



# MEDIA RELEASE

Hon. John Hatzistergos MLC  
Attorney General  
Minister for Citizenship  
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Tuesday 9 March 2010

## NEW LAWS TO CLARIFY ART AND CHILD PORNOGRAPHY

Attorney General, John Hatzistergos today introduced major reforms to child pornography laws which allow courts to better distinguish child pornography from art, expands protections for victims and makes it easier for police to prosecute.

The new laws stem from a NSW Child Pornography Working Party chaired by Judge Peter Berman SC set up to examine the State's child pornography laws and sex offence sentencing.

"The artistic merit defence currently contained in legislation poses a significant problem," Mr Hatzistergos said.

"Currently a clear line does not exist between child pornography and art – a situation that is not ideal for the public or the artistic community," he said.

"Laws introduced today make it clear that if a court determines that material is 'child abuse material', the fact that it is art can no longer be used as a defence to a charge of child pornography."

The NSW laws adopt Commonwealth provisions where the court looks at the artistic merit of the material when deciding whether it is child pornography, rather than relying on the defence of artistic purpose being raised.

The reforms also:

- expand protections for previous victims of sex offenders: allowing evidence to be given via CCTV, preventing cross-examination from the accused, and providing victims with access to a court support person;
- reduce the trauma experienced by police, prosecutors and juries involved in child pornography cases by allowing the use of random samples to represent vast amounts of images, rather than analysing every single one;
- make it easier for police to prosecute instances where images are disseminated via the internet by standardising NSW laws with Commonwealth laws;
- change the definition contained in the legislation from "child pornography material" to "child abuse material" to make it clear how devastating the practice of child pornography is for children.

"These reforms provide greater protections to victims and save law enforcement officers and juries the trauma of examining every single disturbing item when a haul of pornography is uncovered," Mr Hatzistergos said

The NSW Government's moves to toughen child pornography laws have come as a result of working with victims groups and members of the artistic community including the National Association for Visual Arts.

Vice President of the Victims of Crime Assistance League, Howard Brown welcomed the Government's legislation saying the laws provided a balanced response to a very difficult issue.

"This can be a very grey area to legislate but we agree with the view contained in the legislation that once a court adjudicates that material is pornographic, the defence of artistic merit should not be available," he said.

Executive Director of the National Association for Visual Arts (NAVA), Tamara Winikoff also commented on the changes.

"While the removal of artistic merit may seem to make artists more vulnerable to constraints on their freedom of expression, police and the ODPP need to establish the material in question is such that a reasonable person would find it offensive in all the circumstances," she said.

"NAVA is currently working with the ODPP and the police on protective protocols so that art experts are consulted and can advise on whether the material had been produced by a genuine artist and had 'artistic merit' taking into account its context, intention and meaning."