

Submission on Restricted Access System

eSafety Consultation September 2021

Introduction

Collective Shout (www.collectiveshout.org) is a grassroots campaigning movement challenging the objectification of women and sexualisation of girls in media, advertising and popular culture. We target corporations, advertisers, marketers and media which exploit the bodies of women and girls to sell products and services and campaign to change their behaviour. More broadly we engage in issues relating to other forms of sexploitation, including the interconnected industries of pornography, prostitution and trafficking as well as the growing market in the sale of children for Live Distant Child Abuse.¹

Our work puts us in touch with the unique and specific ways children are at risk especially in their vulnerability to online grooming by predators and exposure to pornography. We have documented these harms over the past decade, including in our 2016 submission on Harm being done to Australian children through access to pornography on the Internet to the Senate Environment and Communication References Committee,² our 2019 submission to the Inquiry into Age Verification for Online Wagering and Online Pornography,³ our most recent submission to the inquiry into Law Enforcement Capabilities in Relation to Child Exploitation,⁴ and in numerous publications and commentaries.⁵

¹ Tankard Reist, Melinda. (2017). Why are Australian Telcos and ISPs enabling a child abuse pandemic? *ABC Religion and Ethics*.

<https://www.abc.net.au/religion/why-are-australian-telcos-and-isps-enabling-a-child-sexual-abuse/10095644>; For a summary of recent global campaigns relating to on-line child protection see Collective Shout (6 September 2021). National Child Protection Week 2021: Join our campaigns to protect children and young people. https://www.collectiveshout.org/child_protection_week_2021

² Collective Shout (2016). Harm being done to Australian children through access to pornography on the internet: Submission to the Senate Environment and Communications References Committee. https://d3n8a8pro7vhmx.cloudfront.net/collectiveshout/pages/1019/attachments/original/1457408234/CS_Submission_Harms_of_Pornography_Inquiry_March_2016.pdf?1457408234

³ Collective Shout (2019). Submission to Inquiry into Age Verification for Online Wagering and Online Pornography. https://www.collectiveshout.org/submission_to_inquiry_into_age_verification_for_online_pornography

⁴ Collective Shout (20 Aug 2021). Submission: Law Enforcement Capabilities in Relation to Child Exploitation. https://www.collectiveshout.org/submission_law_enforcement_child_exploitation

⁵ For example, see Tankard Reist, M. (2016). Early sexualisation and pornography exposure: the detrimental impacts on children, *Australian Childhood Foundation blog*. <https://professionals.childhood.org.au/prosody/2016/07/melinda-tankard-reist/>; Tankard Reist, M. (2016). Growing Up in Pornland: Girls Have Had It with Porn Conditioned Boys, *ABC Religion & Ethics*.

We monitor the activities of online predators on popular social media sites, reporting thousands of accounts for preying on underage and even prepubescent girls, or collating and hosting galleries featuring their images, to be shared between large groups of men. Our global #WakeUpInstagram campaign, with advocacy organisations Defend Dignity (Canada) and the National Center on Sexual Exploitation (USA), exposed the use of Instagram, for example, as a platform for predators to access children, pornography companies to promote and link to hardcore porn sites, as a source of accounts offering paid sexual content featuring children, and for facilitating other practices harmful to children and young people.⁶

Question 1: Under the Online Safety Act 2021, the RAS will only apply to Restricted Material that is provided from Australia on a social media service, relevant electronic service or designated internet service, or that is hosted in Australia. What elements should be part of an effective system to limit access to that kind of material?

We welcome the development of a new Restricted Access System. We propose a strong age verification system that is overseen by a regulator (eSafety) with legislated powers to enforce it. We have been lobbying for many years to see this realised. While a proof-of-age system will not be a silver bullet preventing children from accessing all harmful content, it will at least provide one obstacle in the way of immediate exposure to rape, torture, sadism, incest and related content.

The technologies necessary to achieve age verification are available. We believe the Australian Government and its agency, eSafety, can resist the power of vested interests and rise to the challenge of building a fit-for-purpose age verification system to protect Australian children. It is no longer acceptable to claim that the internet is an exceptional product that cannot be made safe. The wellbeing of the community, especially of its most vulnerable members, needs to be put before the profits of Big Tech.

Tech companies understand their users well; their likes, dislikes, demographic profile, sex, reading habits and purchasing habits, and more. Internet users should be provided with online experiences suitable for their age. We share the position of UK online safety body, the 5Rights Foundation:

<https://www.abc.net.au/religion/growing-up-in-pornland-girls-have-had-it-with-porn-conditioned-b/10097244>; Tankard Reist, M. (2018). Never Again? Addressing Sexual Violence Must Include Pornography, *ABC Religion & Ethics*.

<https://www.abc.net.au/religion/never-again-addressing-sexual-violence-must-include-pornography/1094568>; Tankard Reist, M (2021). Consent education does not stand a chance against pornography, *ABC Religion & Ethics*,

<https://www.abc.net.au/religion/consent-education-does-not-stand-a-chance-against-pornography/13231364>

⁶ See https://www.collectiveshout.org/_instagram

Many companies have a detailed picture of their users' interests, location, relationships, family status, income, sexuality and so on. Understanding users (profiling) and tailoring user journeys (personalisation) are the bread and butter of the tech sector, so it is perplexing that companies claim it is difficult, impossible, intrusive to identify children by age, which has in turn undermined the faith of policy makers and civil society in the validity and possibility of recognising children in the digital environment.⁷

