing particularly among the younger children. However, this effectiveness is undermined if there are supplies of sniffable fuel available in nearby centres or if vehicles using other fuel enter Opal communities. Experience has shown that chronic sniffers tend to move from Opal communities into other communities and Town Camps where they can continue to access sniffable petrol and are not averse to breaking into cars, depots and bowsers to access fuel.

ACL believes that the pattern will be repeated with pornography. If its sale is restricted in Aboriginal communities but not in other centres, then the material will still be easily available to Aboriginal people and the Government's efforts to reduce child sex abuse will be greatly undermined. With this in mind, ACL has recommended amendments to the legislation, which are provided at Annex B.

Yours sincerely

Jim Wallace AM
Managing Director

Restricting pornography across the NT Comparison with Opal Fuel

ACL argues that, if the ban on pornography in Aboriginal communities is to succeed, it must actually be in place across the NT. Without this, pornography will still easily find its way into communities. A comparison with petrol sniffing demonstrates the point.

In 2006, the Senate Community Affairs Committee conducted an inquiry into petrol sniffing in remote Aboriginal communities (http://www.aph.gov.au/Senate/committee/diac_ctte/petrol_sniffing/index.htm). Despite the fact that the petrol stations closest to the Aboriginal communities stocked only non-sniffable Opal fuel, petrol was still easily available in the Aboriginal communities because those addicted to petrol-sniffing simply drove to a bowser further away in order to get petrol.

Ch 6 of the Senate Committee's report includes the following comments:

6.28 Those supporting a comprehensive roll out of Opal reinforced the view that when Opal is introduced only to some communities, chronic sniffers shift location to communities that still have sniffable petrol or to Town Camps.

6.29 The Tangentyere Council argued that sniffers would move from remote communities into Town Camps if Alice Springs is not included in a regional roll out. Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council expressed the same concern:

NPYWC welcomes the proposed extended Opal subsidy area and hopes that the supply will occur very soon. Members are however convinced that the coverage area needs to include both Alice Springs and a wider region... There is anecdotal evidence of the increased movement of sniffers into Alice Springs, as well as the presence of sniffers normally resident in the town. The limited provision of Opal fuel may be of some assistance to those intending to enter remote communities. There would appear to be nothing however to suggest that it will discourage sniffers, particularly of the chronic or habitual variety, seeking out the main source of regular unleaded fuel in the region.

6.30 Alice Springs Town Council also reiterated its request for Opal to be rolled out throughout the entire region including Alice Springs:

We are particularly concerned about the impact of having sniffable fuel available in the regional centre. There is an artificial perception that Alice Springs stands alone. In reality, it does not. The mobility of people between the bush and this town is very obvious, and there is data to back up the fact that people move between the bush and Alice Springs very regularly. In many instances, the population is one and the same – certainly when you are talking about extended families and problems for families. We certainly are of the belief that, unless Opal fuel is more broadly rolled out, it may not succeed in achieving the desired outcomes.

6.31 The Town Council indicated that there would be a very positive community response to the substitution of Opal for sniffable fuel:

There is a consciousness in Alice Springs that we can be either part of the problem or part of the solution. I am 100 per cent sure that most people would prefer to be part of the latter and would have no problem with converting to Opal fuel if their vehicles permit that. The other fuel, as I say, is not an issue for the community.

6.32 Access to black market sniffable fuel was seen as a real danger to the success of programs in communities. The Central Australian District Medical Officers commented that the 'piecemeal' provision of non-sniffable fuel to select communities and limited supply in Alice Springs was grossly inadequate and lead to an illicit 'sly trade' in sniffable fuel products.

6.42 DoHA and DIMIA acknowledged that there is mounting pressure for a wider roll out of non-sniffable fuel. The Departments stated that the Commonwealth's view was that a regional approach is needed to address petrol sniffing:

The Australian Government is of the view that a regional approach is needed to address petrol sniffing because its occurrence is variable within and between communities and consequently specific responses to it will need to be localised. However, given the potential for petrol sniffers to re-locate to other communities within a region in order to locate petrol, a regional approach which is able to be modified and applied on a community-by-community basis is believed to be the most appropriate response.

The Committee concluded that:

6.53 The Committee considers that the supply of Opal is a fundamental plank in the strategy to reduce petrol sniffing. The supply of Opal fuel to communities has been shown to reduce the incidence of petrol sniffing particularly among the younger children. However, this effectiveness is undermined if there are supplies of sniffable fuel available in nearby centres or if vehicles using other fuel enter Opal communities. Experience has shown that chronic sniffers tend to move from Opal communities into other communities and Town Camps where they can continue to access sniffable petrol and are not averse to breaking into cars, depots and bowsers to access fuel.

