

SUBMISSION TO THE SENAT LEGAL AND COSTITUTIONAL COMMITTEE
ON
AUSTRALIAN CLASSIFICATION SCHEME
BY
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The attention of the committee is drawn to the purpose for the introduction of the Australian classification scheme. It was, and still is to the best of my knowledge, an advisory description of a publication, film or interactive computer game to enable the people purchasing or viewing an item to decide **prior to purchase or viewing** whether or not they might find the contents offensive. Largely it must be acknowledged that the actual classification works very well as there are very few complaints compared to the number of works that are classified.

If there is a problem it is that the responsibility for all classification doesn't repose in the one authority. TV classification is done by Free TV Australia. Film is classified by the Classification Board. Publications are classified by the publisher unless they are possibly category 1 or 2. It would seem probable that one body of experts doing the classification would be the most cost effective.

The biggest problem with the classification system is that it is used by all Governments as a part of the censorship system. The degree of censorship varies between the Commonwealth and each of the States and Territories and they all refer to the Classification system. To make life difficult the Commonwealth Classification system and the Censorship system are spread across various Acts of Parliament. Is it any wonder that the general population are totally confused and in that confusion think that the Classification System is the Censorship System. They are then totally annoyed that the MA15+ DVD they hired shows nudity and simulated sex which they for some strange reason think will be blocked by the Government for them because they don't want to see such things.

The simple fact is that the **Classification System is an advisory system and the general member of the public must use his/her freedom of choice** governed by what ever social and religious prejudices they enjoy **to decide whether to partake** or decline the offered experience.

The Australian film and literature classification scheme, with particular reference to:

a) the use of serial classifications for publications;

I assume that you are referring to a ranking scheme similar to films and TV which would be costly for publishers and retailers to implement. There have been no widely publicised cases of incorrect classification of publications. The major complaints have been about display of material which a member of the public has considered offensive. The validity of the complaints judged by community standards as reported in the press would suggest that they are questionable. The imposition of additional costs on publishers and retailers to achieve no real benefit except to appease those few individuals who think that Michelangelo's David should be shrouded with a fig leaf should be rejected by the Parliament and this Committee.

b) the desirability of national standards for the display of restricted publications and films;

My experience is that the covers of restricted material (ie what you can see in the shop) are intentionally mild and would only be likely to attract a PG rating. Standards already exist in respect to the covers.

c) the enforcement system, including call-in notices, referrals to state and territory law enforcement agencies and follow-up of such referrals;

The enforcement system, on those very rare occasions it need to be used, seems to be more than adequate as the state and territory agencies are if anything over zealous in ensuring that action is taken against anything that might be an offence. eg the Henson case.

d) the interaction between the National Classification Scheme and customs regulations;

The National Classification System is only used as a reference by the customs regulations to determine whether or not there has been a breach of the customs regulations. There is no perceived problem except the need in some cases for the material to be referred to the Classifications Board and the cost of doing this.

e) the application of the National Classification Scheme to works of art and the role of artistic merit in classification decisions;

The National Classification Scheme being applied to works of art would seem to be a costly exercise with no real benefit. (See the Henson case) Art Galleries are not going to exhibit work that the public would find offensive because they are not going to sell the work (ie get a commission) and the number of public visitors would fall which would impact on other sales. Public Art Galleries are obviously even more sensitive to public opinion due to their dependence on entry fees and donations.

f) the impact of X18+ films, including their role in the sexual abuse of children;

There is no scientific, credible evidence that X18+ films, herein after called pornos have any role in exacerbating the sexual abuse of children.

The Committee is referred to the work of Milton Diamond PhD of the University of Hawaii who has studied the relationship between pornos and sexual abuse including sexual abuse of children for over thirty years. His findings in several studies have shown that the more freely available pornos are in a community the lower the rate of sexual abuse. ^(a)

g) the classification of films, including explicit sex or scenes of torture and degradation, sexual violence and nudity as R18+;

This is a matter for the ALRC review of censorship and classification and will be covered more comprehensively in that review than this far wider and more general one.

h) the possibility of including outdoor advertising, such as billboards, in the National Classification Scheme;

There would be no purpose to including outdoor advertising in the National Classification Scheme. If there is a serious problem with offensive content in outdoor advertising then it is up to the particular State or Territory to take action.

i) the application of the National Classification Scheme to music videos;

It already does through the film requirements which applies to DVDs and Videos and by the Free TV Australia code of practice.

j) the effectiveness of the 'ARIA/AMRA Labelling Code of Practice for Recorded Music Product Containing Potentially Offensive Lyrics and/or Themes';

