National Office
4 Campion Street
Deakin ACT 2600

T 02 6259 0431
F 02 6259 0462

E natoffice@acl.org.au
W acl.org.au

ABN 40 075 120 517

1 May, 2014

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

RE: Classification Amendment Bill 2014

The Australian Christian Lobby welcomes this opportunity to comment on the Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Bill 2014.

The Bill contains some useful amendments to facilitate more efficient classification in Australia. For the most part these are supported by ACL.

ACL makes the following comments on four aspects of the bill: exemptions for certain genres; exemptions for festivals and cultural institutions; classification tools; and referral of potential RC content.

Exemptions

The bill will broaden the exemptions found in section 5B of the Act to give greater flexibility. The categories which must be "wholly" comprised of a particular genre will be amended so that they may "mainly" comprise that genre. So, for example, a music film may include backstage interviews and still be exempt from classification.

Two additional exempt categories will be added for the genres of social science and natural history.

The requirement to submit any content that is likely to be classified M or higher will remain. This is an important requirement.

ACL supports this amendment.

Exemptions for Festivals and Cultural Institutions

Currently, film festival promoters and cultural institutions must obtain a formal exemption from classification requirements from the Director of the Classification Board. The bill will remove this requirement and allow festivals and cultural institutions to self-assess their eligibility for an

exemption. This is appropriate for content likely to be rated lower than MA15+. However, ACL recommends that if content is likely to be MA15+ or higher it should be classified.

The bill does, limit the exhibition of unclassified content likely to be high in impact to adults, and unclassified content likely to be moderate or strong in impact to persons over 15 years unless accompanied by an adult.[1] It also will require warnings about content and prohibitions on content likely to be X18+ or RC. The Explanatory Memorandum states that these restrictions "promote the purposes of Article 3 of the [Convention on the Rights of the Child] (the best interests of the child)" and that they will protect children and young people from harmful exposure to inappropriate material.

ACL supports these restrictions but recommends that there should be a requirement of classification for material likely to be rated MA15+ or higher.

Classification Tools

This will enable the use of tools to classify certain content and assist in classifying a greater amount of content that the Classification Board is currently unable to classify. As this will result in less unclassified but widely available material in the marketplace, this is generally a positive move which ACL supports.

However, the bill imposes no limit on the classification levels that such tools could be used to classify. Potentially, content likely to be rated MA15+, R18+, or higher could be classified using these tools. Classification tools could be authorised for the pornography industry to classify films as X18+ or higher. The pornography industry has a strong vested interest in such decisions and has a history breaching classification regulations. For example, the industry has routinely failed to comply with call-in notices. In 2010, in answer to questions on notice, the Classification Board revealed that 858 items "mainly concerned with sex or sexualised nudity" were called in and not one was submitted for classification.[2]

As another example, the between December 2005 and February 2010, the Classification Board "revoked the serial classification declarations of 55 publications... forty-eight of these were originally classified Category 1 restricted". The Legal and Constitutional Affairs References Committee noted this problem and suggested that pornography publishers and distributors were abusing the serial classification system, with material that should be Refused Classification appearing in subsequent editions of publications that have been granted classification.[3]

This shows that there is the potential for abuse of classification tools, just as there has been abuse of other self-assessing and self-regulating aspects of the classification system.

ACL recommends that the bill clarifies that classification tools can be authorised only for material which is likely to be rated M or lower for films and computer games and lower than Category 1 –

---

[1] Explanatory Memorandum, Classification (Publications, Films, and Computer Games) Amendment (Classification Tools and Other Measures) Bill 2014, p 9.
[2] Senate Standing Committee on Legal and Constitutional Affairs (18 October, 2010), Classification Board: Answers to questions on notice, Question 2, Supplementary Budget Estimates 2010-2011, http://www.aph.gov.au/senate/committee/legcon_ctte/estimates/sup_1011/ag/002_CLD.pdf
[3] Legal and Constitutional Affairs References Committee (June 2011), *Review of the National Classification Scheme: achieving the right balance*, http://www.aph.gov.au/Senate/committee/legcon_ctte/classification_board/report/report.pdf, p. 167

Restricted for publications. Full length feature films should also continue to be classified by the Classification Board.

Referral of Potential RC Content Reform

ACL strongly supports this amendment. This amendment would allow officers to refer content which is RC or potentially RC to law enforcement authorities without the need to have the content classified. RC or potentially RC material includes child sexual abuse. Dealing expeditiously with this material is absolutely necessary.

The remainder of the amendments are minor and ACL raises no objections to them.

Yours sincerely,

Lyle Shelton
Managing Director
Australian Christian Lobby