

Committee Secretary  
Senate Legal and Constitutional Committee  
Parliament House  
Canberra ACT 2600

## **Submission to the Inquiry into the Australian Film and Literature Classification Scheme**

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### **Executive Summary**

- Changing legislation without properly funded enforcement won't stop those who currently break existing laws. If lack of enforcement is an issue, rather than continually changing laws a more effective method would be better funding and enforcement of current legislation.
- "Community concern" over billboard advertising, music videos, sexualisation of children in the media and concern over other sexually explicit or violent material, is almost entirely fabricated by lobby groups who wish to censor material they dislike under the guise of protecting children.
- In a world where music is more often downloaded from the internet rather than bought in a physical format, classifying and labelling music seems pointless. Add in the fact this was attempted in the US in the mid 1980's. The result being consumers ignored the label (as they have done in Australia) and some 25 years on, and none of the claimed negative effects on children or society eventuated despite the insistence of lobby groups.
- Despite the amount of "offensive" material on the internet and links to "shock sites" and videos being circulated via email, there is no outcry from the public to be protected from this material.
- Nearly all material Refused Classification in Australia is freely available to adults in Western Europe and the United States. Why do politicians think that Australian adults need to be treated differently?
- Refused Classification should be removed from the classification system and all commercially submitted material should be given a classification for commercial retail release.
- If Refused Classification material was made illegal to own in all states and territories, hundreds of thousands of Australians would become potential criminals.
- There are no credible peer reviewed studies which show any type of commercially available books, magazines, films, web content, TV programmes, video games or music have ever caused any harm to any rational and sane adult.
- Instead of blaming commercial media for problems in society, the government should target the actual causes. Censoring commercial media as a means of controlling social problems is completely ineffective and diverts attention and resources away from fixing the real issues.

## **The use of serial classifications for publications**

Serial classifications for magazines makes sense as most content in adult magazines is similar from issue to issue. However as a whole, print media in other western countries are rarely subjected to government classification, especially magazines published on a regular basis, in which the publisher or distributor has to pay exorbitant fees to have their publication classified. As print media is being hammered to death by internet publications, it seems absurd to add extra costs to publishers, especially when there is no obvious benefit to the community. Adult publications in Western Europe and North America are not required to submit magazines, yet there is no scientific or anecdotal evidence which shows the populations in these regions have been adversely affected by lack of government classification. This is significant especially when you consider nothing has really changed in the way these types of publications have been sold and displayed since Playboy made its debut in 1953. Mandatory classification for adult publications also makes it prohibitively expensive to publish niche or self published publications. Not all adult publications are produced by large companies who can easily absorb the classification board's fees<sup>1</sup>.

The inclusion of this reference to this inquiry is rather curious. I believe this reference was put here by Senator Guy Barnett in attempt to argue the case that serial classifications do not work, recommend that they be removed from the classification system, and therefore make publishing R18+ magazines more expensive and more difficult. What's more surprising is that in Senate estimates on 8 February 2010, Senator Barnett asked Mr Donald McDonald, director of the Classification Board in regard of the misuse of serial classifications by distributors and if serial classifications should be scrapped. In part Mr McDonald answered that "*...publishers or distributors who are not worthy of that trust then they do not receive a serial declaration in the future. I am expecting fewer difficulties with the serial classifications in the future*"<sup>2</sup>. Mr McDonald did not recommend the scrapping of serial classifications. In light of this and the fact the greater majority of publishers do the right thing (for example the biggest distributor of magazines in Australia, Gordon and Gotch is still receiving serial classifications from the Classification Board) why is it necessary to punish the consumers, publishers and distributors of these magazines because one or two distributors are doing the wrong thing? It is obvious the Classification Board has kept an eye on the use of Serial Classifications and is not issuing them to distributors and publishers who don't follow guidelines.

## **The desirability of national standards for the display of restricted publications and films**

While it would make sense to have uniform laws in this regard, the question is which state or territory's standards would become the standards for the nation? For instance, a recent South Australian laws requires all R18+ videos to be displayed with blank covers with their title only or in a separate area with warning signs<sup>3</sup>. This is quite absurd as in the nearly 30 years prior to the law, there has never been any sort of public outcry regarding the display of R18+ videos. Queensland laws state that R18+ publications cannot be sold. Is it fair that these regulations be imposed on other states? What possible benefit would this be to the community? Shouldn't adults have the right to choose what they wish to read and view in the privacy of their home and have the right to buy these

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<sup>1</sup> Currently \$520 for a publication up to 76 pages long. Quite expensive for self published works printed in low numbers.

