



Commissioner for Children and Young People
Western Australia

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Ms Julie Dennett
Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs

Dear Ms Dennett

Inquiry into the Classification (Publications, Films and Computer Games) Amendment (R+18 Computer Games) Bill 2012

I welcome the opportunity to provide comment to the Senate Standing Committee on Legal and Constitutional Affairs on the Inquiry into the *Classification (Publications, Films and Computer Games) Amendment (R+18 Computer Games) Bill 2012*.

Role of Commissioner for Children and Young People WA

I was appointed as Western Australia's (WA) inaugural Commissioner for Children and Young People in December 2007 pursuant to the *Commissioner for Children and Young People Act 2006* (the Act). Under the Act my role is to advocate for the half a million Western Australian children and young people under the age of 18, specifically having responsibility for advocating for, promoting and monitoring their wellbeing.

Under the Act I must observe the following guiding principles:

- Children and young people are entitled to live in a caring and nurturing environment and to be protected from harm and exploitation.
- The contributions made by children and young people in the community should be recognised for their value and merit.
- The views of children and young people on all matters affecting them should be given serious consideration and taken into account.
- Parents, families and communities have the primary role in safeguarding and promoting the wellbeing of their children and young people and should be supported in carrying out their role.

In performing my functions the best interests of children and young people must be my paramount consideration. I must give priority to, and have special regard for, the interests and needs of Aboriginal and Torres Strait Islander children and young people, and to children and young people who are vulnerable or disadvantaged for any reason.

Caring for the future growing up today

I am also required to have regard to the *United Nations Convention on the Rights of the Child*.

It is with these responsibilities in mind that I make my submission.

Position on the introduction of an R+18 Computer Games classification

I have previously contributed to several submissions by the joint Australian Children's Commissioners and Guardians (ACCG) regarding the Commonwealth's proposal to amend the Australian National Classification Scheme to introduce an R 18+ classification and the draft Guidelines for the Classification of Computer Games.

I do not support the introduction of an R 18+ classification category for computer games because of:

- the increased availability of, and risk of exposure to, high impact content including violence, domestic and sexual violence and illicit drug use;
- the potential negative impacts of exposure to R 18+ computer games, particularly for vulnerable or at risk children; and
- the difficulties parents and regulators experience in monitoring and controlling children's access to computer games.

Additionally the ACCG recommended that the introduction of an R 18+ classification be delayed until the completion of the Australian Law Reform Commission's (ALRC) review of the National Classification Scheme to enable any recommendations arising from it to be implemented. The final ALRC report was tabled in Parliament on 1 March 2012. While public consultation during the two years of the ALRC review reportedly "...demonstrated strong support in favour of the introduction of an R+18 category for computer games"¹, I would like to take this opportunity to reiterate the shared concerns of the Australian Children's Commissioners and Guardians outlined above.

Other previous submissions of relevance

As Commissioner for Children and Young People I have contributed to and endorsed several other submissions relevant to this Inquiry. They are as follows:

1. Submission to the Discussion Paper on the ALRC's Review, November 2011

This submission supported the inclusion and intent of the eight guiding principles for reform. However I recommended that guiding principle 3: 'Children should be protected from material likely to harm or disturb them' should be strengthened in accordance with Article 3.1 of the *Convention on the Rights of the Child*, with the best interests of the child being the driving consideration. This should be the principle that is explicitly recognised in laws, regulations and policies affecting them. I do not believe it is sufficient to only

¹ Explanatory Memorandum, *Classification (Publications, Films and Computer Games) Amendment (R+18 Computer Games) Bill 2012*. The House of Representatives, The Parliament of the Commonwealth of Australia, p. 1.

recognise children and the impact of material on them without considering their best interests.

Including a 'best interests of children' principle in the guiding principles would ensure they are taken into account in the development of a National Classification Scheme. In this way better consideration will be given to the safety, protection and wellbeing of children and young people when balancing competing principles, including guiding principle 1: 'Australians should be able to read, hear, see and participate in media of their choice'.

In this submission, I also expressed my concern about a National Classification Scheme that includes a co-regulatory approach. I am of the view that industry codes of practice and self-regulation currently in place, for example in advertising and print media, are not sufficient to ensure the safety, protection and wellbeing of children and young people. This is particularly so in regards to alcohol and food advertising and the sexualisation of children in a range of media. For example, there is strong evidence that the current self-regulatory approach to alcohol advertising does not effectively protect young people.^{2 3} Similarly recent research commissioned by the South Australian Government has found that self-regulatory food industry initiatives regarding 'junk food' advertising during children's television viewing times have not been successful in reducing this type of advertising to children and young people generally.⁴

If co-regulation is pursued then I would wish to see, as a minimum, that the 'best interests of the child' principle is incorporated into the industry classification codes of practice. Additionally, to ensure the 'best interests of the child' are considered in an informed way the 'authorised industry classifiers' (classifiers of all media content other than that to be classified by the Classification Board) should include experts in the field of child wellbeing, development, psychology or similar.

2. Joint submission with three other Children's Commissioners to the ALRC's Issues Paper on the Review, July 2011

This submission focused on the importance of acting in the best interests of children and of their rights under the *United Nations Convention on the Rights of the Child*, in particular their rights of participation (including in the Review), to access information and to the protection from harm.

² McCusker Centre for Action on Alcohol and Youth 2011, *Alcohol and Young People: Solutions*, Available: <http://www.mcaay.org.au/component/attachments/download/4.html>

³ Foundation for Alcohol Research and Education *Marketing and Promotions*, Available: <http://www.fare.org.au/policy-advocacy/alcohol-marking-and-promotions/>

⁴ CSIRO 2011, *Television food Advertising to Children in South Australia*, Available: <http://www.sahealth.sa.gov.au/wps/wcm/connect/378f4e80490e0c47b03ff47675638bd8/CSIRO-TV-food-ads-children-SA-PHCS-HPB-201103.pdf?MOD=AJPERES&CACHEID=378f4e80490e0c47b03ff47675638bd8>

3. Submission to the Senate Legal and Constitutional Affairs References Committee's Inquiry into the Australian film and literature classification scheme, March 2011

My submission focused on:

- The importance of directly involving children and young people in decisions that impact on them and taking their views into account in the development of laws, policies and programs.
- The important role the classification scheme has in enabling consumers, including children, young people and parents, to make informed choices about what they watch, read and listen to.
- The safety, protection and wellbeing of children and young people under 18 years should be paramount.

These issues are also relevant to this Inquiry and I therefore reiterate their importance.

Improving legislation for children and young people

One of my legislated responsibilities is to review and monitor laws which may affect the wellbeing of children and young people. With this responsibility in mind I have published guidelines to help government agencies assess draft legislation, regulations and policies from the perspective of children and young people's wellbeing, with the intent of producing laws that better meet their needs and interests. My publication *Improving legislation for children and young people* is available on my website www.ccyp.wa.gov.au

Thank you for the opportunity to provide comment on the Inquiry into the *Classification (Publications, Films and Computer Games) Amendment (R+18 Computer Games) Bill 2012*. Should you require any further information on the issues I have raised I am more than happy to assist.

Yours sincerely

MICHELLE SCOTT

Commissioner for Children and Young People WA

7 March 2012