Harmful material comes in many forms, however pornography and child sexual exploitation material [CSEM] warrant special concern. A report recently released by Cease UK demonstrates that 'Big Porn' is virtually unregulated and unaccountable to any government in the world.⁸ The report exposes the behaviour of the predatory online pornography industry, reveals its broad reach and shows the majority of UK citizens support strict laws to regulate the industry.⁹

Age verification will provide an obstacle to minors accessing harmful content and improve internet experiences. Its establishment would be an important move toward prioritising the safety and wellbeing of under-age users, above the revenues of the global sex industry.¹⁰ The EU's Digital Policy Alliance calls it a sensible "know your user" approach for businesses.¹¹ 5Rights Foundation explains how age verification will improve the internet for users:

Done properly, age assurance can drive the development of new products and services to create a richer and more diverse digital ecosystem in which children (one in three internet users) are a recognised user group...Rather than viewing it as simply restricting access, we should be looking at age assurance as a chance to invite children into a digital world that offers them greater privacy, freedom from commercial pressures, content and information in formats and language that they like, protection from misinformation or material that promotes harmful activities (such as suicide, self-harm or disordered eating), alongside supporting digital services in their legal duty not to provide children with age restricted contact and content. Real and effective age assurance has the opportunity to help build the internet that young people deserve.¹²

⁷ 5Rights Foundation (March 2021). But how do they know it is a child? Age assurance in the digital world. https://5rightsfoundation.com/uploads/But_How_Do_They_Know_It_is_a_Child.pdf

⁸ Cease UK (14 Jul 2021). New Expose Big Porn Report Launched 14 July 2021. <https://cease.org.uk/expose-big-porn/>

⁹ Cease UK (14 Jul 2021). New Expose Big Porn Report Launched 14 July 2021. <https://cease.org.uk/expose-big-porn/>

¹⁰ Virgo, Philip (4 Apr 2015). The case for Online Age Verification has gone political with a Conservative pledge. *Computer Weekly*. <https://www.computerweekly.com/blog/When-IT-Meets-Politics/The-case-for-Online-Age-Verification-has-gone-political-with-a-Conservative-pledge>

¹¹ EURIM Digital Policy Alliance (2 June 2021). DPA Briefing for Parliamentarians: Age/Identity Verification - challenges, solutions and benefits. *EURIM Digital Policy Alliance*. <https://www.dpalliance.org.uk/dpa-briefing-for-parliamentarians-age-identity-verification-challenges-solutions-and-benefits/>

¹² 5Rights Foundation (March 2021). 'But how do they know it is a child?' Age assurance in the digital world. <https://5rightsfoundation.com/in-action/but-how-do-they-know-it-is-a-child-age-assurance-in-the-digital-world.html>

Question 4: What is the nature of the impact that has been experienced by the Australian public [with regard to the 2014 RAS]?

4.1 Failures of self regulation

In our submission to the 2020 Review of Australian Classification Regulation we pointed out how the classification of material was failing to work in the interests of the community, in particular, children. The evidence we provided remains relevant to the present inquiry and we refer you to it.¹³

Collective Shout has documented the long-standing and chronic failures of industry self-regulation and lobbied for a tougher approach to sexually exploitative materials since our formation a decade ago. In our experience, the 'adult' industry cannot be trusted to self-regulate or follow voluntary codes. The industry has demonstrated a lack of consideration for children, for example by advertising close to children's schools,¹⁴ on school buses and buses traveling along school routes.¹⁵

As an illustration of the ongoing failures of the self-regulatory model, we point to our long campaign drawing attention to the failure of advertising self-regulation. There are no powers of enforcement of Ad Standards rulings, no fines or other punishments for non-compliance. This results in repeat corporate offender, sex store Honey Birdette, continuing to feature

¹³ Collective Shout (5 Mar 2020). Submission to Review of Australian Classification Regulation.

https://www.collectiveshout.org/submition_to_review_of_australian_classification_regulation

¹⁴ Collective Shout (25 February 2013). Priming children through the classroom window: sex industry advertises outside schools.

https://www.collectiveshout.org/priming_children_through_the_classroom_window_sex_industry_advertises_outside_schools; Liszewski, Melinda (4 August 2020). WIN! [UPDATED] Just 500m from a public Primary School: strip club's public porn.

https://www.collectiveshout.org/strip_club_public_porn

¹⁵ Chung, F (26 June 2017). Brisbane Sexpo ads running on school buses, billboards, *Herald Sun*.

<https://www.heraldsun.com.au/business/companies/brisbane-sexpo-ads-running-on-school-buses-billboards/news-story/a8a5b1520d387c7513d4f8b4071f34c9>; Bagshaw, Eryk (6 August 2021). School bus splashed with Sexpo advertising, *Sydney Morning Herald*.

<https://www.smh.com.au/national/nsw/school-bus-splashed-with-sexpo-advertising-20140806-100ysf.html>; Roper, C. Pornographic websites advertised on buses, the State Government profits, *Collective Shout*.

https://www.collectiveshout.org/pornographic_websites_advertised_on_buses_the_state_government_profits; Collective Shout victory against Sexpo a win for children's rights, *Collective Shout*.

https://www.collectiveshout.org/collective_shout_victory_against_sexpo_a_win_for_children_s_rights

objectified/pornified portrayals of women in shopping malls around the country.¹⁶ This company's recalcitrance shows the ineffectiveness of industry codes and guidelines.¹⁷

Another historic example is the violation of Classifications Board restrictions applying to explicit magazines containing illegal material.¹⁸