<sup>2</sup> <http://www.aph.gov.au/hansard/senate/commtee/S12747.pdf>

<sup>3</sup> "Avert your eyes - R-rated DVD cover-up in South Australia", Sunday Mail (SA), <http://www.adelaidenow.com.au/news/south-australia/avert-your-eyes-r-rated-dvd-cover-up-in-south-australia/story-e6frea83-1225820484287>

products from retailers without absurd restrictions? With state governments unlikely to come to any agreement to national standards I doubt there will be any sort of consensus in the future.

### **The enforcement system, including call-in notices, referrals to state and territory law enforcement agencies and follow-up of such referrals**

Unless the material is actually illegal to own or publish (such as child pornography), there is no real benefit to the community in charging distributors. Especially when the material being targeted can be legally owned by all Australians (except WA and prescribed areas of NT)<sup>4</sup> and can be legally bought by adults from newsagents and shops in North America and Western Europe. As evidenced by Senate estimates since 2008 (unclassified magazines have been mentioned in every single senate estimates since then), police place referrals to deal with this material at the bottom of their list of priorities<sup>5</sup>. In light of cases where real children have been abused, it seems quite perverse to force police attention on a couple of distributors who publish a few magazines with adults who dress up as school girls<sup>6</sup>, while specialist units trained to catch child abusers are having their budgets and staff reduced<sup>7</sup>. If it is so vitally important to the community that unclassified magazines must be taken off shelves (though there is no real evidence the community at large is even aware of the existence of these unclassified magazines and videos, let alone are adversely affected by them), then a dedicated team must be formed to tackle the problem, or there must be an increase in police numbers and funding so that the law is upheld.

The situation is even more absurd seeing as many of the titles Senator Guy Barnett has previously complained about have in fact gained ratings by the Classification Board<sup>8</sup>. It is rather telling that the only distributor named in Senate estimates was Mr David Watt's company<sup>9</sup>. Mr Watt is a member of the Eros Association and the Australian Sex Party. While it seems Mr Watt probably has broken the law (it is not publicly known if he has been charged with any offence or even investigated by the police), it seems this is in part an attempt by Senator Barnett to publicly smear a political rival.

### **The interaction between the National Classification Scheme and customs regulations**

It is absurd to ask Customs officers to make on the spot decisions regarding publications, games and videos that come in packages from overseas destinations. As most seizures involve the confiscation of commercial material, mostly publications, games and videos, purchased by private consumers

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<sup>4</sup> Classification (Publications, Films and Computer Games) Enforcement Act 1996 (WA), Classification of Publications, Films and Computer Games Act (NT) and Part 10-'Material Prohibited In Prescribed Areas' of the Commonwealth Classification (Publications, Films and Computer Games) Act 1995, which applies in 'prescribed areas' of the N.T. as defined in the C'th Northern Territory National Emergency Response Act 2007.

<sup>5</sup> <http://www.aph.gov.au/hansard/senate/commttee/S13013.pdf>

<sup>6</sup> "Teen" porn titles (such as Hustler's Barely Legal) previously mentioned in Senate estimates have been sold without any controversy in the US and Western Europe since the early 1990's when the genre became prevalent. It is blatantly obvious to anyone who has seen any of these magazines that the models are indeed over 18 years of age or older. In the US, where most pornography is made, production of sexually explicit materials is regulated under title 18 U.S.C. 2257, requiring producers to retain records showing that all performers were over the age of 18 at the time of the production for inspection by the US Attorney General.

<sup>7</sup> [http://libertus.net/censor/isp-blocking/au-govplan-p2.html#s\\_38](http://libertus.net/censor/isp-blocking/au-govplan-p2.html#s_38)

<sup>8</sup> The titles previously mentioned in Senate Estimates hearings include "Petite", "Live Young Girls", "Teen Angels", "Finally Legal" and "Barely Legal". According to the Classification Board's online database, the vast majority of these titles have received ratings. Since 1993, only 10 issues in this group of magazines have been given an RC rating, with some of those receiving ratings after being modified.

<sup>9</sup> <http://www.aph.gov.au/hansard/senate/commttee/S12747.pdf>

themselves and aren't destined for the Australian retail market, it seems pointless to seize them. Especially when you consider that it is perfectly legal for anyone (outside WA and prescribed areas of NT) to own refused classification material that isn't illegal. The only material which is illegal in the refused classification category is child pornography. It is absurd to confiscate and on occasion fine people importing legal refused classification material for personal use. Especially since practically all of this material is legal to purchase and own in Western Europe and North America. One can only wonder why politicians in Australia think the electorate are unsophisticated and need protection from Refused Classification material, yet politicians in other western countries treat their constituents as if they had free will and could decide for themselves if something was appropriate or not for their own personal viewing.

