

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 51

Senator Ludwig asked the following question at the hearing on 16 February 2004:

- a) How many overseas trips were taken by employees in your OFPC in 1996-97, 1997-98, 1998-99,
- b) 1999-00, 2000-01, 2001-02, 2002-03, 2003-04 to date.
- c) What were the destinations of each of these overseas trips.

The answer to the honourable senator's question is as follows:

The OFPC was established as an Executive Agency with effect from 1 July 2000. The following table sets out the overseas trips taken by the Commissioner and employees of the OFPC that were funded by the Office.

Financial year	Overseas trips	Destinations
2000-01	3	1. Amsterdam, Berlin, Brussels, Paris, Manchester, Venice 2. Auckland 3. Auckland
2001-02	4	1. Paris 2. Paris, Brussels, Manchester 3. Wellington 4. Wellington
2002-03	4	1. Cardiff 2. Cardiff, Brussels 3. London, Cardiff 4. Wellington
2003-04 to date	1	1. Auckland

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 52

Senator Ludwig asked the following question at the hearing on 16 February 2004:

- a) What was the total cost of overseas trips of staff for by the OFPC in 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04 to date.
 - With a breakdown on the cost of accommodation allowances, food allowances and airflights.

- b) What was the total cost of domestic trips of staff for by the OFPC in 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04 to date.
 - With a breakdown on the cost of accommodation allowances, food allowances and airflights.

The answer to the honourable senator's question is as follows:

The OFPC was established as an Executive Agency with effect from 1 July 2000.

a) Cost of overseas trips of the Commissioner and staff funded by the OFPC

Financial year	Total cost	Accommodation Allowances	Food allowances	Airflights
2000-01	24,452.63	7,357.49	2,948.38	14,146.76
2001-02	33,402.52	10,707.21	5,291.36	17,403.95
2002-03	37,762.25	13,990.90	3,184.58	20,586.77
2003-04 to date	2,299.54	402.58	240.00	1656.96

b) Cost of domestic trips of the Commissioner and OFPC staff

Financial year	Total cost	Accommodation Allowances	Food allowances	Airflights
2000-01	178,781.69	38,096.00	30,925.77	109,759.92
2001-02	200,661.49	55,030.00	32,274.02	113,357.47
2002-03	105,687.36	24,932.74	25,391.02	55,363.60
2003-04 to date	48,116.11	16,116.30	16,377.41	15,622.40

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 53

Senator Ludwig asked the following question at the hearing on 16 February 2004:

- a) How many overseas trips of Ministerial Staff were paid for by the OFPC in 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04 to date.
- b) What was the total cost of overseas trips of Ministerial Staff paid for by the OFPC in 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04 to date.

The answer to the honourable senator's question is as follows:

No overseas trips of Ministerial Staff were paid for by the OFPC during these periods.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 54

Senator Ludwig asked the following question at the hearing on 16 February 2004:

How much was spent on advertising by the OFPC in 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04 to date.

The answer to the honourable senator's question is as follows:

The OFPC was established as an Executive Agency with effect from 1 July 2000. The following table sets out how much money was spent on advertising since 1 July 2000.

Financial year	Total advertising cost
2000-01	30,088.88
2001-02	33,690.51
2002-03	74,707.12
2003-04 to date	9,451.60

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 55

Senator Ludwig asked the following question at the hearing on 16 February 2004:

Did the OFPC produce publications that provided electorate breakdowns on spending on government programmes in 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04 to date.

The answer to the honourable senator's question is as follows:

No, the Office did not produce publications that provided electorate breakdowns on spending on government programmes during the above mentioned periods.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 56

Senator Ludwig asked the following question at the hearing on 16 February 2004:

How much was spent on advertising which provided electorate breakdowns of spending by the government on programmes within the OFPC in 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04 to date.