4.2 Reliance on parents to control what their children access has been unrealistic and unfair burden

We note planning for a new Restricted Access System (RAS)¹⁹ and are pleased to contribute to eSafety's related RAS public consultation. Parents have borne the brunt of trying to keep their children safe online. Our campaigns manager Caitlin Roper described this unfair fight, noting how the pornography industry aggressively markets its product to children using methods such as "studying children's common keystroke errors in order to direct them to porn sites, and making pornography based on children's favourite cartoon characters."²⁰

In 2021 the Australian Law Reform Commission (ALRC) final report, classification of explicit content was precluded. The ALRC recommended these restriction methods be set out in industry codes, not as a legislated requirement. Industry representatives favoured non-legislative approaches because it was in their interests to do so. There was a strong emphasis on expecting parents to restrict children's access to adult content. This approach does not connect with the reality of how children experience the internet. To again cite 5Rights:

Most children spend most of their time online using services that are not directed at them, for example, social media, streaming services, messaging apps and e-commerce sites. Children also spend time on services from which they are specifically prohibited, for example, gambling services, pornography sites and dating services. Additionally, many of their lived experiences are mediated by technologies that they have not chosen to engage with, for example, facial recognition technology in public places, predictive policing technology or algorithms in exam grading. Digital

¹⁶ Collective Shout (2019). Submission on the AANA Code of Ethics Review Discussion Paper. https://d3n8a8pro7vhmx.cloudfront.net/collectiveshout/pages/3234/attachments/original/1572758921/CS_AANA_Code_Sub2019.pdf?1572758921; Roper, Caitlin (20th June 2016). 25 Reasons Why Ad Industry Self-Regulation is a Disaster. Collective Shout. https://www.collectiveshout.org/reasons_why_ad_industry_self_regulation_is_a_disaster

¹⁷ Swanson Kennedy, L. (21 June 2019). CSR begins with men growing a conscience, *Mumbrella*. <https://mumbrella.com.au/csr-begins-with-men-growing-a-conscience-585242>

¹⁸ Tankard Reist, M (5 Dec 2008) Incensed about Censorship, *On Line Opinion* <https://www.onlineopinion.com.au/view.asp?article=8176>

¹⁹ Australian Law Reform Commission (February 2012). ALRC Report 118 Summary: Classification-Content Regulation and Convergent Media Summary Report. Sydney, NSW. https://www.alrc.gov.au/wp-content/uploads/2019/08/summary_report_for_web.pdf

²⁰ Roper, Caitlin (9 March 2018). Parents vs the Porn Industry isn't a fair fight. Huffington Post UK. https://www.huffingtonpost.co.uk/entry/parents-vs-the-porn-industry-isnt-a-fair-fight_uk_5aa0df69e4b0ef2aaff70489

*technologies that engage children without their participation often affect them in ways they may not know.*²¹

4.3 Failures of the current RAS: Classification Board assigned M or MA15+ ratings to anime and manga genres featuring Child Sexual Exploitation Material contrary to Australian law

As revealed by South Australian Centre Alliance Senator Stirling Griff in a speech to the Senate 25 February 2020²² and subsequent motion 26 February 2020,²³ the Classification Board was found to have classified anime constituting child sexual exploitation material as M and MA15+ contrary to Australian law.

We were very concerned about the discovery of illegal animated child sexual exploitation material which the current Board classified as M and therefore unrestricted and accessible to any age. Other illegal anime content had been classified as MA, suitable for people 15 years and over. Senator Griff exposed the Board's deeply disturbing failure to exercise its responsibilities under Australian law in this example of systemic failure by this government Agency.

Senator Griff described anime-style movies featuring "wide-eyed children, usually in school uniforms, engaged in explicit sexual activities and poses, and often being sexually abused." He called for an immediate review of all Japanese anime movies accessible in Australia which we supported in a media release issued February 27, 2020.²⁴

The Commonwealth Criminal Code prohibits the sale, production, possession and distribution of offensive and abusive material that depicts a person, or is a representation of a person, who is or appears to be under 18.

Senator Griff cited a number of anime series which feature the sexual abuse of children. One of these, *Sword Art Online*, which depicts rape and sexual assault of children, was given an unrestricted M rating by the Classifications Board, despite the fact it constitutes illegal child exploitation material. According to Senator Griff, in this series the character Asuna is raped by her captor Sugu, who threatens to also rape her in the real world, where she is lying in a hospital room in a catatonic state. Sugu also states that he'll make a recording of the virtual

²¹ 5Rights Foundation (2021). But how do they know it is a child?

https://5rightsfoundation.com/uploads/But_How_Do_They_Know_It_is_a_Child.pdf

²² Parliament of Australia, 'Adjournment - Child Exploitation,' 25 February 2020,

https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansards/14173c17-b03b-4c66-9956-874aef26373c/&sid=0234

²³ Parliament of Australia, 'Motions - child exploitation,' 26 February 2020,

https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansards/d636e948-ad32-4123-a451-4f3e200901fa/&sid=0201

²⁴ Liszewski, M. (27th February 2020). Senator calls for ban on child sexual abuse manga and anime. Collective Shout.

https://www.collectiveshout.org/senator_calls_for_ban_on_child_sexual_abuse_manga_and_anime

rape to shame her.

Senator Griff said that the Classification Board justified the M rating in their report, saying that the nudity through the film is 'moderate in impact' and 'justified by context'. We would like to know how Board members could possibly accept the sexual violation of children for entertainment as justifiable in any way.

Other anime series depicting sexual abuse of children as well as strong incest themes were given an MA 15+ rating by the Board, despite the content being illegal. In *Goblin Slayer* children are portrayed as frightened or resisting - at the same time enjoying the sexual abuse inflicted on them.

