The Executive Officer  
Law Reform Committee  
Parliament of Victoria  
Parliament House  
Spring Street  
East Melbourne  
VIC 3002

8 June 2012

RE: Inquiry into Sexting

Dear Dr Vaughn Koops

headspace welcomes the opportunity to provide a submission to the Law Reform Committee’s Inquiry into Sexting. headspace believes that this is an important issue for young people, parents, schools, police and the legal system. In our submission we will address all the terms of reference with a particular focus on the appropriateness and adequacy of existing laws. headspace strongly believes that placing young people on the sex offender’s register is an inappropriate action and has long-term negative consequences for young Victorians. headspace advocates for this practice to cease and for the application of the sex offender’s register to be reserved for serious sex offences. In addition, headspace recommends that the Committee actively consult with young Victorians about their knowledge and experiences of sexting, and canvass their views on appropriate policy, legislation and programs to address the issue.

1. Incidence, prevalence and nature of sexting in Victoria

What do we know? There is very little literature or evidence, especially from an Australian perspective, of the extent, nature and impacts of sexting among young people [1]. The majority of the statistics cited in the media and journal articles originate from studies in the United States. The current research reports prevalence rates of sexting ranging from one per cent to over 20 per cent of young people [1-5], with higher prevalence in the older age group (16 to 17 years) [4, 5] and females being more likely to create sexting images than males [4, 5].
The literature states that the nature of sexting commonly falls within three scenarios: sent between romantic partners; sent between partners and then shared with others; and sent between young people where at least one person hopes to be in a relationship with the other [5].

With regard to the impact of sexting on young people’s health and wellbeing, there have been no research studies exploring this issue. The literature suggests that the potential impacts can be depression, anxiety, humiliation, suicide and disengagement from education and/or employment [1, 5].

headspace is concerned that despite this lack of evidence there is tendency for the media to sensationalise the issue [6]. We require valid data, rather than sensationalised statements that have the effect of normalising a potentially uncommon problem and demonising young people and their use of technology. We must acknowledge that the majority of young people use technology responsibly.

It is important to note that many experts believe that sexting “is a new manifestation of motivations and behaviours among young people that have been around forever” [1]. The behaviour—that is sharing nude images—is not new; only the method is new in terms of using mobile phones and the internet. Adolescence is typically a time of experimentation and risk taking. It is essential to explore the context of sexting within a developmental perspective of adolescence, which is a time when young people are exploring their identity (including sexual identity) and engaging in risk taking behaviours.

**Recommendation 1:** headspace recommends that the Victorian government fund research into the prevalence and nature of sexting in Victoria. This would include an exploration of young people’s experiences and views of sexting (including definitions) and their recommendations for prevention and intervention.

**Recommendation 2:** headspace recommends that the Committee recognise sexting as a social issue not a criminal problem.
2. The extent and effectiveness of existing awareness and education about the social and legal effect and ramifications of sexting

**What do we know?** Once again there is no literature or evidence exploring the awareness and education about the social and legal effects and ramifications of sexting. There have been no evidence reviews of effective interventions to prevent sexting or how to deal with incidents of sexting. However, the literature does recommend approaches to education and prevention.

Our review of the literature has identified several key themes [1, 5, 7-9]:

- Many young people are often unaware of policies and laws that impact them
- School responses vary from dealing with the issue themselves to involving police
- Many schools do not have policies that cover the issue of sexting
- Police responses vary from issuing cautions to the young person being prosecuted.

With regard to recommendations for prevention, the following themes emerge from the literature [1, 4, 5, 7-12]:

- Sexting is an issue that requires a multi-pronged approach from a range of organisations and people. This includes young people, parents, teachers, schools, police and governments.
- The prevention of sexting in schools should be embedded in the context of overall health and wellbeing covering the areas of sex education, intimacy, healthy and positive relationships, self esteem, body image, bullying, cybersafety, importance of privacy, ethics, and also how to be responsible digital citizens.
- Schools should be supported to develop policies and procedures around incidents of sexting (even if occurring out of school hours) as well as the prevention of sexting.
- Information and support is required for parents to assist them in discussing these issues with their children. This includes relationships, sex, impact of sexting, healthy decision making, and how to be responsible digital citizens.
- Information is required for young people in plain language about the current laws on sexting and the legal consequences of sexting, and advice about what to do if they receive a sexting image.

**Recommendation 3:** headspace recommends that the Committee advocates for a mutli-pronged approach to sexting that involves a range of professionals, organisations and people. Support is required for schools, young people, parents and police.
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.