The answer to the honourable senator's question is as follows:

No money was spent by the OFPC on advertising which provided electorate breakdowns of spending by the government on programmes within the OFPC during these periods.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 57

Senator Ludwig asked the following question at the hearing on 16 February 2004:

How much was spent on consultancies by the OFPC in 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04 to date.

The answer to the honourable senator's question is as follows:

The OFPC was established as an Executive Agency with effect from 1 July 2000. The following table sets out how much money was spent on consultancies since 1 July 2000.

Financial year	Total consultancy cost
2000-01	97356.82
2001-02	265,253.92
2002-03	13,475.00
2003-04 to date	19,250.00

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 58

Senator Ludwig asked the following question at the hearing on 16 February 2004:

Did OFPC conduct any surveys of attitudes towards programmes run by their department in 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04 to date.

The answer to the honourable senator's question is as follows:

The Office did not conduct any surveys of attitudes towards programmes run by their department.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 59

Senator Ludwig asked the following question at the hearing on 16 February 2004:

- a) On what programmes administered by the OFPC were surveys conducted.
- b) What were the findings of these surveys?

The answer to the honourable senator's question is as follows:

There were no surveys conducted on any programmes administered by the OFPC

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF FILM AND LITERATURE CLASSIFICATION

Question No. 60

Senator Harradine asked the following questions at the hearing on 16 February 2004:

Re the film “Irreversible”

At the Senate Estimates hearings of 10-11 February 2003 I asked the Department (Question on Notice 61):

“In the R classification the requirement that ‘nudity in a sexual context should not include obvious genital contact’ has been removed [in the March 2003 Guidelines for the Classification of Films and Computer Games] Is it the intention of these Guidelines to permit explicit depictions of genital contact?”

The answer given was that *“The new combined Guidelines have been simplified and streamlined so they can be more workable and transparent about the tests the Board must apply. The separate sentence ‘nudity in a sexual context should not include obvious genital contact’ has been removed as this provision is already covered by the general rule in the sex guideline: Sexual activity may be realistically simulated. The general rule is ‘simulation, yes – the real thing, no’. When making classification decisions about nudity in a sexual context, which includes genital to genital contact, the Classification Board applies and has always applied the general rule. The general rule will ensure that there is no change in classification standards in the R category.”*

(a) How can this assurance be reconciled with the Reasons for Decision (T03/3142) on the film *Irreversible*, in which the Classification Board noted that “At 19.30 minutes, there is a brief depiction of actual fellatio”? Why did the board not uphold the general rule in this case?

(b) The 1996 Guidelines stated that “Sexual violence may only be implied and should not be detailed”. The 2003 Guidelines state that “Sexual violence may be implied, if justified by context.” In its Reasons for Decision on *Irreversible*, the Classification Board notes that “the impact of this [anal rape] scene is high due to the lengthy, real time depiction ... [with a considerable] amount of verbal and visual detail”. Doesn’t this decision by the Classification Board contradict the assurance given by the Attorney-General’s department that “the general rule will ensure that there is no change in the classification standards in the R category”?

The answer to the honourable senator’s question is as follows:

a) The general rule, “simulation yes – the real thing, no” is not an absolute prohibition, which is why it is called a general rule. It does allow for brief depictions of actual sexual activity in very limited, special circumstances. In all cases, the Classification Board must decide if the instances are justified by context and storyline, and if, in accordance with criteria in the classification guidelines for the R18+ category, the instances have an impact which does not exceed high.

The Board noted the scene is brief and does not exceed high in impact. The Board was of the view that while the film is likely to offend some sections of the adult community, it is not offensive to the extent that it should be refused classification.

Brief instances of actual sex have been previously allowed into the R18+ category, including before the commencement of the combined guidelines in March 2003.

- b) No. The classification guidelines have particular classifiable elements. These elements are considered separately. The general rule, “simulation, yes – the real thing, no” is from the guideline for sex. “Sexual violence may be implied, if justified by context” is from the violence guideline. The quote is out of context.