### **The application of the National Classification Scheme to works of art and the role of artistic merit in classification decisions**

The final outcome of the Bill Henson case was that the Classification Board rated the photographs in question as "G" and "PG" and having a "mild impact"<sup>10</sup>. Nobody was charged with any offense. When journalist David Marr interviewed Henson's former models, he could not find any that said they were treated badly or abused<sup>11</sup>. In light of these facts and there are no known cases of Australian artists mistreating child models, the question remains; why are even looking at classifying works of art? The main problem here is why it would be acceptable for a federal government to ask public servants to classify artworks based upon legislation as vague as the current classification legislation. Most people would rather be horrified at the fact that the federal government would be determining what is art and what isn't and who in the community could view art. There would also be a financial burden on the artists or gallery displaying the artwork, as they would presumably need to pay classification fees. I must also point out that no other western nation classifies art, so why does it need to be done here in Australia?

In other works such as films or printed material, artistic merit shouldn't really be considered. I think this is too abstract an idea to place in legislation governing classification. For example is the film "Salo" an exploitation film or art house cinema? Why should it be up to public servants working under vague legislation to determine that? Why shouldn't adults be able to make up their own minds what the film is and if they want to see it or not? A cheap B-grade exploitation film is just as much a valid piece of entertainment as an art house movie. Making decisions on classifying material based upon their artistic merit has an air of elitism about it.

### **The impact of X18+ films, including their role in the sexual abuse of children**

Despite the fact that X18+ videos are illegal in all states, the fact remains they are sold in shops in all capital cities and many regional centres and have been for more than a quarter of a century. The lack of enforcement, coupled with the lack of public complaints and polls over that last 20 years showing the community are comfortable with the material<sup>12</sup> are clear evidence the current availability of X18+ videos has no real impact on the community. I question the inclusion and relevancy of the second part of the question. The role of X18+ videos in grooming children for sexual abuse is almost non-existent and a complete non-issue. More often than not alcohol, illegal drugs and money are used by paedophiles to groom children (mostly in cases with teenagers). It would seem this question is being used by Senator Barnett to draw links with commercially sold

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<sup>10</sup> <http://www.smh.com.au/news/arts/henson-photo-not-porn/2008/06/05/1212259014096.html>

<sup>11</sup> "The Henson Case" by David Marr, 2008, Penguin Books Australia

<sup>12</sup> <http://libertus.net/censor/debate/surveys.html>

pornography in Australia and child sexual abuse, when in fact there is no evidence for such a link. I would suggest that police units that deal with child abuse should be funded and staffed properly first (which they currently aren't)<sup>13</sup>. I find it rather distasteful that politicians and anti-pornography lobby groups would use child abuse victims as tools to ban material they didn't particularly like.

### **The classification of films, including explicit sex or scenes of torture and degradation, sexual violence and nudity as R18+**

We have had the R18+ classification in this country since the early 1970's. There really seems to be no need to change it in any manner as it works well. Most classifications for films in the R18+ rating mirror those given by the British Board of Classification for their "18" certificate and the Motion Picture Association of America's NC-17 (No Children admitted under 17 years of age) rating. This includes extreme and graphic films such as the so called "torture porn" genre such as the "Saw" film franchise and films like "Hostel". However these films aren't exactly a new genre. In the late 1970's and early 1980's, "grind house" exploitation films were quite common. In particular the Cannibal film sub genre spawned a very nasty type of film making. "Cannibal Holocaust" made in 1980 contains several scenes of actual animal killing and dismemberment filmed specifically for the film<sup>14</sup>. This film was released in its entire cut form four years ago in Australia with an R18+ rating from the Classification Board<sup>15</sup>. While much has been made of such sexually explicit films such as "Salo" which depict simulated sexual violence, it's rather strange that no one seems to get outraged at the release of a film which contains real animal cruelty leading to death. Again, politicians of all persuasions must realise that just like adults in the US and Western Europe, Australian adults can easily decide if they wish to view films like these, and that the availability of such films has no impact on society. Treating Australian adults if they are somehow lesser beings to other adults in western countries, and assuming they have to be protected at all costs against "offensive" commercial media is patronising and insulting.

### **The possibility of including outdoor advertising, such as billboards, in the National Classification Scheme**

The supposed "problem" of outdoor advertising seems to be a recent phenomenon. Relatively speaking, there seems to be very few complaints about this kind of advertising. If you have a look at the history of complaints, one thing is certain. An increasing number of complaints are done so via organised lobby groups such as Collective Shout and organisations such as Kids Free 2B Kids, giving a sense of concern amongst the community when there is little to none. The combined total members of both groups total less than 2,000<sup>16</sup>, and even then the active members of the two groups would only amount to less than a hundred. It boggles the mind that a miniscule percentage of the population has the power to affect change (or at least consideration) in legislation in terms of advertising. Compare this with the recent public consultation on the R18+ rating for video games, where the vast majority of the 58,000 submissions were in favour of the rating<sup>17</sup>, or the 19,000 people who signed Electronic Frontiers Australia's petition against the proposed mandatory internet filter<sup>18</sup>. It is clear more people are in favour of less censorship and restriction in their lives, not more.

