

General comments

The various classification schemes suffer from dissociative identity disorder i.e. split personality. On the one hand, classification provides a consumer advisory role that is useful to some people and harmless to everyone else. On the other hand, classification provides an enforcement role that is potentially dangerous and usually controversial when applied to adults. The latter role has the potential to undermine the effectiveness of the former role.

These dual roles are a continuing theme throughout this submission, even though it may not be explicitly pointed out against each item.

I would advocate for the *complete removal of the enforcement role* as it applies to adults. That is, I would advocate for the full implementation of principle (a) in the National Classification Code

adults should be able to read, hear and see what they want;

and the removal of principle (d)

the need to take account of community concerns about ...

which is largely an avenue by which merchants of moral panic further their agenda.

Likewise the following text should be removed from the *Classification (Publications, Films and Computer Games) Act 1995*:

the standards of morality, decency and propriety generally accepted by reasonable adults;

Again, this is simply a way for wowers to impose their narrow world view on the rest of us.

I also note that with the rise of the internet, the consumer advisory role is less important than it once was. It is usually the case that I can find a wealth of information on the internet about a film (for example) before I choose to go to see that film.

Response to the Terms of Reference

a) the use of serial classifications for publications;

No comment

b) the desirability of national standards for the display of restricted publications and films;

There are arguments for and against national standards.

Suppose that there were not national standards and that a controversial film had been banned for public exhibition in cinemas in a more backward state but not banned in a more enlightened state. Some people (in both states) would cry, "inconsistency!", and some people in the backward state would foam about why the people of the enlightened state were being exposed to a film that is not suitable for public exhibition.

Indeed similar arguments could be put about *any* state-based legislation and regulation.

People should be cautious about using these arguments because the same arguments could be used to

argue for the abolition of the National Classification Scheme in its entirety, instead making classification in Australia subservient to a hypothetical International Classification Scheme. This is discussed further at Item (1).

Ultimately this argument is likely to come down to ideology. Are you a states-rightist or a centrist? (with the Coalition traditionally more the former and the ALP more the latter)

Putting aside ideology, some people will feel that the closer the decision-making is to the people affected, the more ownership those people will feel and hence the more they will support, or at least tolerate, the system. There is also some merit in the possibility of exploring multiple paths that different states afford us. If someone wants to claim that "X is harmful or Y is better" then if all state governments agree then the claim will always remain speculation. If states go different ways then the claim can be tested rigorously.

On the other hand, it is very likely that there are cost savings to be had through national standards.

c) the enforcement system, including call-in notices, referrals to state and territory law enforcement agencies and follow-up of such referrals;

No comment other than that the enforcement role should be abandoned as it applies to adults.

d) the interaction between the National Classification Scheme and customs regulations;

The Customs regulations should be amended so that classification is not relevant. That is, if content is legal to access then it should be legal to import. Conversely, only a court may determine that content is illegal to access and consequently the National Classification Scheme need play no role in the operation of the Customs system.

Customs should not be in the position of forming or using an opinion as to whether content is so "objectionable" that it should not be imported.

I note from the submission by Customs itself that there is an unacceptable gulf between the stated purpose of these Customs restrictions

The import regulation is intended to take account of community concerns about depictions that condone or incite violence, particularly sexual violence, and the portrayal of persons in a demeaning manner

and the actual wording in the regulations

*describe, depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or **revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety** generally accepted by reasonable adults to the extent that they should not be imported*

(my emphasis in bold)

Is Customs just choosing to enforce the law selectively because they recognize that the actual wording is far too broad and turns moral judgements about private matters into public legal judgements? Or is the submission just conveniently ignoring the true extent of their powers?

e) the application of the National Classification Scheme to works of art and the role of artistic merit in classification decisions;

No comment - other than the observation that Prime Ministers would be well advised to avoid pronouncing publicly on whether a work is "revolting" or, alternatively, has artistic merit.

f) the impact of X18+ films, including their role in the sexual abuse of children;

This item sounds like "push polling" by the Senate.

I challenge the Senate to provide a scintilla of credible evidence that X-rated films in any way encourage the sexual abuse of children. By "credible" I include that the evidence does not come from the usual organizations that are the merchants of moral panic.

g) the classification of films, including explicit sex or scenes of torture and degradation, sexual violence and nudity as R18+;

This item seems like an odd assortment.

I see no reason why anyone would expect a film that contains *nudity* to be classified any higher than R. It would be disturbing to me that anyone would be so uncomfortable with the human body, a natural and normal part of every person, that nudity in and of itself should warrant a rating higher than R. Logically therefore someone could only complain if such a film were classified *lower than* R. Each case would need to be considered on its merits against the test that the nudity is justified by context.

For the remaining items, based on the current classification guidelines, they should never be classified R (always higher). However I believe that there are occasions where a scene involving sex that is not simulated (I assume that is what you mean by *explicit sex* i.e. real sex) should not make the film X.

