

A RESPONSE BY CHILDNET INTERNATIONAL TO THE

HOME OFFICE CONSULTATION ON THE POSSESSION OF EXTREME PORNOGRAPHIC MATERIAL

24th NOVEMBER 2005



For the Home Office and Scottish Executive Consultation document see <http://www.homeoffice.gov.uk/documents/cons-extreme-porn-300805?view=Binary>

Current legislation:

- 1. Do you think the challenge posed by the Internet in this area requires the law to be strengthened?**

Yes.

Childnet believe that there is a requirement to strengthen the law here. The Internet and other new technologies, such as digital cameras and photography, have facilitated the production, distribution and thus the possession of this type of material as well as other illegal material.

Childnet agrees with the rationale outlined in the Home Office consultation document, and feel that adding such an offence of possession of such extreme material would help to make legal provision in this area consistent. It is an anomaly in the law that it is legal to possess such extreme material despite it being illegal to publish it, and this is particularly clear in relation to

new technologies which makes control of the sources of supply and distribution very difficult (as explained in paragraph 23 of the Consultation document). Thus Childnet supports the proposed strengthening of the law here.

Evidence of harm:

- 2. In the absence of conclusive research results as to its possible negative effects, do you think that there is some pornographic material which is so degrading, violent or aberrant that it should not be tolerated?**

Yes.

Being exposed to potentially harmful content is one of the dangers facing children using the Internet. 57% of 9 to 19 year-olds who go online once a week have been exposed to online pornography, according to the UK Children Go Online research by Sonia Livingstone and Magda Bober at the LSE. Children do accidentally access pornography. The research found that “For the most part, encountering pornography (by children) is unintentional”¹, and 36% of the 9-19 year-olds surveyed have accidentally found themselves on a pornographic website when looking for something else.

Childnet believe that every effort should be made to protect children from potentially harmful content, and we do feel that exposure to such sexually violent content could be especially damaging to children. Exposing children to pornography, particularly child pornography, has been used by adults with a sexual interest in children to ‘normalise’ the activity depicted and to encourage the children into similar activities. Childnet are concerned about the potential impact on children of being exposed to sexually violent material, which has the potential make such deviant activities appear as ‘normal’ in children’s and young people’s minds. We are familiar with anecdotal evidence on the impact of viewing sexually violent material on children. One example of such evidence comes from Cambodia, where the violent rape of a 7 year-old girl by three boys aged 12 and 13 was found to be a copy of what the boys had seen on a video².

In relation to images of child abuse there is an impact of the existence of images on the child victims portrayed these images. The knowledge that the images of their abuse have been distributed on the Internet and are never fully retrievable, does surely make it harder for the victims to put their abuse behind them as it is impossible to gain control of the images and thus of who sees them. Childnet can see no reason to presume that the victims of serious sexual violence would be in a different position here, knowing that a record of their sexual abuse is publicly available and could be seen by anyone – knowing that anyone could view this legally must be additionally distressing.

¹ See ‘UK Children Go Online, Surveying the experiences of young people and their parents’ by Sonia Livingstone and Magda Bober, July 2004, p30.

² See *Rape and Indecent Assault in Cambodia*
<http://www.licadho.org/reports/files/45Summarized%20rape%20report.pdf>, p12.

Childnet believe that there is no place for such material and it should not be tolerated. We feel that efforts to counter this content are important and the efforts to break the supply and demand cycle by the introduction of a new offence could be a valuable initiative here.

Content of material:

3. Do you agree with the list of material set out?

Yes.

Childnet agrees with the list of material set out. The more focussed the offence is here, clearly the more likely it is to be used, and readily understood by the public.

The challenges are to make this new offence workable – is the experience of those working in this area that these images are easily identifiable as illegal? Childnet would seek reassurances from law enforcement that this is the case, and would seek to avoid the situation where the legality of particular images the subject of debate.

Childnet agree that it is important that the offence would cover actual scenes and depictions.

There are discussions ongoing in the Home Office Task Force on child protection on the Internet (in the sub-group looking at Criminal Law) about cartoons, text and computer-generated images in relation to child abuse images, and this discussion is equally relevant here in relation to extreme pornographic material. Childnet would recommend that any new offence in relation to extreme pornographic material mirror any developments that are made in relation to making cartoons, text and computer-generated images depicting child sexual abuse illegal.

4. Do you believe there is any justification for being in possession of such material?

No.

There can be no justification for possession such material outside of the reasons outlined in the consultation document, ie being sent this material by someone, for example via spam e-mail, or accidentally coming across it (for example downloading a mis-labelled file), or having a legitimate reason for possessing it (and there can be very few of these) such as the prosecuting authorities, or for those making reports, or those bodies authorised to receive reports, about such material.

Options:

5. Which option do you prefer, 1,2,3, or 4?

Childnet's preferred Option is Option 3, in line with the Home Office's preference.

6. Why do you think this option is best?

As this is a possession offence of a particular type of extreme material (ie sexual), Childnet see it is better placed outside the Obscene Publications Act (OPA), which is focussed on publishing, and Childnet concurs with the reasoning outlined in paragraphs 45-48.

Childnet would welcome a more specific piece of legislation here than the OPA, as it can be clearly outlined what type of material is illegal rather than rely on the relative judgment of depraving and corrupting.

Childnet also believe to do nothing would be the wrong option, not least because consideration has been given to introducing a new offence. National legislation, particularly in the absence of effective international law has an important part to play in relation to criminal activity on the Internet.

Penalties:

7. which penalty option do you prefer:

Childnet would be satisfied with either of the two Options outlined. We would be keen for there to be a custodial sentence to ensure the level of deterrent that is needed here.

Partial Regulatory Impact Assessment:

Please make any comments on any aspect of the Partial Regulatory Impact Assessment:

Childnet do not foresee an area of adverse impact, and are satisfied with a scheme to monitor and review the effectiveness of the proposed change (p24).

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