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<sup>13</sup> "No money available to chase internet pedophiles" by Luke McIlveen, Daily Telegraph, 18 June 2007.

<sup>14</sup> [http://en.wikipedia.org/wiki/Cannibal\\_Holocaust#Animal\\_cruelty](http://en.wikipedia.org/wiki/Cannibal_Holocaust#Animal_cruelty)

<sup>15</sup> Classification number 72620262

<sup>16</sup> <http://community.collectiveshout.org/profiles/members>

<sup>17</sup> <http://www.ag.gov.au/gamesclassification>

<sup>18</sup> <http://www.efa.org.au/epetition/>

One of the major problems in applying classification laws to outdoor advertising is what exactly would be required to be classified. For instance would sandwich boards have to be classified? What shop window displays? There are also the costs associated with classification which would impact greatly on small businesses and even charity groups (depending on what would be deemed to be classified).

There seems to be little to no benefit to the community to classify any outdoor advertising. Add in the fact no other western country seems to classify outdoor advertising. The “problem” of outdoor advertising seems to be purely an Australian phenomenon, invented by “nanny state” lobby groups. The Australian Bureau of Statistics website shows that while complaints overall have seen a significant rise between the years 1998 to 2009, the percentage of complains in regard to outdoor advertising have varied wildly from year to year. While they may have made up a large percentage of complaints in 2009 (23.92%), 2006 saw them only account for 3.67% of all complaints. In 2002, they made up 29.77% of all complaints<sup>19</sup>. There seems to be no long term trend showing an increase of complaints about outdoor advertising.

### **The application of the National Classification Scheme to music videos**

As music videos have been part of the Australian TV landscape since Countdown began in 1975, one can only wonder why after 35 years they are now under the microscope. Music videos fall under the same rules as all other content broadcast on TV and cable stations, therefore it should be treated the same way as the Australian Communications and Media Authority treats all other content. It’s perplexing that music videos have suddenly become an issue. Both Channel Ten’s Video Hits and ABC’s Rage edit violence and sexually suggestive themes in videos aired in the 6am to 12pm timeslot.

### **The effectiveness of the ‘ARIA/AMRA Labelling Code of Practice for Recorded Music Product Containing Potentially Offensive Lyrics and/or Themes’**

The current labels are rather vague and tell the consumer very little as to what could be offensive on the CD. In the years since the system was implemented consumers have paid very little attention to these labels. As increasing amounts of music downloaded from the internet (especially teenagers), most from foreign companies or on servers not based in Australia, a classification system for music seems rather pointless and archaic. There are no comparable music rating system used in other western nations, so one can only wonder why would need one here. If the government did decide that all music released in Australia had to be classified, there are a number of issues involved. Firstly, the number of albums and individual songs released in any given year in Australia number in the tens of thousands. Who is going to have the time to classify all of that music plus the decades of the record industry’s back catalogue of titles? There is also the issue of who pays. It may be fine for large multinational record companies to pay for classification, but for independent artists with self funded releases, it’s yet another expensive added cost.

The only nation who has a similar music labelling system to Australia’s is the United States of America. In 1985, the US senate hearings instigated by Tipper Gore and the Parents Music Resource Centre (PMRC)<sup>20</sup>, lead to some albums being stickered voluntarily with the generic “Parental Advisory – Explicit Lyrics” sticker. In the last 25 years of this labelling, it is safe to say that like Australia, US consumers have mostly ignored label warnings. Problems have also arisen where the

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<sup>19</sup> <http://www.adstandards.com.au/publications/statistics>

<sup>20</sup> [http://en.wikipedia.org/wiki/Parents\\_Music\\_Resource\\_Center](http://en.wikipedia.org/wiki/Parents_Music_Resource_Center)

label has been applied inconsistently and some multinational retail chain stores would not stock albums with the sticker, irrespective of the actual content of the album. For example Frank Zappa's "Jazz From Hell" album was stickered despite being composed entirely of instrumental pieces<sup>21</sup>. The PMRC also warned of the "harmful" effects of music on young people and compiled a list of the "worst" songs called "The Filthy Fifteen"<sup>22</sup>. Bizarrely this list included music mostly from mainstream artists such as Cindy Lauper, Def Leppard, Madonna, AC/DC and Sheena Easton. However despite an unregulated industry in the US, the PMRC's fears were completely unfounded. There is absolutely no evidence that music has been the sole cause of any anti-social behaviour amongst children anywhere, let alone the songs on the PMRC's "Filthy Fifteen" list.

