

***Submission to the Senate Standing Committee on
Legal and Constitutional Affairs***

**Re: Inquiry into the Australian film and literature
classification scheme**

*“Filthy literature...is creating criminals faster than jails can be built”
-J.Edgar Hoover, 1970.*

15 March 2011



Introduction

The Eros Association is Australia's peak adult industry group representing the owners of over 1,000 adult products businesses and over 13,000 adult services and entertainment businesses as well as their customers who now number over five million adults.

The adult retail industry is a major employer group providing employment to over 20,000 people in Australia and contributing an annual turnover of around \$1.5 billion dollars to the national economy.

We thank the Committee for asking us to contribute and hope that the information received goes some way to repairing what is a hopelessly outdated and broken classification scheme. Our submission is in two parts. The first one outlines the failures of the Act and of the Scheme itself as it applies to adult media. The second one addresses those Terms of Reference which apply to adult media.

A Special Note on the Terms of Reference

We would like to bring to the attention of the Committee an urgent item referring to the Term of Reference (F).

The fact that this Term of Reference does not include R18+ material nor material in the RC category which is even above the X18+ rating, is extremely concerning and we would strongly advise the Committee to amend this term accordingly. R18+ material has strong sexual content and themes in it including sex with minors (Taxi Driver etc) and strong sexual violence (Straw Dogs etc). The X18+ category does not permit either of these themes so why limit this examination to X18+? In fact, the RC category contains sexual violence and explicit sex as well as themes like sex with animals. Surely this category has the most potential to impact people and to play a role (if any) in the sexual abuse of children. The X18+ classification is the most 'political' of all and has been the subject of debate between libertarian and religious groups for two decades. By framing this Reference around one out of three classifications that could just as easily answer the call of the inquiry, the Committee could leave itself open to allegations of bias and unfair influence.

Part I.

“Adults should be able to read, hear and see what they want.”

— *First principle for making classification decisions in Australia: National Classification Code.*

Lack of Uniformity, Bias and Ignorance

Despite the constant assurances from MPs on all sides of politics, we do *not* have a uniform national classification scheme. What we have is demonstrably a fractured, outdated and piecemeal approach to the classification of ‘adult’ material, in particular, that is now seeing innocent people sent to jail, families thrown into bankruptcy and businesses ruined. Often, the classification scheme is least understood by those who oversee and enforce it and consultation with adult industry groups is undertaken begrudgingly and infrequently.

During the Keating administration this organisation approached the Attorney General Michael Lavarch on no less than five occasions for a short meeting to discuss issues with the scheme. We were refused every time. During John Howard’s administration, Attorney General, Phillip Ruddock proved much more generous and met with Eros on two occasions. However on the second occasion while lobbying him to change the laws banning X18+ films in the states, he told us that it was already legal because he had seen them on sale ‘everywhere’.

There is widespread confusion amongst MPs, police and the judiciary on the nature of adult media. Before sentencing an adult shop owner to jail in Sydney last year for the heinous crime of selling federally classified X18+ films, a District Court judge turned to the Crown Prosecutor and said, “RC films...they’re Restricted Classification aren’t they?” To which the prosecutor hesitatingly agreed. The judge

also suggested at one stage in the trial that X18+ material was legal to sell in NSW, if it was restricted.

When police raid adult shops in the states these days for selling X18+ films, invariably half of the officers have their heads bowed and their hats pulled down low. This is because at another time, they are customers of the shop buying the very same films that they are now going to prosecute the seller for. From our members phone calls and from discussions with police officers directing the raids we estimate that approximately 40% of all police officers involved in carrying out raids on local adult shops have been customers of the shop at some time. Discretion is always part of the adult retail industry and so no complaints about this are ever lodged even though it happens frequently. Although fewer in number, many magistrates are also customers of shops that they will later pronounce sentence on.

Members of parliament who pass laws to make these films illegal are frequently closet buyers or viewers. Who can forget the NSW Minister for Transport, David Campbell, who was discovered leaving a gay sauna, where X rated films played from a dozen screens inside. Mr Campbell supported the laws in that state that send people to jail for commercial showing of X18+ films. Paul McLeay, the former member for the electorate of Heathcote in NSW religiously sent back every Eros Association Journal that was sent to him with the message that it was 'pornography' and he did not wish to be associated with it. The magazine was actually Unrestricted. He resigned from the NSW parliament in disgrace last year after admitting to watching copious amounts of porn on his office computer.

Inconsistency in legislation

Inconsistencies and absurdities between state and federal censorship laws are everywhere and we ask the Committee to ask itself why the Australian public should put up with second rate legislation in this area.