In regard to *Sword Art Online*, Senator Griffs said:

Whilst the series has a restricted MA15+ classification, I say again that this falls within the definition of 'child abuse material' contained in the Commonwealth Criminal Code and should be banned. It beggars belief how it passed through the classification board who, in their decision report, provide justification for scenes including 'upskirting' as comedic. There is nothing funny about it. It is repellent. The series should have been denied classification and should be banned.

Our experience working with child sexual abuse survivors and clinicians supports Senator Griff's statement that this type of anime and manga is "a gateway to the abuse of actual children" and can be used as a grooming tool to normalise abuse.²⁵

4.4 The classification scheme should broaden the provisions relating to 'sex' to reflect new research insights into sexual objectification

A well-established international body of research on the effects of a sexualised culture and sexual objectification should inform a review of the classification system, with the primary aim of reducing harm. To this end, we need an evidence-based approach to guidelines relating to the category of 'sex'.

Even where there is no sexual activity in children's media, it may still contain sexualised images of girls and women, which are known to be harmful to children's emotional and psychological development. There is a growing body of global research demonstrating the detrimental effect of these representations, especially on children and young people.

For example, see an overview of the literature by Women's Health Victoria in 2018 describing the published evidence that sexist images in advertising impact adversely on health and wellbeing; self-objectification, body satisfaction, mental health, eating behaviours, cognitive performance, relationships and sexual health, physical activity, sense of safety and

²⁵ Roper, C. (11 March 2020). The sexual exploitation and sale of children: UN Special Rapporteur releases report, *Collective Shout*. https://www.collectiveshout.org/un_special_rapporteur_report

participation, perceptions of women's humanity, competence and morality, and violence-supporting attitudes.²⁶

We also draw your attention to a 2015 meta-analysis of research on the portrayal of women and girls in advertising and its effect on attitudes towards and treatment of women:²⁷

The findings provided consistent evidence that both laboratory exposure and regular, everyday exposure to this content are directly associated with a range of consequences, including higher levels of body dissatisfaction, greater self-objectification, greater support of sexist beliefs and of adversarial sexual beliefs, and greater tolerance of sexual violence toward women.

Moreover, experimental exposure to this content leads both women and men to have a diminished view of women's competence, morality, and humanity.

A content assessment method for sexual objectification has been developed by Dr Caroline Heldman.²⁸ Called the CHIPS test, it asks five simple questions. If the answer is "yes" to any one of them, the material is sexually objectifying.

- 1) Commodity: Does the image show a sexualised person as a commodity, for example, as something that can be bought and sold?
- 2) Harmed: Does the image show a sexualised person being harmed, for example, being violated or unable to give consent?
- 3) Interchangeable: Does the image show a sexualised person as interchangeable, for example, a collection of similar bodies?
- 4) Parts: Does the image show a sexualised person as body parts, for example, a human reduced to breasts or buttocks?
- 5) Stand-In: Does the image present a sexualised person as a stand-in for an object, for example, a human body used as a chair or a table?

The BOSE and other guidelines in relation to online safety should take into account this well-established research by identifying sexual objectification and ensuring children are not exposed to it.

²⁶ Women's Health Victoria (Dec 2018). *Advertising (in)equality: the impacts of sexist advertising on women's health and wellbeing*. Women's Health Victoria, Melbourne, Victoria.
[https://womenshealthvic.com.au/resources/WHV_Publications/Issues-Paper_2018.12.06_Advertising-inequality-the-impacts-of-sexist-advertising_Dec-2018_\(Fulltext-PDF\).pdf](https://womenshealthvic.com.au/resources/WHV_Publications/Issues-Paper_2018.12.06_Advertising-inequality-the-impacts-of-sexist-advertising_Dec-2018_(Fulltext-PDF).pdf)

²⁷ Ward, L. M. (2016). Media and Sexualization: State of Empirical Research, 1995-2015, *The Journal of Sex Research* 53(4-5), 560–577.

²⁸ Heldman, Caroline (24th October, 2014). How to spot sexual objectification: The CHIPS Test. <https://drcarolineheldman.com/2014/10/24/how-to-spot-sexual-objectification-the-chips-test/>

Question 5: What factors should be considered when assessing the effectiveness and impacts of systems, methods, and approaches to limiting access or exposure to age-inappropriate material?

5.1 Personal accounts of harm to children and young people

Collective Shout has always had a strong focus on listening to children and parents sharing their stories. These first-person experiences, combined with research, should inform public policy. We have documented such accounts in submissions and articles cited prior.

5.2 The strongest version of an AV system must be chosen

We recommend selection of the strongest form of proof-of-age protections to be resistant to any efforts by vested interests to undermine its operations. A system of age verification overseen by a Government appointed regulator with legislated powers, is our recommended model [see *Question 6* re options].

5.3 International research, child and youth development experts should be involved in the regulatory process

Any regulatory system needs to reflect expert input from child and youth development experts and best practice in addressing the special needs and vulnerabilities of young people.