I find it ironic that non-simulated sex, which might be more realistic than simulated sex, is classified higher than simulated sex. Again, I find it disturbing that anyone has a problem with real sex, a natural activity both for recreation and procreation. Each adult should be free to decide whether to access sexual content. That is, I do not support the enforcement role that classifying a film as X or RC implies.

h) the possibility of including outdoor advertising, such as billboards, in the National Classification Scheme;

I am not opposed to the inclusion of outdoor advertising in the National Classification Scheme. Indeed, it could be argued that outdoor advertising is the most public of content and hence most justifiably impacted by restrictions that reflect the range of tastes and opinions in the community. However, in the instances where I have heard of complaints about outdoor advertising, the content has been very tame indeed - hence there may be no actual effect of such inclusion.

i) the application of the National Classification Scheme to music videos;

Caution is advised where the application of the National Classification Scheme serves to make the production or distribution of content more expensive or more time-consuming or both. Clearly this point is also relevant at Item (h).

j) the effectiveness of the 'ARIA/AMRA Labelling Code of Practice for Recorded Music Product Containing Potentially Offensive Lyrics and/or Themes';

No comment.

k) the effectiveness of the National Classification Scheme in preventing the sexualisation of children and the objectification of women in all media, including advertising;

This item sounds like "push polling" by the Senate.

Both of the topics here are repeatedly raised by noisy minorities. That, however, does not make them real as problems, in particular sexualization of children. To some extent we are projecting adult attitudes onto children in saying that a child has been sexualized. The sexual dimension may be "obvious" to an adult but entirely absent in the child's perspective, for a younger child. Needless to say that it is fundamental that decisions about what content a child is exposed to should be made by the parent, taking into account the child's maturity (not just age) and personality. These decisions are not the domain of government.

It simply isn't possible to create a world in which children will avoid all age-inappropriate content. It is the role of the parent to guide the child on the journey to adulthood - to be there when, not if, that occurs. There will be times when a child will access adult content, despite the best efforts of the parent. (I know I did. We were all children once. Remember?)

This item should perhaps define what is meant by "child". I would take that as someone who is under the age of 18 but it should be obvious that older children are sexualized by their hormones, not by the media.

Objectification of women is perhaps too big a topic for this enquiry. I will limit myself to saying that addressing the concerns of some people about that via the National Classification Scheme is neither realistic nor appropriate.

l) the interaction between the National Classification Scheme and the role of the Australian Communications and Media Authority in supervising broadcast standards for television and Internet content;

It makes very little sense to combine "television" and "internet" in one item. The differences between them are *vast*, both in a practical sense and in a theoretical sense.

I advocate that both the National Classification Scheme and ACMA should have *no role regarding internet content*. The world has changed. The genie is out of the bottle. Deal with it. Spend taxpayers' money and government effort in areas where a difference can be made.

The internet presents huge challenges to parochial classification schemes. Internet content has no concept of national borders and traverses them with lightning speed and ease. The only enforcement that can be effective is where there is a) global agreement, and b) removal of content in accordance with that agreement.

As far as television goes, I don't hear too many complaints about the way the system is operating. Perhaps the government should leave well enough alone.

m) the effectiveness of the National Classification Scheme in dealing with new technologies and new media, including mobile phone applications, which have the capacity to deliver content to children, young people and adults;

New technologies present major challenges to the established ways of doing things. The very idea of classification is rendered obsolete by "active content", whether in the form of games or applications, or in the form of web sites with dynamic content.

I recommend that when it comes to classification of new technologies, *the government should get out of the way*.

For those who actually want some kind of filtering, there are adequate available products to install on the access device. It is true that the filtering done by those products may not conform exactly or even closely to Australian definitions and it is true that the decisions made by those products may not conform exactly to what a government employee would have decided, but for the purpose at hand (typically filtering content from children), the results are satisfactory. Since use of the product is voluntary, no content provider is going to take legal action because he or she thinks that the content was put on the wrong side of the line. Consumers will decide for themselves which product is most appropriate for their needs and

values.

(Some may argue that basic mobile phones do not have suitable filtering products. Of course very basic mobile phones can't run applications or access the internet at all. It may be surprising that all those phones can do is, well, be phones. So it is only certain older or intermediate-level phones that might have a problem to install a filtering product. The answer is that if you want filtering then either buy a very basic phone or buy a sufficiently advanced phone.)

By getting out of the way, government will ensure that Australia is not left behind, far from the frontier - in what is the most significant development of our time. The government's fumbling attempts so far to understand and control the internet have only been a hindrance.

n) the Government's reviews of the Refused Classification (RC) category; and

The Refused Classification category should be abolished. Not only is its name a nonsense, but its very existence is inconsistent with a free society. Content is either illegal (determined to be so by a court and in accordance with due process) or it is legal. If it is legal then there should be no (classification) restrictions of any kind over what adults can do with the content e.g. allowed to buy or sell, allowed to view in a cinema, allowed to view at home, allowed to transmit and receive on the internet.

This may entail introducing a new category (call it Y or XX or ...) if the government can't stomach rolling RC into X.

o) any other matter, with the exception of the introduction of a R18+ classification for computer games which has been the subject of a current consultation by the Attorney-General's Department.

No other matters.

I do feel however that it is inappropriate to exclude the introduction of an R-rating for games as a subject for discussion. While it was indeed the subject of a consultation by the government, the government failed abjectly. Not only was there almost unanimous public support for introduction of such a rating, but the weight of logical argument favours its introduction. The government argues that all media should be treated the same but then accepts this glaring inconsistency.

How about the government shows that it can do better this time i.e. *listen to the people*.