- Chief among them is the fact that it is legal to purchase and legal to possess X18+ films in all states but illegal to *sell* them. No other product in Australia is legislated this way.
- In all states except Queensland, it is legal to produce and sell a Category 2 Restricted magazine but if you film the pages with a digital camera and then sell the film (thus causing it to be X rated), you go to jail for two years.
- In Queensland it is legal to sell an R18+ film but if you take still images from the film and put them in a magazine (thus causing it to go Category 1 Restricted), you go to jail for two years.
- South Australia and Tasmania still have their own censorship boards and can classify material different from the rest of the country.
- In Tasmania it is legal to supply a minor with a Category 1 or 2 restricted publication if they are your own children or if the minor is married
- In Tasmania the penalties for making child pornography or bestiality are the same as they are for making or selling non violent, adults-only, X18+ films.
- Some states insist that Category 1 Restricted publications be sold only in sealed and opaque bags even though the front and back covers of these magazines must, by law, have Unrestricted covers that are suitable for children. This implies spite and financial penalty for trading in adult material.

- Most states do not differentiate between X18+ material and Refused Classification (RC) material (which includes bestiality and sexual torture) in their penalties for sale, which indicates that they see them as having the same potential for harm.
- Queensland bans the sale of all restricted magazines unlike any other state.
- In W.A. it is not an offense to allow a minor to sell and handle adult publications and films from newsagents and corner stores. However it would be a jailable offense for the customer to sell back to that same minor, an adult publication or film. It is however quite legal to make, advertise and transmit X rated online material in WA. The same is the case in NSW and Tasmania
- Category 2 magazines can only be sold in from restricted premises in the ACT, NSW, NT, SA, and Victoria. In Tasmania and W.A. they can be sold in other areas although the legislation provides for 'curtains' and other modesty screens.
- In NSW it is illegal to sell vibrators, adult novelties, sex machines and other sexual implements from anywhere other than a restricted premises. No other state has this restriction.

Commonwealth and State Morality

The Committee must surely get the picture. It is a complete fabrication and a statement designed to mislead the public, to call the Australian Classification Scheme a 'national and unified' one. The fact that in Jan 2010, the NSW government sent a man to jail for selling films that had been viewed and classified by Commonwealth censorship officials, is the clearest example of the failure of the scheme. How can a film that has met the most stringent X classification standards in the western world, applied by trained and suitably qualified assessors, be so offensive to someone living in Queanbeyan that the seller should be jailed? Especially as how one hundred metres to the west in Fyshwick, ACT, there are 14 businesses legally engaged in the same activity. How can it be that a husband and wife team running a small adult shop in South Australia can be forced into bankruptcy for selling films that have been classified by the Commonwealth?

The insanity doesn't stop with the draconian penalties or the concocted state morality either. Ninety five per cent of state police raids on adult shops for selling X18+ films, are driven by the Australian Classification Board (ACB). This is the same government body that classifies these films as suitable for all Australians. The information on who is selling the federally classified products in the states is gathered by a small group of three or four public servants who comprise the Classification Liaison Scheme (formally the Community Liaison Scheme). Under its former role, the CLS was charged with educating shop owners and the public about their obligations under the Act. In its new role, the CLS is little more than a 'porn police' squad concentrating most of its energies into formally pushing already overworked state police into the time consuming task of raiding an adult shop for selling federally classified X18+ films. They rarely visit suburban video libraries, convenience stores or other family areas where copious amounts of unclassified material turns up. We suggest that the Committee ask for a breakdown of the activities of the CLS to verify this claim. The CLS is run, in part, on the revenues

received from the classification of X18+ films which makes this scheme even more hypocritical and schizophrenic.

More than any other Act, the federal Classification Act and the state Enforcement Acts define our 'Australian morality'. The depictions and descriptions that are allowed in each of the various classifications, and how restricted or open they are, spells out where Australia 'draws the line'. At the moment that line is drawn very badly in the states in that they do not allow a non violent sexually explicit category for films. They do allow for extreme depictions of violence including rape, serious assault, torture and body mutilation in the MA15+ and R18+ categories. Nobody wants to address this appalling moral agenda, least of all the state Attorneys General.

Australian and World Morality

The X rated film (sexually explicit/non violent) is the benchmark censorship standard for adult cinema in modern western democracies. It's legal availability matches with countries which have higher living standards and better levels of education. Conversely, those countries that ban X rated films have lower living standards and poorer levels of education.

The reasons for this may be that:

- Better educated countries can see the harm to society in banning materials that end up fuelling organised crime on the black market.
- Countries that are good at creating wealth realize that this product will be sold whether legal or not and that taxes, copyright fees, licenses and other statutory charges should all flow to their rightful owners.
- Countries with high levels of wealth and education are generally not slaves to hard line religious or political dogma which often views sexuality as having the power to overthrow church or state.

The following table was drawn up from easily accessible information gained from embassies and national web sites. In many countries the laws are too unclear to call or are buried deeply in parallel legislation and not obvious to staff at embassies or national institutions.

X Rated material legal

Europe, Ireland, United Kingdom, Scandinavia, Canada, South Africa, USA, Taiwan, Japan, Estonia, New Zealand, the Commonwealth of Australia.

X Rated material banned

Burma, Nigeria, Iran, Libya, Belarus, Philippines, Bangladesh, China, Turkey, Malaysia, Iraq, the Australian States.

The convergence of media through the internet is now the real elephant in the room regarding classification in Australia. The Australian states should no longer be allowed to draw their enforcement Acts away from other modern democracies and alongside those of dictators and failed states.