5.4 Ensure that computer games are classified taking into account evidence of harms of sexual objectification, and ensure compliance

Computer games classification should be approached from an evidence-base, rather than the subjective concepts currently utilised: “the standards of morality, decency and propriety generally accepted by reasonable adults”, “the importance of context” and so on, as stated in the Guidelines for Classification of Computer Games 2012.²⁹

Selected computer games have been refused classification in Australia, rightly because they contained scenes of sexual violence, drug use, abhorrent scenes, etc. We are concerned that at times these games have remained available despite being refused classification. For example, DayZ was refused classification in the disc format in Australia, but was

²⁹ Guidelines for the Classification of Computer Games 2012. *Federal Register of Legislation*. <https://www.legislation.gov.au/Details/F2012L01934>

nonetheless available on Steam, Bohemia Interactive Humble Bundle, PlayStation Store, and Xbox Live.³⁰

We therefore strongly supported the expansion of classification to cover all platforms by which computer games might be made available. Research shows that video games have a stronger self-objectifying effect than other media.³¹ Sexual violence, including towards children (for example Rapelay which simulated the rape of a mother and her two daughters), is excluded because it causes “offence to a reasonable adult”. We accept that some gamers may not be offended by paedophilia and rape. But the impact on attitudes and behaviours towards children and the broader community is neglected in most documentation of this Classification review and the previous reports as well. There is no mention of the impact on children’s wellbeing here:

11.27 The depiction of sexual activity involving a minor need not be ‘real’: the Classification Review Board determined that a Japanese animé film should be classified RC, because the impact of the sex scenes involving the blonde novice are exploitative and as she is depicted as a child under 18 years ... [T]he depictions are likely to cause offence to a reasonable adult.³²

Song of Memories is a game that was refused classification in 2018: “The offending passage involves a sequence where the player witnesses a cut-scene implying the sexual assault of one of the female characters by a gaggle of teenage boys with the intent of murdering her afterward.”³³ It remained on the Steam store until at least a year later, apparently because it ‘slipped through the net’.

Rape Day was pulled from the Steam online store in 2019, not because of children’s wellbeing nor even community standards, but because of costs and risks to the business:³⁴

Developers describe the content as including violence, sexual assault, non-consensual sex (which is more accurately described as rape), obscene language, necrophilia and incest.

The game features a range of scenarios where the male persona preys on and rapes naked women with cartoonish large breasts, who are positioned as vulnerable and depicted frightened, screaming and in pain. In a scene where the man rapes a non-responsive woman, text appears on the screen: “Because she is no longer struggling against you, you grow bored.” In another scenario, the man puts a gun in a

³⁰ Plunkett, Luke (8th July 2019). DayZ is somehow banned, but also not banned in Australia. *Kotaku*. <https://kotaku.com/dayz-is-somehow-banned-but-also-not-banned-in-australi-1837049633?IR=T>

³¹ Karsay, K., Knoll, J. and Matthes, J. (2017). Sexualizing media use and self-objectification: A meta-analysis. *Psychol Women Q.* 42(1):9-28.

³² Australian Law Reform Commission (February 2012). *RC Classification-Content Regulation and Convergent Media Final Report*. Sydney, NSW. https://www.alrc.gov.au/wp-content/uploads/2019/08/final_report_118_for_web.pdf

³³ Bardwell, T. (21st October 2019). Australian Ratings Board Rises to Eject NSFW ‘Song of Memories’ from Steam. CCN Gaming News <https://www.ccn.com/australia-nsfw-song-of-memories-steam/>

³⁴ Roper, Caitlin (8th March 2019). Rape game pulled from 13+ platform Steam after backlash. *Collective Shout*. https://www.collectiveshout.org/rape_game_pulled

woman's mouth, threatening to "blow [her] brains all over the dirt" and rape her corpse.

In response to backlash over the game's blatant promotion of rape and violence against women, distributor Valve pulled the game from the platform. Valve issued a weak, vague statement explaining their reasons for withdrawing the game. At no point did Valve condemn any of the sexually violent material, content that would be illegal under Australia's classification laws. Instead, their decision to pull the game appears to have more to do with protecting their financial interests than any objection to violence against women: "After significant fact-finding and discussion, we think 'Rape Day' poses unknown costs and risks and therefore won't be on Steam."

We recommend that the new system finds a way to ensure that classification decisions are appropriate and respected by developers and game platforms.

Another serious problem is the exposure of children to age-inappropriate ads. This has been a business model used by app developers; by using paid ads, they can make apps free to use. But children are frequently exposed to unexpected ads that are violent or sexual in nature. Intrusive ads in free games and 'educational' apps can be difficult to turn off (with a tiny "x" in the corner that appears after some time), and at times children can be confused about which is the game and which is the ad.³⁵ Developers often respond that parents can get rid of the ads by paying for the premium version. Google has responded by saying that they count on users, developers and partners to flag apps with inappropriate content. This is a system that ensures children will see harmful material, as that's how it is discovered.³⁶ An AV system should ensure that children never see age-inappropriate ads. Ads promoting 18+ content should not target children through games/content rated for under 18s.

5.5 Relevance to e-commerce industry

In our extensive campaign work documenting the promotion and sale of child sexual exploitation material - particularly childlike sexual abuse dolls and replica body parts marketed for men's sexual use³⁷ - on e-commerce platforms we have noted a range of age-inappropriate (and illegal) content freely available for viewing online, hosted by these corporates including:

- Explicit pornographic images used to advertise products.
- Explicit pornographic images uploaded by users to "customer review" sections.
- Customer reviews used as paedophile forums for sexualised (implied and explicit) discussions about prepubescent children in undergarments, swimwear and "cosplay" items. In some instances users provided email addresses for other users to contact

³⁵ Carroll, Linda (30 Oct 2018). Kids' apps may have a lot more ads than you think. *Reuters Health*. <https://www.reuters.com/article/us-health-kids-apps-ads/kids-apps-may-have-a-lot-more-ads-than-you-think-idUSKCN1N42BZ>

³⁶ Pia, Brian (2 Dec 2017). Sexually suggestive ads appearing on children's apps. *ABC3340 News*. <https://abc3340.com/archive/sexually-suggestive-ads-appearing-on-childrens-apps>