“..we do need to make a qualitative distinction between young people of a similar age basically exploring their sexuality and the very serious offence of child sexual exploitation because they are not equivalent.” [1]

headspace acknowledges that sexting is a potentially harmful behaviour that must be responded to, however, headspace is opposed to the application of the sex offender’s register with regard to sexting. headspace believes that the long-term consequences of a young person being placed on the sex offender’s register is damaging to a young person’s health and wellbeing. The stigma attached to being labelled a sex offender is lasting. It can impact future job prospects and ultimately has the potential to ruin a young person’s life, making it all but impossible for them to become a fully productive member of society.

headspace believes that many of the laws that could apply to sexting—such as child pornography laws—were not created with young people or social media in mind. The law has not kept up-to-date with the fast-paced growth of technology. headspace believes that the current laws in Victoria involve penalties that are disproportionate or otherwise unsuitable when applied to young people in the modern context. The law needs to change.

headspace supports that belief that placing young people found guilty of sexting on the sex offender’s register dilutes the importance and utility of the sex offender’s registry. No child or young person should ever be considered a child pornographer or in possession of child pornography for sending sexual photos to each other when in a consensual relationship.

In addition to removing the application of the sex offender’s register, the law needs to differentiate between those who maliciously distribute sexts to third parties and those who send them with the intent of them being seen by the recipient alone. The law needs to consider the ages of participants, their relationships, and whether the images or films have been distributed without their consent.
**headspace** believes that understanding sexting from the perspective of young people is fundamental to the development of strategies for preventing potential harms. Important to this debate/inquiry are the views and lived experiences of young people as these policies and laws impact on their current rights and their future. Involving young people in decisions ensures appropriate design and delivery of laws and improves young people’s experience of public life. In addition, the active and informed participation of young people is likely to result in laws and policies that are more effective and relevant to their needs. This will result in better outcomes for young Australians.

**Recommendation 4:** **headspace** recommends that the Committee remove the application of the sex offender’s register for sexting and that application of the sex offender’s register be reserved for serious sex offences.

**Recommendation 5:** **headspace** recommends that the Committee actively consult with young Victorians about their knowledge and experiences of sexting, and canvass their views on appropriate policy, legislation and programs to address the issue.

**headspace** welcomes further discussions to continue to inform the law reform process and the work of the Committee.

Yours sincerely,

Kathleen Alonso

Acting CEO
APPENDIX 1: ABOUT HEADSPACE

headspace, the National Youth Mental Health Foundation, is a world-first initiative providing youth-friendly early intervention services to Australians aged 12-25.

Established in 2006, headspace has provided services to more than 63,000 young people. It reaches them through a number of channels, including:

- **headspace Centres.** We have 40 centres (scaling up to 90 centres by 2015) right across the country - in metropolitan, regional and rural areas. Any young person who needs support, advice or just someone to talk to about a mental health problem, can walk into a headspace centre and be treated with respect and compassion, within a confidential and safe environment.
- **eheadspace.** Our online and telephone mental health support service helps young people who don't feel ready to attend a centre or who prefer to talk about their problems via online chat, email or the phone.
- **headspace School Support.** This newly-launched program is gearing up to assist school staff and students across the country deal with the complex issues they may confront in the aftermath of a suicide.

headspace provides assistance across four core streams of mental health, physical health, alcohol and other drug, and vocational assistance and advice, and we aim to empower young people to seek assistance early.

Because 75 per cent of all mental health problems begin between the ages of 12 and 25, our services provide high quality early intervention services for mental health challenges commonly experienced by young adults, with the aim of preventing long-term adverse effects.

headspace national work is driven through four core platforms: building knowledge in evidence based treatment, community engagement and awareness-raising, provision of training and education and driving service sector reform.

headspace prioritises the views of young people, both at a service-provision level and at a policy level, through our headspace National Youth Reference Group. Our workers listen to and try to understand the needs of young people so they can realise better health and wellbeing. We also work with other mental health and community agencies to improve the lives of young people.

A recent Independent Evaluation of headspace\(^1\) was favourable in its view of the headspace model, its appeal to young people, and the quality of care provided across the four core streams.

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APPENDIX 2: REFERENCES

5. Lenhart, A., Teens and sexting: how and why minor teens are sending sexually suggestive nude or nearly nude images via text messaging. 2009, Pew Research Centre: Washington DC.