2013

Regulatory regimes, the protection of children, and music subcultures online: contesting the terms of debate

Andrew Whelan

University of Wollongong, awhelan@uow.edu.au

Publication Details

Whelan, A. (2013). Regulatory regimes, the protection of children, and music subcultures online: contesting the terms of debate. Researching Music Censorship Conference Denmark: University of Copenhagen.
Regulatory regimes, the protection of children, and music subcultures online: contesting the terms of debate

Abstract
When 'child welfare' becomes a robust legislative logic, the potential for music to fall under the remit of regulation is expanded. In Australia, materials that 'describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not)' are prohibited. This applies to material which is visual, verbal, or in NSW, 'in any other form', extending also to representations or descriptions of fictional persons. It therefore has the scope to render work in several genres 'potentially illegal'. Discussed here are two such genres: death metal and 'noise'.

Customary responses to this situation include critical accounts of the legislation and its underlying sociocultural logics, where 'child protection' becomes an ascendant regulatory rationale; and assessments of the material involved and its cultural significance, alongside accounts of the contexts rendering that material meaningful.

There are however two germane anterior issues, usually only tacitly addressed. The first is the defence of free speech in academic culture, embedded particularly in accounts of 'resistant' subcultural practices. The second is the law as radically disjunctive – not in terms of critiquing the misalignment of law with common practice, but as indicative of the 'fictive' feasibility of regulation – such that 'potentially illegal' status remains just that. Where the debate can be conceptualised in terms of disparate cultural milieux (academy, law, and music subcultures), the senses in which their positions are co-constitutive warrants closer attention.

Keywords
debate, contesting, terms, online, subcultures, music, children, protection, regimes, regulatory

Disciplines
Arts and Humanities | Law

Publication Details
Whelan, A. (2013). Regulatory regimes, the protection of children, and music subcultures online: contesting the terms of debate. Researching Music Censorship Conference Denmark: University of Copenhagen.

This conference paper is available at Research Online: http://ro.uow.edu.au/lhpapers/1259
Andrew Whelan:
Regulatory regimes, the Protection of Children, and Music Subcultures Online: contesting the terms of debate

When ‘child welfare’ becomes a robust legislative logic, the potential for music to fall under the remit of regulation is expanded. In Australia, materials that ‘describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not)’ are prohibited. This applies to material which is visual, verbal, or in NSW, ‘in any other form’, extending also to representations or descriptions of fictional persons. It therefore has the scope to render work in several genres ‘potentially illegal’. Discussed here are two such genres: death metal and ‘noise’.

Customary responses to this situation include critical accounts of the legislation and its underlying sociocultural logics, where ‘child protection’ becomes an ascendant regulatory rationale; and assessments of the material involved and its cultural significance, alongside accounts of the contexts rendering that material meaningful.

There are however two germane anterior issues, usually only tacitly addressed. The first is the defence of free speech in academic culture, embedded particularly in accounts of ‘resistant’ subcultural practices. The second is the law as radically disjunctive – not in terms of critiquing the misalignment of law with common practice, but as indicative of the ‘fictive’ feasibility of regulation – such that ‘potentially illegal’ status remains just that. Where the debate can be conceptualised in terms of disparate cultural milieux (academy, law, and music subcultures), the senses in which their positions are co-constitutive warrants closer attention.

Biography
Andrew Whelan lectures in sociology at the University of Wollongong. He has research interests in music-based subcultures and their online articulation.

Andrew Whelan
Faculty of Arts
University of Wollongong
awhelan@uow.edu.au