³⁷ Roper, C. (6 Oct 2020). Our investigation exposing Etsy for selling child sex abuse dolls, *Collective Shout*. https://www.collectiveshout.org/etsy_selling_child_sex_abuse_dolls; Kennedy, L. (10 Jul 2020). Alibaba Group: Stop selling child sex abuse dolls, *Collective Shout*. https://www.collectiveshout.org/alibaba_child_sex_abuse_dolls

them through. Girls' genitals are often visible, lending to our belief that the images constitute child exploitation material.³⁸

- Customers are uploading images of underage girls wearing items purchased through the platforms in the review sections, placing the girls at risk of sexual exploitation.
- Products with messages which normalises, trivialises and fetishises child sexual abuse.³⁹
- Images depicting graphic, sexualised violence and degradation of women.
- Child sex abuse dolls including replica toddler-children with orifices for sexual penetration, and instructional videos on how these can be used. Several sellers offer customised dolls made in the likeness of real children, based on customer-supplied photos. Other products include child-like/child-size replica body parts such as heads, mouths and feet with orifices for men's sexual penetration.

Examples of current age ratings for popular e-commerce online shopping apps where we have documented this activity include⁴⁰:

- Alibaba: 4+
- Amazon: 4+
- Etsy: 4+
- Wish: 12+
- Shein: 12+

Each of these platforms and content described above were freely accessible online.

We do not believe that these age ratings are appropriate, and urge that e-commerce platforms must comply with age verification requirements to protect children from exposure to pornographic and other age-inappropriate content.

5.6 Protect children from data mining and harmful design features

As explained by the new campaign *Children's Data Code*, we are concerned that children and young people have their data mined from birth for commercial purposes.⁴¹ This creates risks that children are unable to understand and consent to:

- Children's live location can be broadcast publicly;
- Algorithms suggest extreme content unsuitable for children or young people (and possibly harmful for anyone);
- 'Nudges' extend unhealthy use of the internet;
- Ads target vulnerable users.

³⁸ In an email to our Alibaba and Amazon contacts August 28, 2020 we alerted both platforms to a number of concerning listings where prepubescent girls were being sexualised. One product was called 'Fantasy String Thong Panties'. We said that 'the review and Q+A sections connected to some of the Alibaba listings appear to contain paedophilic comments, illegal requests for child exploitation material and paedophile networking.'

³⁹ Collective Shout (19 Jan 2021). 'Daddy's little c*ck whore': How Etsy profits from child abuse + incest-themed products, *Collective Shout*. https://www.collectiveshout.org/etsy_incest_products

⁴⁰ Apple App Store, September 10, 2021.

⁴¹ See <https://www.childrensdatacode.org.au/>

We support the policy proposals by Children's Data Code including:

- Protecting all young people under 18 years old
- Covering all services children and young people may use
- Putting children's best interest at the heart of decision making about their data (best interests might include emergency situations with ambulance or police, or those working for children's wellbeing such as social workers at schools):
 - Expressed consent - only process data when children (and parents) have meaningfully consented, except in their best interests;
 - Transparency and accountability - children (and parents) should know every time their data is processed, except in their best interests;
 - Data minimisation and restricted data sharing - only collect the data you really need, and don't share it, except in their best interests.

Age verification will also allow software designers to remove or disable features that are harmful to children. These features exist to increase engagement with the app and are only for the commercial benefit of the company that reaps profits. However, they can have devastating effects on child users:

- Push notifications, feeding a fear of missing out, not allowing children to take a break from the app.
- Endless scrolling feeds, encouraging long sessions on the app.
- Quantifying and displaying popularity (likes, followers, etc.)
- Making it easy to share
- In-app or in-game purchases, adding risks for children to overspend.
- Making it easy to connect with friend or follower suggestions, exposing children to potentially malicious users.

Question 6: What systems, methods and approaches do you consider effective, reasonable and proportionate for verifying the age of users prior to limiting access to age-inappropriate material?

6.1 Different products/services will have different requirements for age verification

The UK's 5Rights Foundation published a detailed paper on the range of options for age verification, appropriate for various scenarios.

These are some examples of products and services for which AV is not needed:⁴²

- Products and services with which children are unlikely to engage with or have interest in (e.g. pension service, hardware supplier, real estate agent)
- Products or services specifically designed for children of a range of ages that have met the criteria for safe and child-friendly design.
- Products or services that require identification, through which they can establish the age of that person (e.g. Medicare, banking, taxation, Centrelink).

Some resources that children should be able to access, like news or encyclopedias, could be exempt from age restrictions, even if children are likely to access them, but providers of these services and resources should:⁴³

- use an appropriate age assurance method to establish age or age range of their child users OR
- redesign the product/service to meet the criteria appropriate for a mixed audience that includes children. It might be mandatory, for example required by law or as part of an industry code.

EURIM Digital Policy Alliance notes that anonymity has allowed trolls and abusers to harm people on the internet, but a balanced approach is required: neither banning anonymity nor allowing absolute anonymity are appropriate. The need for verification and accountability varies according to different purposes.⁴⁴

6.2 AV should be mandated in these situations

We draw here from recommendations by 5Rights Foundation:

- Age-restricted goods. There are many products that are age-restricted, for example lottery tickets, knives, cigarettes or alcohol. Age verification is required to sell these products.
- Age-restricted services: gambling services, commercial pornography sites, dating sites, some violent interactive games. Social media sites are age-restricted and have been restricted to those above 13 but have features (e.g. DMs) that can only be used by those over 16. These websites are mostly lacking in reliable AV mechanisms.
- Age-restricted content, for example films with ratings MA15+, R18+ and RC. Violent or sexual content on video sharing platforms.
- Age-appropriate experiences for particular age groups. 5Rights Foundation suggests that AV can ensure services are delivered to the intended age groups, e.g. sexual health advice, education products, or apprenticeship/training opportunities. E.g.

