To the Parliament of Victoria,

Please find attached the submission from Mrs Lesley-anne Ey of the University of South Australia relating to 'Inquiry into sexting'.

I will be addressing the following based on research and opinion.

(1) the incidence, prevalence and nature of sexting in Victoria;

(2) the extent and effectiveness of existing awareness and education about the social and legal effect and ramifications of sexting;

(3) the appropriateness and adequacy of existing laws, especially criminal offences and the application of the sex offenders register, that may apply to the practice of sexting, particularly with regard to the creation, possession and transmission of sexually suggestive or explicit messages and images in circumstances where a person:

(a) creates, or consents to the creation of, the message or image for his or her own private use and/or the use of one or more other specific persons; or

(b) creates, or consents to the creation of, the message or image and without their knowledge and/or their consent the message or image is disseminated more broadly than the person intended.
(1) the incidence, prevalence and nature of sexting in Victoria;

There has been minimal targeted research published in the area of sexting in Australia. A survey conducted in 2008 with more than 4,700 children from grades 5 to 11 in independent Victorian schools found that “7.3 per cent of girls who owned a mobile phone had been asked to send a nude picture of themselves” (Weldon 2011, p. 57). This same research shows that these percentages increased with age; 16 per cent of girls by Year 11. In 2007 a survey by the teen magazine ‘Girlfriend’ found that “40 per cent of respondents had been asked to send nude picture of themselves” (Weldon 2011, p. 57). Because the number of participants is unknown and the information was gathered from a restricted sample these limitations need to be considered when deciphering these figures. Research conducted in a Queensland primary school found that girls as young as 8 years are sexting images of themselves to their peers (Hamilton, 2010). International research has shown similar findings. A study in America with children aged 12-17 years found that four per cent had sent suggestive, naked or semi-naked images of themselves and 15 per cent had received them; percentages in both instances increased with age (Weldon 2011). In the United Kingdom, “teens are posting sexually explicit images of themselves on social networking sites” (Papadopoulos, 2010, p. 33). There are many news articles beginning in 2009 to current that have reported children being charged for sexting crimes.

This is an international phenomenon and considering images can be distributed via computer tablet technologies such as iPhones, iPads, iPods as well as mobile phone it is likely that sexting will increase particularly because more children are becoming owners of digital technology at younger ages. For example, in 2009, 18 per cent of Australian children aged 8-11 owned a mobile phone increasing to 23 per cent for children aged 9-11 years (Australian Communications and Media Authority, 2010) (AMCA). Considering the age of the research these figures are likely to have increased. Hamilton’s (2010) research shows that children are engaging in sexting from an early age, and the AMCA (2010) shows that almost a quarter of pre-adolescent children own a mobile phone, therefore it is reasonable to suggest that the prevalence of sexting is only going to increase and that engagement in sexting by pre-adolescent children will escalate.

(2) the extent and effectiveness of existing awareness and education about the social and legal effect and ramifications of sexting;

Currently, there are no specific programs run about sexting for parents. Commonly awareness about sexting is only reaching parents after a sexting case goes to court and hits the headlines in the news. Parents can actively seek out helpful information on the internet, but generally parents will only consider doing this if they are made aware of sexting being a risk for their own children.

There are no compulsory education programs run within schools, however some schools do try to address the issue by inviting guest speakers or utilising specialty teachers such as IT teachers or health education teachers but commonly this only happens in some high schools, which overlooks primary school students. This is of concern for two reasons; many children are not being educated through their educational institution and although research has found that primary school students are engaging in sexting, I personally am not aware of any primary schools addressing the issue of sexting with students as a whole. That is; individual students discovered sexting may be attended to privately to protect the child’s dignity and reputation, but sexting is not addressed as part of the
curriculum. This primarily leaves the responsibility of sexting educating up to parents who may not be fully informed of the risks, prevalence or consequences.

Sexting education needs to be addressed within Australian primary and high schools as schools have the best access to both students and parents of who both need to be informed of the social and legal ramifications of sexting.

(3) the appropriateness and adequacy of existing laws, especially criminal offences and the application of the sex offenders register, that may apply to the practice of sexting, particularly with regard to the creation, possession and transmission of sexually suggestive or explicit messages and images in circumstances where a person:

(a) creates, or consents to the creation of, the message or image for his or her own private use and/or the use of one or more other specific persons; or

Although I have limited knowledge about law as it is not my profession, I would like to draw attention to children’s development that should be considered when creating legislation around this topic. As stated earlier, children are engaging in sexting from an early age. Children do not develop abstract thinking until around the age of 11 years (Berk, 2008). This means that they do not forward think or consider consequences of their actions. This makes children vulnerable to engaging in such activities without consideration, unless they are specifically educated on the topic. Conversely, adolescence have developed abstract thinking which suggests that they are quite capable of considering consequences before engaging in such activities. However, adolescence are still likely to engage in risk taking behaviours because limitations in their thinking include imaginary audience syndrome, adolescent egocentricism and personal fable cognitions which can create a delusion of invulnerability (Peterson, 2010). This means adolescence think ‘it won’t happen to me’. In addition, adolescence begin to place a greater emphasis on peer friendships and peers become more influential than parents. Adolescence tend to form peer relationships based on shared interests and character dispositions and view peer friendships as loyal, supportive and stable (Peterson, 2010). Consequently, younger children will not understand the whole meaning and consequences of engaging in sexting activities and adolescents will tend to trust that whoever they may engage in sexting with will not be disloyal to them thus will consider their sext will not be shared without their permission and that no-one will find out about them engaging in sexting activities. A hard hitting campaign that provides adolescents with statistics and real incidents may be of benefit.

I believe these developments need to be considered when creating laws about sexting. This is not to insinuate that consequences of producing child pornography should not be imposed on children, but a ‘child appropriate’ balance where first offenders are not placed on a sexual predator registration or incarcerated.

(b) creates, or consents to the creation of, the message or image and without their knowledge and/or their consent the message or image is disseminated more broadly than the person intended.

In relation to children using sext messages as a form of blackmail or distributing child pornography regardless of whether they have received consent or not from the child whom the pornographic photos are of, more consequential approach is required.
In sum, this phenomenon will not disappear, but will only increase; children need to be informed of the social and legal implications of engaging in sexting. Enforcing laws that children are not aware of should be avoided which does not suggest that laws should not apply to children, but children desperately need to be educated about sexting from an early age.

Australian Communications and Media Authority. (2010). Trends in media use by children and young people: insights from the Kaiser Family Foundation’s generation M2 2009 (USA), and results from the ACMA’S media and communications in Australian families 2007. Melbourne: Australian Communications and Media Authority.