In short, like the US, Australian labelling of music is pointless in world where digital downloads of music is the norm and physical media for music available from retail outlets will become scarce. Prior to their voluntary receivership, the Australian division of multinational book chain Borders was in the process of removing their CD and DVD sections from their physical stores. Instead music and video would have only been available from their website. With consumers having already heard tracks and researching music online as well as buying online, often in a digital file format rather than on a physical format, and with many legitimate sources of music files being hosted overseas, it seems rather pointless to classify music.

### **The effectiveness of the National Classification Scheme in preventing the sexualisation of children and the objectification of women in all media, including advertising**

The Australia Institute's "Corporate Paedophilia: Sexualisation of children in Australia" report from 2006 has thrust the so called "sexualisation of children" front and centre in the media. The report bizarrely attempts to link images of prepubescent children which any ordinary rational person would find normal with adult sexual concepts. This is not only dishonest, but also quite disturbing. It's as if the authors of the report are asking people to view how children portrayed in the media, in particular advertisements, as if they were adults in a sexual context.

Professor Catharine Lumby and Dr Kath Albury's submission into the Senate's Inquiry into the sexualisation of children in the contemporary media environment<sup>23</sup> questioned and debunked much of "Corporate Paedophilia" report, in particular the author's methodology;

*"In their analysis of advertising images, the majority of which show children modelling clothing, the authors of the Corporate Paedophilia report base their claims of sexualising content on the types of clothing shown, the physical poses of the child and teen models, the use of cosmetics and the settings. On close examination, however, their analysis of these images is highly subjective because of their failure to consider such images in the context of longstanding practices for dressing, grooming and photographing in family contexts children in Australia.*

*Clothing and personal grooming identified as 'sexualising' on young girls by the Australia Institute report include long hair, dresses with thin straps, low necklines, crop tops, jewellery, 'very short skirts', lip-gloss, and the use of handbags. It is commonplace to see young Australian girls with long hair, wearing short denim skirts, plastic beads and bangles, sun-frocks with spaghetti straps, necklines that would draw attention to a cleavage on an adult woman (but on a child draw no attention from reasonable adults at all), and toting various kinds of colourful bags bearing stuffed toys, snack, books they're reading and, in late primary years, even lip-gloss. Female children frolic on*

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<sup>21</sup> [http://en.wikipedia.org/wiki/Jazz\\_from\\_Hell](http://en.wikipedia.org/wiki/Jazz_from_Hell)

<sup>22</sup> <http://www.nndb.com/lists/405/000093126/>

<sup>23</sup> [http://www.aph.gov.au/senate/committee/eca\\_ctte/sexualisation\\_of\\_children/index.htm](http://www.aph.gov.au/senate/committee/eca_ctte/sexualisation_of_children/index.htm)

*our beaches in bikinis and, at preschool ages, sometimes romp topless or entirely unclad. Young Australian girls have been dressed in apparel that acknowledges adult fashion trends for at least three decades. For example, the late 1960s and early 1970s saw young Australian girls dressed in 'hotpants', flared jeans, 'boob' tubes, ponchos, maxi and mini skirts and bikinis.*

*Current community standards clearly dictate that this mode of dressing and grooming is not a sign that the children's parents are knowingly 'sexualising' them but that they are following a dress code considered acceptable for female children since the mid-20th century, a period which marked a gradual convergence between the types of casual clothing adults and children wear. It's a convergence that is part of our culture's growing acceptance of a more casual approach to dressing, outside of formal and professional contexts. It is also true that children are dressed to highlight their gender. [...]*

*It is a large logical leap, and one which ignores the deep concern that the vast majority of parents and others have for Australian children, to suggest that dressing young girls in crop tops or bikinis carries the same cultural messages as dressing a mature adult woman in identical clothing. Indeed, this is one of the key problems we have identified with much of the analysis of media texts in the report – the assumption that the same meaning can be directly read onto a child wearing a piece of clothing or posing in a certain way as would be appropriate when looking at an adult woman wearing the same clothing or posing in a similar manner”<sup>24</sup>.*

Even if there was a consensus that the media sexualises children and objectifies women (strangely the senate committee isn't looking into the objectification of men<sup>25</sup>), the question here is exactly who determines what is sexualised and objectification? As previously quoted from Lumby and Albury's submission, there is no consensus on what constitutes sexualisation of children. Also there is no consensus as to what constitutes objectification of women. If the woman is freely “objectifying” herself, why would there be a need to censor such material? Unless deemed illegal, censorship of such material would be seen as crushing self expression. There is also the problem of context of such presentations of women in the media. For example in advertisements a message has to be delivered in a small amount of time, and stereotypes and symbolism are used to get the message across. The way a person may be depicted in a film, where character development can be fleshed out over the period of a couple of hours, to a 30 second commercial are obviously different.

