

Bravehearts Position Statement



Young People and Sexting

Bravehearts defines 'sexting' as the transmission of sexual images or words via mobile phone but also via all other technology including Skype, social networking, MSM and chat rooms. In most instances of sexting, young people are merely acting impulsively.

Research suggests that sexting occurs along a continuum of behaviours, including:

- Typical teen behavior – which is just part of adolescent courtship and relationships (most cases of sexting seem to fall under this category).
- Problematic boyfriend/girlfriend relationships – where there is a measure of abuse or dating violence that takes place.
- Intentional exploitation – blackmail, extortion, coercion, deception and trickery. An adult may be involved in these situations.
- Self-exploitation – which involves youth who brazenly and willingly expose themselves online in a sexual manner.

Research cited in the Joint Select Committee on Cyber-Safety report (2011) suggest that around 10% of a sample of 5,000 students had sent a nude photo of themselves by mobile phone. In addition, a recent Australian report (Green, Brady, Ólafsson, Hartley & Lumby. 2012) found that 15% of Australian children aged 11-16 year old internet users have received sexual messages online, with 4% of Australian children have sent sexts online.

The proliferation of mobile devices with the ability to send pictures and video quickly has led to the potential that many teenagers can find themselves facing legal consequences, even if the forwarding of the images was consensual.

In Queensland last year, the Sunday Mail highlighted the issue in a report that found that In the past three years, more than 450 child pornography charges have been laid against youths between the ages of 10 and 17, including 113 charges of "making child exploitation material" (Sunday Mail, 9th October, 2011).

Legislation responses need to be carefully constructed to ensure the protection of young people. It is suggested that, to understand how the law regulates *sexting*, it is necessary to effectively address sexting under our laws we need to take into consideration a range of factors such as:

- a) the intent of the person who sent the original image,
- b) how those images came into the possession of the person who has the, and
- c) how those images or videos are subsequently used and/or redistributed.

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It may be argued that an appropriate approach may be to ensure the inclusion of sexted images under child pornography legislation, with an available defence for young people who voluntarily self-produce and distribute such images to other minors.

The availability of such a defence could protect young people who self-produce images and some minors who receive them, for example if they can show that they did not exert pressure on the producer and did not further distribute the images.

This approach would facilitate effective prosecution of adult offenders while protecting the interests of the minors who are depicted in the images.

Additionally, a more effective consequence for young people involved in sexting would be a diversionary and/or preventative program focussed on awareness and education. It would be preferable that young people realise the severe moral, personal and social costs of their actions before they commit an act that may have serious legal consequences.

References:

Green, L., Brady, D., Ólafsson, K., Hartley, J., & Lumby, C. (2011). *Risks and Safety for Australian Children on the Internet*. Perth [WA]: ARC Centre for Excellence for Creative Industries and Innovation, Edith Cowan University

Joint Select Committee on Cyber-Safety report (2011). *High-Wire Act: Cyber-safety and the young*. Canberra [ACT]: Parliament of the Commonwealth of Australia.

National Child Protection Clearinghouse (2010). *Images of Children and Young People Online*. Melbourne [Vic]: Australian Institute of Family Studies.

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