⁴² 5Rights Foundation (2021). *But how do they know it is a child?*
https://5rightsfoundation.com/uploads/But_How_Do_They_Know_It_is_a_Child.pdf

⁴³ 5Rights Foundation (2021). *But how do they know it is a child?*
https://5rightsfoundation.com/uploads/But_How_Do_They_Know_It_is_a_Child.pdf

⁴⁴ EURIM Digital Policy Alliance (2 Jun 2021). *DPA Briefing for Parliamentarians: Age/Identity Verification - challenges, solutions and benefits*. EURIM Digital Policy Alliance.
<https://www.dpalliance.org.uk/dpa-briefing-for-parliamentarians-age-identity-verification-challenges-solutions-and-benefits/>

gaming services can automate ‘time outs’ for younger children; a news media site may wish to remove paywalls for teenagers who might be unable to afford it.

- Data protection, currently one of the biggest drivers of the requirements for AV.⁴⁵

EURIM Digital Policy Alliance makes the following suggestions for when and why AV is needed.⁴⁶

- For viewing universally appropriate content, no AV is required, as there is a low risk of harm.
- To view age-sensitive content, AV is necessary to prevent underage access to adult material.
- For sharing universally accessible content, AV is necessary to ensure accountability for uploading content and content ratings.
- For sharing age-restricted content, AV is necessary to ensure accountability for content, comments, and content ratings.
- To interact universally with other users, AV is required for accountability, and to prevent inappropriate adult/child contact.

6.3 Establishing risks

Companies offering digital products and services need to be able to effectively assess the risks posed to children by interaction with their product. We recommend that a tool is established in Australia to assist companies to gain clarity into the risks and necessary responses. 5Rights Foundation has developed the “Four Cs” to categorise the risks faced by children in the digital world.⁴⁷

1. **Content:** child or young person can be exposed to harmful material, including content that is inappropriate for their age, e.g. pornography, extreme and real-life violence, discriminatory or hateful content, disinformation, content that endorses risky/unhealthy behaviours such as disordered eating or self-harm. Especially if the service has few community rules and little content moderation.
2. **Contact:** when a child or young person is able to participate in activity with a “malign actor”, often but not always an adult. Risks can lead to sexual exploitation, grooming, harassment, stalking, blackmail, unwanted sexual advances, or location sharing. Services that allow private messaging, making a child’s location visible, or facilitating the introduction of unknown adults to children via friend suggestions are inherently risky.
3. **Conduct:** facilitating or even encouraging behaviours and activities that cause harm to young people, both as victims and perpetrators. Bullying, sexting, revenge porn,

⁴⁵ <https://www.childrensdatacode.org.au/>

⁴⁶ EURIM Digital Policy Alliance (2 Jun 2021). *DPA Briefing for Parliamentarians: Age/Identity Verification - challenges, solutions and benefits*. EURIM Digital Policy Alliance. <https://www.dpalliance.org.uk/dpa-briefing-for-parliamentarians-age-identity-verification-challenges-solutions-and-benefits/>

⁴⁷ 5Rights Foundation (2021). *But how do they know it is a child?* https://5rightsfoundation.com/uploads/But_How_Do_They_Know_It_is_a_Child.pdf

trolling, threats and intimidation, peer pressure, loss of control of digital legacy/footprint.

4. **Contract:** exposing children to inappropriate commercial and contractual relationships or pressures. Can result in harm from compulsive use, gambling, targeted advertising, hidden costs, loss of control over personal data.

6.4 Methods of AV

Different types of AV are listed by 5Rights Foundation in their report *But how do they know it is a child?*⁴⁸

- Most simple is a child/parent simply telling a service their age, age range, or DOB. At the other end of the spectrum, data might be a hard identifier (official documentation like passport, driving licence) or from government records: checking a user's name, address or national insurance number against existing databases.
- From publicly held databases (Medicare, school, taxation, Centrelink, or tax databases and other national registers), users' ages can be checked against these. Quality can vary depending on method of collection; datasets may contain errors or omissions.
- Private databases can be used, for example banks or mobile phone providers, which would have conducted initial age or ID checks. These official databases contain more information about adults than children, so this approach presents limitations where services need to confirm a user is below 18, or where product/service is tailored to the age of a child.
- Data to verify age can be derived from contextual information - e.g. the type of content they frequently engage with, the location from which they are accessing the service, the times and frequency they are active, the ages of the user they interact with, or their ability to complete a given task or their use of language (capacity testing).
- Biometric data relate to the physical/behavioural characteristics of a user - facial features, iris scans, finger/palm print, gait, speed of typing, keystroke dynamics, or the way they inch a screen or scroll, can also be used to estimate age. This information can be given voluntarily to establish age/ID or it might be gathered in the course of use. Data relating to physical characteristics such as height and gait are commonly collected by devices such as phones or wearable fitness trackers. These also indicate the likely age of a user.
- Third party provider of age assurance: users can obtain a digital token with no identifying information which can verify age. Authentication would provide access to age-appropriate products and services online.

We believe it is important that the method of AV does not depend solely on a responsible parent or caregiver. Some children are given unsupervised and unfettered access to the internet and these children are more vulnerable to online pornography and exploitation.