In the past few years, organisations such as the Australia Institute as well as groups such as Kids Free 2B Kids and Collective Shout have used the objectification of women and sexualisation of children angle in an attempt to ban or restrict mostly products bought by and only available to adults. This is evident by looking at the campaigns on their websites<sup>26</sup>. The greater majority involve the banning or further restricting of products already restricted to and created for adults (such as adult magazines or the creation of an R18+ rating for video games) or the banning of advertisements or clothing such as bras designed for pre-pubescent girls or t-shirts with unsavoury designs or slogans. Despite claiming to both want to stop the sexualisation of women and children, there is absolutely no evidence either group advocated campaigning politicians for more funding for under resourced community services, or intervention programmes to help abused women or children (besides very occasionally providing links to other organisations dedicated to those causes). Nor is there any evidence either group has ever campaigned for better and more focused resourcing of police units to stop the illegal exploitation and trafficking of women and children.

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<sup>24</sup> [http://www.aph.gov.au/senate/committee/eca\\_ctte/sexualisation\\_of\\_children/submissions/sub146.pdf](http://www.aph.gov.au/senate/committee/eca_ctte/sexualisation_of_children/submissions/sub146.pdf)

<sup>25</sup> One recent Foxtel on Xbox commercial contains a group of female friends commenting on the attractiveness of one of their male flat mates. As the flatmate comes in to the room in a towel and not much else after surfing on the beach, he stands next to the Xbox and one of the women ask “Where can I get one of those?”.

<sup>26</sup> <http://www.kf2bk.com/> and <http://collectiveshout.org/>



For example, as of 23 February 2011, the front page of the Collective Shout home page contains articles about t-shirts by clothing company Nena and Pasadena<sup>27</sup>, an ad for clothing company Rivers<sup>28</sup>, a window display for a porn shop in St Kilda<sup>29</sup>, a catalogue by water sport gear company Zhik<sup>30</sup> and an article about a box set collection of 1950's Playboy magazines sold in book shop chain Dymocks<sup>31</sup>. The entire site deals exclusively with commercial products and advertising that apparently "offend", and how and where to complain about these products. The Kids Free 2B Kids site is similar. The news section talks about the R18+ games rating debate and other items are almost all about commercial products or advertising. There is only one item in the entire news section about the actual exploitation of children or women; a link to a petition by the Body Shop about the trafficking of children.

### **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**

The Australian Communications and Media Authority (ACMA) should have no role at all in terms of even attempting to apply "broadcast standards" of any kind to any type of internet content. The internet is not a TV or radio broadcast. It is more like a large city and almost that entire city, including every room in every building, is accessible to everyone at anytime. In this city anyone can practically talk to anyone else, trade and interact in any number of ways. Like any city it is subject to laws, though enforcement of these laws is another matter. Trying to apply ratings to every room, house, shop, person and street in a city would be absurd as these things are constantly changing. Currently the internet contains over 16 billion webpages<sup>32</sup> (not including other non web applications like torrents) and grows at about a million pages per day. It is absurd to think the ACMA could have any effect in applying any standards to any type of internet content. The vast majority of content is hosted overseas, so the ACMA would have very little impact in regulating the internet. This is already evident in the current complaints system. It takes down very little objectional material and practically no illegal material<sup>33</sup>. It is a system which is cumbersome, slow, and expensive and protects no one<sup>34</sup>. When a person access the internet, material such as web pages or video doesn't come up at random. The user asks for this material. With the advent of search engines in late 1990's and more recent developments in search engine technology which enable you to preview a webpage before clicking on it, there is absolutely no way a person could go anywhere they did not feel comfortable going, unless they did so deliberately.

As for television broadcasts, there seems to be no problem with the current system of self regulation.

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<sup>27</sup> <http://collectiveshout.org/2011/02/nena-and-pasadena-objectification-on-a-shirt/>

<sup>28</sup> <http://collectiveshout.org/2011/02/no-rivers-were-not-excited-about-objectification/>

<sup>29</sup> <http://collectiveshout.org/2011/01/back-to-school-prn/>

<sup>30</sup> <http://collectiveshout.org/2011/01/zhik-sailing-and-the-sexualisation-of-women-in-sport/>

<sup>31</sup> <http://collectiveshout.org/2011/01/dymocks-book-shop-porn-merchants/>

<sup>32</sup> <http://www.worldwidewebsite.com/>

<sup>33</sup> According to ACMA's own statistics, for the last year up to January 2011, the total amount of take down or take-down, service-cessation or link-deletion notices issued was 12 items ([http://www.acma.gov.au/WEB/STANDARD/pc=PC\\_90105](http://www.acma.gov.au/WEB/STANDARD/pc=PC_90105)). Out of 16 billion webpages, that's abysmal.