6.54 These issues were at the centre of the oft-repeated recommendation for a comprehensive roll out of Opal fuel to ensure maximum effectiveness in combating petrol sniffing. The Committee considers that the cost of the roll out of Opal would be offset by savings in health care for those disabled through sniffing as well as a reduction in the cost of support services to communities that are dealing with petrol sniffing. However, the Committee recognises that a comprehensive roll out may be limited by the availability of supplies of Opal. Currently, BP Kwinana can produce 20 million litres of Opal but any additional production would require a review of the facility and its capacity to produce extra fuel coupled with an acceptance by Government to subsidise a greater production capacity. The Committee also notes that BP Australia has stated that it will make available the production details for Opal to other refineries.

6.55 The Committee commends the approach taken under the Eight Point Plan and considers that this initiative will have a significant impact on reducing the incidence of petrol sniffing and curtailing any drift towards other substance abuse. However, the Committee considers that, while there are already plans to identify new priority areas in Western Australia and the Northern Territory, it will take some time for a wider application of the Eight Point Plan.

6.56 It is therefore imperative that the application of the Petrol Sniffing Prevention Program outside the designated area is improved and that a more strategic approach is implemented. At the present time Opal is supplied under the Petrol Sniffing Prevention Program only in response to a community's request. There is also no supply of Opal to roadhouses and townships outside the designated area even though these may be critically placed as last fuel stops before entering Opal communities. The Committee considers that this is a lost opportunity to improve the effectiveness of the Petrol Sniffing Prevention Program and the identification and roll out of Opal to these roadhouses and townships would be an efficient means of reducing black market and inadvertent supply of sniffable fuel.

ACL conclusion

Obviously, petrol-sniffing itself will not be erased solely by removing the supply of petrol: the deeper causes of such addictive behaviour need to be addressed or the addiction will simply transfer to something else. However, removing the supply is a very good first step.

The same holds true for pornography. Simply removing it will not address all causes of child sexual abuse, but it will remove a significant contributing factor. However, unless the sale of pornography is restricted across most or all of the NT, it will still easily find its way into Aboriginal communities, just as sniffable petrol has done. The emergency legislation proposed here will be greatly undermined unless the amendments proposed at Annex B are made.

**Families, Community Services and Indigenous Affairs and Other Legislation
Amendment (Northern Territory National Emergency Response and Other Measures)
Bill 2007**

Schedule 1 of this Bill adds a new Part 10 to the *Classification (Publications, Films and Computer Games) Act 1995* to prohibit possession and supply of prohibited material in prescribed areas. Prohibited material includes X18+ films.

The recognition that X18+ films are a cause of real harm to the community is long overdue. Of course, all six States already prohibit the production or supply of X18+ films. Only the Northern Territory and the Australian Capital Territory permit the production and sale of X18+ films.

The provisions of the Bill will not be as effective as they could be in improving the well-being of Aboriginal communities in the Northern Territory if residents of those communities can go to Darwin or Alice Springs or any other place in the Territory outside the prescribed areas and legally view X18+ films. It is even legal under Territory law for a parent or guardian to give an X18+ film to their children. [*Classification of Publications, Films And Computer Games Act (NT) Section 50 (2)*].

Given this, ACL recommends the following amendments to the Committee:

1. Amend Schedule 1 of the Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007 so that its provisions in relation to X18+ films apply to the whole of the Northern Territory, effectively prohibiting the possession or supply of X18+ films anywhere in the Territory.

2. Amend the Customs (Prohibited Imports) Regulations 1956, Regulation 4A, Importation of Objectionable Goods by including films that would be classified X18+ as objectionable goods.

The overwhelming majority of films classified X18+ which are produced and sold in the ACT or the Northern Territory are copies of originals produced overseas. Prohibiting the import of these films would contribute to stopping their proliferation in Australia, including in Aboriginal communities, not just in the Northern Territory but also in Queensland. The 1999 Report of the Aboriginal and Torres Strait Islander Women's Task Force on Violence (Queensland) found a link X18+ films and sexual violence against women and children: "The incidence of sexual violence is rising and is [in] a direct relationship to negative and deformed male socialization associated with alcohol and other drug misuse, and the prevalence of pornographic videos in some Communities." The Aboriginal Coordinating Council referred to \$4,000 to \$5,000 of orders of pornographic videos sent every week from Canberra to the Cape Communities.

3. Amend the Bill to make it an offence, anywhere in Australia, to carry or cause to be carried or to receive from a carrier service a film classified X18+.

This would make it unlawful for pornography merchants in Canberra not just to send X18+ films to prescribed areas but also to Aboriginal communities, or indeed anyone, elsewhere in Australia.