

Additional Comments

Senator David Leyonhjelm – Liberal Democratic Party

1.1 I broadly endorse the Committee's interim report and wish to add a few additional observations.

1.2 During the course of the hearing it became clear to me that Australia's classification scheme has been rendered increasingly nugatory.

1.3 There is the basic reality that any such regime must accept its reach is limited. Such is the pace of change and global content availability that anything short of North Korean or Chinese-style censorship can simply be bypassed using technological means (VPNs, for example).

1.4 At present, we have a system that not only does not work, but is expensive to maintain.

1.5 It seems to me that for any system of classification to 'work', it must recognise that the only scope for enforcement lies in drawing a clear distinction between illegality and immorality. It is neither reasonable nor practical to expect law enforcement to enforce morals, as occurs now.

1.6 The current depiction of otherwise legal acts, made illegal simply by virtue of their depiction, should not be a matter for criminal prosecution. Police and courts have better things to do than wag fingers at people who engage in consensual sexual fetishes and then make the mistake of taking photographs or shooting video for wider distribution.

1.7 As an interim measure, the ALRC recommendations that are still technologically feasible to implement - most of which have gathered dust since 2012 - should be enacted as a matter of urgency. I realise this requires cooperation between the States and the Commonwealth, but the current system cannot be allowed to persist unchanged.

1.8 The ALRC recommendations include thoughtful policy proposals for keeping material clearly unsuitable for children away from them, while acknowledging technological limitations and the importance of parental decision-making.

1.9 More generally, the principles upon which a policy can be based irrespective of technological change are:

- Prosecute those who depict matters that are illegal.
- Warn adults of content so they have the option of avoiding exposure to it.
- Restore responsibility to parents to protect their children.

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