<sup>34</sup> ACMA's complaint system is dreadfully slow, sometimes taking more than a month for an outcome, by which time the URL may have changed completely or has been deleted. If a URL is added to the ACMA blacklist, it is only given to a select number of filter vendors. A national internet filter has been on various Australian Governments agendas since 1999, but is still nowhere near becoming a reality some 12 years later.

## **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**

As discussed in previous paragraphs, the current classification scheme is completely ineffective in dealing with “new media”. As most new media such as mobile phones and internet are in fact tools for communication, one wonders why they need to be censored. Censoring and classifying citizen’s private communications and their access to entertainment and data is verging on what totalitarian states do. We have seen in the last few years shock sites and videos such as “2 Girls, 1 Cup”<sup>35</sup>, which was distributed widely in this country as well as other countries via email during 2007. The content of this video, two women eating their own excrement, is clearly repulsive and offensive to most reasonable adults. However a lack of complaints and the public mockery of the video in question, as well as the phenomena of Youtube videos showing people’s reactions to the original video indicates that while the nature of the video was repulsive to many, the vast majority of people do not feel the need, nor seek to be protected from such material.

It is too much of an intrusion on people’s personal lives for government sanctioned filtering of email and/or text messages. This includes emails and texts sent to and received from children and teenagers. Despite the hysteria about “sexting”, children and teenagers deserve privacy and the presumption of innocence as much as adults. The government does not screen phone calls or internal postal mail to censor or to classify it. Even then, only a fraction of mail coming from other countries into Australia is actually checked by Customs. Why should one form of communication be treated differently to another? As for classifying mobile phone applications, this would most certainly devastate or destroy the industry. Asking developers for several hundred dollars to classify an application that sells for a few cents is absurd.

## **The Government’s reviews of the Refused Classification (RC) category**

One can only hope the outcome of the review of the Refused Classification category will be that it is struck out of the classification system. RC is just the government’s way of attempting to restrict material (which is almost always commercial films, games, books and music) being available to adult Australians, just because a minority find some material “offensive”. All of the material in this classification, with the exception of child porn, is quite legal to own in Australia (unless of course you are from WA or live in a prescribed area of NT). Which begs the question; if it’s not illegal for the great majority of Australians to view or own it, why are we restricting the sale of it? It makes no sense whatsoever. There are no credible peer reviewed studies which show any type of commercially available books, magazines, films, web content, TV programmes, video games or music have ever caused any harm to any rational and sane adult.

The flip side of this is that parliament could decide to make ownership of all RC material illegal. However this would mean hundreds of thousands of Australians would be classed as criminals under the law. For example I previously mentioned the viral video “2 Girls, 1 Cup”. This material would definitely be classified RC. Tens of thousands of Australians went in search of disgraced NRL player Joel Monaghan’s “dog photograph” on the internet<sup>36</sup>. Again because the image would be classified as RC, tens of thousands of Australians who have never previously fell foul of the law would be potential criminals. There is also questionable benefit in criminalising people who own other RC

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<sup>35</sup> [http://en.wikipedia.org/wiki/2\\_Girls\\_1\\_Cup](http://en.wikipedia.org/wiki/2_Girls_1_Cup)

<sup>36</sup> <http://www.smh.com.au/rugby-league/league-news/nrl-star-confirms-sex-act-with-dog-20101104-17f99.html>

material such as copies of films like “Baise-moi”, “Caligula” or pornographic films which contain fetishes or video games which are RC. In a situation like this, Margaret Pomeranz, one of Australia’s most respected film critics, would have been arrested and charged for possessing a copy of the film when in 2003 she screened the film “Ken Park” as part of a protest against its RC status<sup>37</sup>.

As possibly hundreds of thousands of Australians own material like this, and the fact adults in Western Europe and North America can freely buy, own and view this material, why do politicians think Australian citizens are in need of being protected from RC material?

### The Media Effects Model

Those seeking to censor material in name of the “greater good”, often cite the influence of the media over the behaviour of people society. However time and time again, this has been proved false. For example, in April 1994, Professor Elizabeth Newson, Professor of Developmental Psychology at the University of Nottingham, published the “Video Violence and the Protection of Children” report. This report claimed that there was a definitive link between screen violence and actual violence. The report gained media attention in the UK when it claimed the 1991 horror film “Child’s Play 3” had influenced Robert Thompson and Jon Venables behaviour, which led them to murder James Bulger in February 1993. However as pointed out by Professor Martin Barker of the Department of Theatre, Film and Television Studies at the University of Wales, that there was no evidence that either of the killers had seen the film<sup>38</sup>. In the case of Australia’s worst mass murder, perpetrated by Martin Bryant, the media reported that his extensive video collection was comprised almost entirely of horror films. However a police inventory of his house reveals that musicals made up most of his collection. According to his girlfriend, Petra Wilmott, Bryant walked out of a movie because it found it too violent<sup>39</sup>.

