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Australian Press Council Submission to the Senate Legal and Constitutional Affairs Committee Inquiry into the Film and Literature Classification Scheme

1. Introduction

The Australian Press Council was established in 1976. It comprises members of the public, newspaper and magazine publishers, and independent journalists. The Council has important responsibilities to maintain and improve standards of reporting in the print media, and related websites, throughout Australia; and to protect and strengthen readers' access to information, through the press, on matters of public interest and concern. The Council pursues its goals by publishing principles and standards for good media practice, adjudicating complaints, and developing and advocating policy on issues such as freedom of information and privacy. Its voluntary jurisdiction includes publications that account for 98% of all sales by Australian newspapers and magazines.

2. Key concerns

In general terms, the Council's key concerns in this inquiry relate to the application of the National Classification Scheme (NCS) to the print media. It believes that laws, regulations and practices that restrict or inhibit the media from freely gathering and distributing news, views and information are unacceptable unless it can be shown that the public interest is better served by applying such laws, regulations or practices despite the adverse impacts on the public interest in the people's right to know.

The Council notes that any classification legislation involving news print media publications is especially likely to raise problems of excessive restriction. The Council considers that it is especially important for the Inquiry explicitly to confirm that news media publications lie outside the ambit of the NCS. Also, while the hardcopy news publications may be assumed to be basically outside the scope of the NCS and classification laws, the Council urges the Committee to clarify the classification laws in order to place the online versions of hardcopy news publications in the same category. The Council can see no strong argument to suggest that the difference in medium should impact on the classification of material of a largely identical nature.

The Council notes that it has only been on rare occasions in recent years, and with regard to specific examples of adult-content material, that an RC classification has been imposed on magazines. In the Council's view the current system of "submittable publications", and the use of Category 1 and Category 2 classification when required, is working well and would recommend that no change be made to the NCS in this regard.

In 2007 the Council made submissions to the Attorney-General (and later a Senate Committee), in relation to amendments to the *Classification (Publications, Films and Computer Games) Act 1995* that dealt with the introduction of classification for works that involved the "advocacy of terrorism". The Council acknowledges that the now amended definition of Refused Classification for publications that "advocate terrorist acts" specifically contains the rider that:

> A publication, film or computer game does not advocate the doing of a terrorist act if it depicts or describes a terrorist act, ***but the depiction or description could reasonably be considered to be done merely as part of public discussion or debate or as entertainment or satire***. (emphasis added)

The Council acknowledges this safeguard for publications that contain material that relates to terrorism. But it remains concerned that discussion in the news media of other, similarly sensitive, topics may be unduly restricted or inhibited. For example, in relation to discussion (or even 'advocacy') of euthanasia, the Council is concerned about the precedent set by the

decision, after pressure from the then Attorney-General, to refuse classification to *The Peaceful Pill Handbook* on the ground that it instructed "in the crime of the manufacture of barbiturates". Accordingly, the Council suggests that a condition similar in wording to the rider noted above should be applied to all considerations for classification where the discussion of matters of public interest, or the expression of an opinion on such matters, is the primary goal of the work in question.

3. Conclusion

The Council believes that any changes in the classification scheme should not adversely affect the ability of media consumers to have access to information on matters of public interest and concern. This information includes news reports, and commentary upon those reports.

A number of the issues before the Committee exemplify the inconsistencies and gaps in regulatory structures that are arising from convergence of publishing platforms. The Council will be canvassing options for strengthening the effectiveness of regulatory structures in its submission to the Convergence Review, which is being conducted by the Minister for Broadband, Communications and the Digital Economy.

The Australian Press Council

The Australian Press Council is a voluntary association of organisations and persons established on 22 July 1976. The membership of the Council is set out in the attachment.

The objects of the Australian Press Council are to promote freedom of speech through responsible and independent print media, and adherence to high journalistic and editorial standards, by:

- considering and dealing with complaints and concerns about material in newspapers, magazines and journals, published either in print or on the Internet;
- encouraging and supporting initiatives by the print media to address the causes for readers' complaints and concerns;
- keeping under review, and where appropriate, challenging political, legislative, commercial or other developments which may adversely affect the dissemination of information of public interest, and may consequently threaten the public's right to know;
- making representations to governments, public inquiries and other forums as appropriate on matters concerning freedom of speech and access to information;
- undertaking research and consultation on developments in public policy affecting freedom of speech, and promoting public awareness of such issues:
- promoting an understanding of the Objects, Principles and workings of the Council especially among editors, journalists and journalism schools, through forums and consultations; and encouraging feedback for Council's consideration.

The Australian Press Council
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March 2011

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Alan Kennedy

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Campbell Reid (News Limited) – Sharon Hill is his alternate
Pam Walkley (ACP Magazines) – Linda Smith (Pacific Magazines) is her alternate
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John Dunnet (Country Press Australia) alternating with Bob Osburn (Community Newspapers Australia) and Peter Owen (APN News and Media)

Executive Secretary (non voting)
Jack R Herman

For details and biographies see:
http://www.presscouncil.org.au/pcsite/about/members.html

Note: The Council acknowledges the assistance of Dr Tim Dwyer, senior lecturer, Department of Media and Communications, University of Sydney, in developing an early draft of this submission.