⁴⁸ 5Rights Foundation (2021). *But how do they know it is a child?*
https://5rightsfoundation.com/uploads/But_How_Do_They_Know_It_is_a_Child.pdf

For those who believe AV is not a realistic proposal, note that big tech companies (Facebook and YouTube, for example) are already fully engaged in age verification as part of profiling users, collecting detailed data without knowledge or consent and tailoring their online experiences and especially advertising.

6.5 Minimum principles for AV

EURIM Digital Policy Alliance has listed three minimum principles that should be applied to any AV system:⁴⁹

- Data minimisation - the amount of data collected or shared and length of time it is retained for verification purposes should be the absolute minimum.
- Third party options - don't force people to verify through one mechanism, or via the platform itself.
- Tokenism of attributes (e.g. age, real name) rather than sharing whole identity or whole identity document.

5Rights Foundation set out 11 common standards for age assurance in anticipation of the Online Safety Bill in the UK. We agree with these standards, and they are briefly listed here:⁵⁰

- AV must be privacy-preserving.
- AV should be proportionate to risk and purpose.
- AV should be easy for the child to use.
- AV must enhance children's experiences, not merely restrict them.
- AV providers must offer a high level of security.
- AV providers must offer routes to challenge and redress.
- AV must be accessible and inclusive.
- AV must be transparent and accountable.
- AV should anticipate that children don't always tell the truth.
- AV must adhere to agreed standards.
- AV must be rights-respecting.

⁴⁹ EURIM Digital Policy Alliance (2 Jun 2021). *DPA Briefing for Parliamentarians: Age/Identity Verification - challenges, solutions and benefits*. EURIM Digital Policy Alliance. <https://www.dpalliance.org.uk/dpa-briefing-for-parliamentarians-age-identity-verification-challenges-solutions-and-benefits/>

⁵⁰ 5Rights Foundation (2021). *But how do they know it is a child?* https://5rightsfoundation.com/uploads/But_How_Do_They_Know_It_is_a_Child.pdf

Question 7: Should the new RAS be prescriptive about the measures used to limit children's exposure to age-inappropriate material, or should it allow for industry to determine the most effective method?

We believe that the RAS should be prescriptive by offering a strong set of options for industry to use. Not all methods will be suitable for all situations. A mixture of methods can be applied with success.

However, we have serious concerns about industry self-regulation. Failures of the 'adult' industry to comply with the current RAS were described in section 1 of our submission to eSafety on '*Implementation roadmap for a mandatory age verification (AV) regime relating to online pornography*'. There should be minimum standards and non-negotiable principles, as set out in section 6 of this submission. We believe that the RAS should be more prescriptive than permissive when it comes to methods used in industry application of AV.

7.1 The failures of the advertising industry's self-regulation

The advertising industry has been self-regulated and we have been dealing with problems in this regulatory environment for over a decade. We have no confidence in a self-regulatory system where there are no fines for non-compliance and no powers of enforcement.⁵¹ At times, the advertising regulator would not even look at complaints.⁵²

Some companies make a public show of refusing to abide by community standards. For example, Honey Birdette refuses to take down its advertising that violates the Australian Association of National Advertisers [AANA] Code of Ethics, highlighting the fact that Ad Standards - the very body responsible for handling advertising related complaints from members of the public - has no power to enforce community expectations. As a result, we see too many companies for whom ethics have little to no role in their operations - continue to flout ethical codes of practice.⁵³ Honey Birdette provides an instructive case study.

To date, Honey Birdette has been found in breach of the AANA Code of Ethics 50 times, with 23 adverse rulings in a 15-month period between February 2018 and May 2019. Honey Birdette either ignores the rulings or responds with mockery toward those who make complaints. This company and its shopping centre landlords continue to act in violation of community standards. Given the Australian Human Rights Commission defines sexual

⁵¹ Kennedy, L. (27 August 2019). Self-regulated advertising: how many more examples of failure do we need? *Collective Shout*.

https://www.collectiveshout.org/self_regulated_advertising_more_examples_of_failure

⁵² Liszewski, M. (18 November 2019). The advertising body tasked with considering community complaints now won't even look at them. *Collective Shout*.

https://www.collectiveshout.org/ad_standards_now_rejecting_complaints

⁵³ Alison, Coralie (3 February 2020). When 'ethical' funds invest in sexploitation. *Collective Shout*
https://www.collectiveshout.org/tags/honey_birdette

harassment as including ‘unwanted exposure to sexualised imagery,’ Honey Birdette and the property groups which host the company are also engaging in human rights violations.⁵⁴

Over a period of 10 years, Wicked Campers also responded with mockery to widespread community pressure to remove its harmful and sexually degrading slogans from vans being driven around Australia. In 2019, State Transport ministers announced a nation-wide approach that would give each State powers to deregister vehicles with harmful imagery and slogans, once Ad Standards has ruled the imagery and/or slogan in breach of the advertising Code. Wicked Campers has been reined in only after Collective Shout’s decade of lobbying for regulatory measures. That is, a new mechanism had to be implemented because Ad Standards had no teeth, further illustrating the failure of a self-regulatory approach.

Conclusion

We recommend selection of the strongest form of proof-of-age protections to be resistant to any efforts by vested interests to undermine its operations and to protect as many children as possible from demonstrable harm.

September 2021

⁵⁴ Roper, Caitlin (20 June 2016). 25 Reasons Why Ad Industry Self-Regulation is a Disaster. Collective Shout.
https://www.collectiveshout.org/reasons_why_ad_industry_self_regulation_is_a_disaster