Often lobby groups demanding censorship will quote from various interviews given by serial killer Ted Bundy and his claims that pornography influenced him to murder his victims. Paul Wilson, former Research Director at the Australian Institute of Criminology, made the following comments about the claim; *“In Ted Bundy’s case, no serious social scientist or law enforcement officer takes the explanation that ‘pornography made me do it’ seriously. Well before Bundy turned the pages of a sexually explicit magazine or watched an adult video he was exhibiting bizarre behaviour. Dr Dorothy Lewis, who conducted multiple interviews with the killer just after his arrest, reported that Bundy was a highly disturbed child at the age of three”*.<sup>40</sup>

As explained by British sociologist and media theorist David Gauntlett, the media effects model is used to force fit films, music, games and publications as the reasons why social problems exist. It treats children as inadequate beings, assumes superiority over the masses and is often based upon studies that are artificial or have misapplied methodology or in some cases studies which don’t even exist<sup>41</sup>. I’ll repeat once again, to date, there are no credible peer reviewed studies which show any type of commercially available books, magazines, films, web content, TV programmes, video games or music have ever caused any harm to any rational and sane adult.

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<sup>37</sup> <http://www.theage.com.au/articles/2003/07/03/1057179099732.html>

<sup>38</sup> “Horror Film: Creating and Marketing Fear” by Steffen Hantke, University Press of Mississippi, 2009

<sup>39</sup> The Australian, 30 January 1997 and “What’s Going On?: A Critical Study of the Port Arthur Massacre” by Carl Wernerhoff, 2006

<sup>40</sup> “Dealing with Pornography: The Case Against Censorship” by Paul Wilson, University of New South Wales Press Ltd, 1995

<sup>41</sup> “Approaches to Audiences: A Reader”, Hodder Arnold, 1998

## Taking the Focus off the Real Causes of Problems in Society

The current revivalism of condemning pop culture and the media as the cause of social problems shifts the blame off perpetrators of crime and gives them an excuse for their behaviour. This is unacceptable. Rather than continually pointing to pornography or video games or any other type of media as the cause of crime and anti-social problems, the focus should be shifted to the core problems. There are a number of causes of crime such as a person's socio-economic background, substance abuse and mental illness. While politicians have increased policing and introduced tougher laws and sentencing, crime prevention programmes are given very little in government funding. Politicians mostly seem to look at solving the symptoms of crime rather than looking at and solving the causes. Not only is this incredibly short sighted, it leaves problem to fester and become entrenched.

The same is true for social problems. While lobby groups and some politicians want to further restrict or ban sexual material, they also do not want better sex education or in fact want to remove it all together from schools. At the "Tangled Web" forum held in Melbourne in June 2009 by newmatilda.com, sociologist Michael Flood, who authored the discussion paper, "Youth and Pornography in Australia: Evidence on the extent of exposure and likely effects"<sup>42</sup>, spoke on the subject of censorship. While he rightly agrees that children should never be exposed to sexuality explicit material he said *"It's well-documented that children and young people, who are exposed to sexual content, in advertising and other mainstream media and in porn, develop more liberal attitudes. They are more likely to think that other people are having sex. They are more likely to think that pre-marital and non-marital sex is OK, they are more likely to think that homosexuality is OK (I think that's a good thing) and so on."* Most importantly Flood asked for better education; *"We argued for porn education. We said that we should be going into schools and teaching children how to respond more critically to the material that they see online whether deliberately or accidentally, so that they become more critical media consumers"*<sup>43</sup>.

Rather than focusing on censoring more material, the government should dedicate more resources to education and preventative programs. In particular there should be more of a focus in schools on media studies, in particular understanding how advertising and marketing works. There should also be better sex education in schools. This should include classes on what women and men want from each other in relationships and how sexual politics work in a relationship. The government should also provide more funding into mental health. While some lobby groups want fashion images changed to reflect other body types, the focus should be on curing eating disorders, better help for those suffering as well as teaching children in schools about images in the media and about self esteem and looking after your mental health. It is absurd to suggest that banning or restricting anything in the media would help anyone's self esteem.

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<sup>42</sup> This single report is currently the Labor government's key piece of evidence and justification for their constantly delayed ISP Filtering Plan.

<sup>43</sup> <http://newmatilda.com/2009/06/05/original-net-nanny-advocate-does-back-flip>