This is a case of unless there is an enormous amount of complaints having regard to the volume of material sold then it is safe to believe that the code of practice is working. As far as I am aware this system is working well.

k) the effectiveness of the National Classification Scheme in preventing the sexualisation of children and the objectification of women in all media, including advertising;

The National Classification scheme has never had this objective. **It is advisory.** I would have thought that the Anti- Discrimination legislation was a much more appropriate place for laws in respect to these issues if they are in fact needed.

l) the interaction between the National Classification Scheme and the role of the Australian Communications and Media Authority in supervising broadcast standards for television and Internet content;

The action of ACMA in regard to the National Classification Scheme is limited to unresolved complaints with the TV stations that have been referred by a disgruntled viewer or a complaint by a disgruntled internet user who has seen something they consider offensive.

It is very rare for a complaint from a TV viewer to be upheld so either ACMA is inept in this role or the complaints are in the main vexatious and without substance when compared to normal community standards. I don't believe that ACMA is inept. I do have doubts about ACMA being allotted this role and think it should be a Classification Board responsibility.

In regard to the internet ACMA is considered by reasonably knowledgeable internet users as totally inept in regard to classification. ACMA's problem however is probably more to do with the way the law has evolved and the at times the frustrating ignorance of our politicians. If they issue a take down notice, then you simply move the page they refer to overseas where it isn't going to be subject to draconian regulations and political interference. If they black list it, it really doesn't matter as it will be readily accessible unless there is a filter system in place. To give the committee some idea of how effective ACMA is in regard to policing the Classification Scheme the list of blacklisted sites, which they eventually admitted to being theirs, published by Wikileaks did not contain one real child pornography site, most of the links were dead. The majority of active links went to gambling sites or USA sites which are legal there but considered to contain child pornography in Australia. There were perfectly innocent people including a dentist who were on the blacklist and this was because at some time in the past their site had been high jacked for a short period to display a page of child pornography. It should be noted that an Australian site should never have been on the blacklist at all and should have been subject to a take down notice.

m) the effectiveness of the National Classification Scheme in dealing with new technologies and new media, including mobile phone applications, which have the capacity to deliver content to children, young people and adults;

The National Classification Scheme is an advisory system that is not a substitute for good parenting and will never meet the expectation of lazy wowsers who want their morals and religious beliefs imposed on others regardless of how the other people feel about this.

I would challenge each of the Committee Members to think back to their puberty and the first time they saw or heard X18+ and/or R18+ material. Think about why you looked and what long term effect the experience had upon you. Any one who says they didn't had better see a psychiatrist because some research suggests that young people who haven't been exposed to sexually explicit material are more likely to be sexual offenders and sexist.

The Committee needs to recognise that the modern communications systems are only a different way of disseminating material. What used to be done behind the weather shed at school or in letters and notes is now done using modern technology. Nothing has really changed.

n) the Government's reviews of the Refused Classification (RC) category; and

All the classification and censorship laws are to be reviewed by the ALRC who are currently waiting for the final terms of reference. This Committee examining a small part of the ALRC referral would seem a waste of time and resources.

o) any other matter, with the exception of the introduction of a R18+ classification for computer games which has been the subject of a current consultation by the Attorney-General's Department.

Due to the difference in State laws relating to censorship and the inordinate amount of time that has been taken with the R18+ classification for games one must question whether SCAG is an effective organisation and whether uniformity of Laws across States and Territories is achievable unless there is a marked change in political will at all levels of government.

In conclusion let me reiterate that the Classification system is an advisory system.

Market forces on the internet are no different to market forces on the main street. If the general community rejects or is offended by what is offered they wont buy the offered products and the business will fail. The members of the Australian community are not stupid even though some would have us believe otherwise. They know what an off switch is and when they are really offended will use it.

References:

(a). "Removing pornography from our midst will, according to the evidence, only hurt rather than help society." <http://www.hawaii.edu/PCSS/biblio/articles/1961to1999/1999-effects-of-pornography.html>

"In sum, the concern that countries allowing pornography would show increased sex crime rates due to modeling or that adolescents in particular would be negatively vulnerable to and receptive to such models or the society would be otherwise adversely effected has not been vindicated. It is certainly clear from our data and analysis that a massive increase in available pornography in Japan has been correlated with a dramatic decrease in sexual crimes and most so among youngsters as perpetrators or victims. " <http://www.hawaii.edu/PCSS/biblio/articles/1961to1999/1999-pornography-rape-sex-crimes-japan.html>