The classification of sexual violence in *Irreversible* at the R18+ level does not indicate a change in the classification standards in the R18+ category since the commencement of the combined guidelines in March 2003. There are several instances of films with strong, and sometimes lengthy, scenes of sexual violence in the R18+ category that were classified prior to the commencement of the combined guidelines. Since the commencement of the combined guidelines, only two films with scenes of sexual violence has been classified R18+.

In applying the guidelines when classifying *Irreversible*, the Board considered that the sexual violence was implied and justified by context. The Board noted that the sexual assault was portrayed as a “horrifying act of violence that is not eroticised in any way”.

Using the impact test, the Board also decided that the sexual violence had an impact which did not exceed high and therefore could be accommodated in the R category.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF FILM AND LITERATURE CLASSIFICATION

Question No. 61

Senator Harradine asked the following questions at the hearing on 16 February 2004:

Re the film “Irreversible”

(a) Does this decision by the Classification Board violate the 1996 prohibition on “detailed” sexual violence?

(b) How can the Board’s view that such detailed sexual violence is now permitted under the new Guidelines be reconciled with assurances given by the former Attorney-General to concerned organisations and individuals who wrote to him, that he was “confident that the Combined Guidelines do not change the classification standards that were applied under the previous film guidelines” and that ‘the R classification has not changed.’?”

The answer to the honourable senator’s question is as follows:

a) No. This sentence about sexual violence was not a prohibition, it was a guideline. The classification guidelines are guidelines for the Classification Board.

The R18+ guideline now states that “the impact of material classified R should not exceed high” and that “sexual violence may be implied, if justified by context”.

These impact and context tests incorporate the previous concept of detail, including the provision that sexual violence should not be detailed. The impact and context tests ensure that the same standards are now applied as were applied under the previous guidelines.

When classifying *Irreversible*, in applying the guidelines the Board considered that the sexual violence was implied and justified by context. The Board noted that the sexual assault was portrayed as a “horrifying act of violence that is not eroticised in any way”.

Using the impact test, the Board also decided that the sexual violence had an impact which did not exceed high and therefore could be accommodated in the R category.

b) Under the combined guidelines, the amount of detail in scenes of sexual violence has not been permitted to increase. Detail is explicitly required to be considered by the Board when assessing the impact of any scene (see page five of the combined guidelines).

The standards for sexual violence are the same as those in the previous guidelines and there is no change in the R category.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF FILM AND LITERATURE CLASSIFICATION

Question No. 62

Senator Harradine asked the following questions at the hearing on 16 February 2004:

Will the Attorney-General exercise his prerogative under the Classification (Publications, Films and Computer Games) Act 1995 to apply to the Classification Review Board for a review of the decision of the Classification Board, made on November 19, 2003 to classify the film, *Irreversible*, as R 18+ Restricted?

The answer to the honourable senator's question is as follows:

The Attorney-General does not intend to request a review of the film *Irreversible* at this stage.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF FILM AND LITERATURE CLASSIFICATION

Question No. 63

Senator Harradine asked the following questions at the hearing on 16 February 2004:

Replacement of MA15+ with A15+

I understand that the OFLC has a proposal to replace the MA15+ classification symbol with a new symbol "A15+".

- a) Would you please explain the rationale behind this proposed change?
- b) What timetable has been determined for the proposed change?

The answer to the honourable senator's question is as follows:

- a) Censorship Ministers have agreed not to proceed with the proposed name change to A15+. Instead Ministers agreed to replace the MA classification type for films and the MA(15+) classification type for computer games with MA15+ for both classifications.
- b) A firm timetable has not been established. However, the change cannot come into effect until consequential amendments are made to classification enforcement legislation in all States and Territories. Accordingly, commencement is expected to be 12 months after enactment of the amendments to the Commonwealth's *Classification (Publications, Films and Computer Games) Act 1995*. The commencement arrangements will provide industry with an opportunity to prepare for the change.