Community Opinion

The last community opinion poll conducted by the Commonwealth to help it gauge accurate censorship levels appears to have been done in 1994 by the now defunct Office of Film and Literature Classification. We cannot find evidence of any state government ever having commissioned an opinion poll to assist it in getting censorship levels right.

Australians overwhelmingly support the sale and possession of sexually explicit media, which includes X rated films as well as Category 1 and 2 Restricted publications. Since X rated films were banned in the Australian states in the mid 1980s, Australia's adult industry has used official pollsters to test the waters on this issue on average every two years, up until a few years ago when we realized that governments refused to acknowledge the findings in developing policy. What they have shown is that a consistent average of 75% of Australians support government regulation and legal availability of this material. About 15% want it banned and 10% do not have an opinion.

Official Polling Results 1984 - 2007

ACNielson Poll, 2006

Question: Do you support the legal and restricted availability of explicit non violent erotic (X rated) films? Yes: 76%

Do you find explicit erotic films offensive? No - 70%

ACNielson/SMH October 2006

Question: Would you be more likely to oppose or support a politician who advocated for further censorship and restriction of the sex industry

46% more likely to oppose

27% more likely to support

27% neutral

15% can't say

Newspoll, December 2004

Question: Are you personally in favour or against, X-rated, non-violent erotic videos, being sold or hired to people aged 18 years and over, through controlled and restricted adult retail shops?

In favour - 71%

Newspoll August 2003

Are you in favour of the sale of X rated videos nationally?

In favour: 68.8%

April 1999 Roy Morgan Research

Question: In your opinion, should non-violent erotic videos be available to adults in Australia from properly licensed adult book stores or should they be banned?

Should be available 76.3%

Should be banned	19.1%
Can't say	4.6%

October 1997, Roy Morgan Research

Question: Should state governments ban the sale of sexually explicit non violent erotica to people over the age of 18 from a licensed adult shop?
No - 68%

April 1996 AGB/ McNair

Question: Under current law, X- rated videos can only show actual depictions of consenting non -violent sex between adults. In which of the following ways do you think X- rated videos should be available? (Respondents could choose more than one)

Available from restricted adult shops	64%	
Shown in restricted adult cinemas	26%	
Available by mail order		23%
Available from ordinary video shops	9%	
Banned	19%	

October /November 1992 Roy Morgan Research

Question: Next, about non violent videos and films of an erotic nature with some X rating or the equivalent. Which way best describes how you think X rated non violent videos or films of an erotic nature should be available? (Respondents could choose more than one)

Purchased from restricted adult bookshop	53.8%
Shown only in restricted adult cinemas	38.3%
Purchased through mail order	31.6%
Purchased from family video stores	3.3%
Should be banned/not available	1.9%
Can't say	6.5%

Saulwick/Age Poll, August 1988

Question: Do you support the legalisation of Non Violent Erotica?
Yes - 97%

Roy Morgan Poll, June 1987

Question: Which way best describes how you think X rated non violent videos or films of an erotic nature should be available.
In restricted adult sex shops – 77%

Morgan Poll, September 1986

Question: Do you support the sale of X rated films?
Yes – 77%

McNair Anderson Poll, September 1985

Question: Do you agree with legalising X rated, non violent videos?

Yes – 63%

Morgan Poll, December 1984

Should X rated videos be legal in Australia?

Yes - 66%

The pollsters who carry out these surveys are the very same pollsters who are employed by the major political parties and lobby groups at election times. Their ability to accurately survey the nation's sexual inclinations are as good as they are in determining its voting intentions. However, some politicians tend not to believe the large block of support for sexual media shown by these pollsters even though they accept their results on electoral matters. This is illogical and biased. The consistent survey results reproduced here should be enough for politicians to accept that there is broad community support for governments at all levels to regulate this industry like they regulate any other adult product industry.

We are yet to see a poll commissioned by any of the morals or religious groups in Australia who oppose this material, that shows a majority support for bans on sexually explicit material. In fact it is an admission that they hold a minority viewpoint, that professional lobby groups like the Australian Christian Lobby and the Australian Family Association have never employed Australia's major polling companies in an attempt to show that the majority of Australians want to see X rated and Restricted publications banned.

The Australian public's positive reaction to former PM Kevin Rudd's visit to an erotic dance club, showed that the vast majority of Australians are relaxed about sex and about people's use of a regulated adult industry and its products. This particular issue, in an election milieu and with professional polling taken only days after the event, stands as a stark reminder to all Members of Parliament who are at all nervous about supporting government regulation of the adult industry in any of its various forms.

Part 2.

Particular Terms of Reference

The use of serial classifications for publications

The introduction of a serial publication scheme was supported by the industry and to a degree still is. However it is not working in its current format. Due to our small population, the vast majority of restricted publication titles sold in Australia are imported. The same publication may be imported by up to 10 companies.

The guidelines for the classification of adult publications in Australia are unique and harsher than most other countries. This means that most publications must be slightly modified to meet these guidelines. This is particularly the case for Category One Restricted publications. The current scenario that plays out is that one supplier modifies the publication and then has it classified, often as a serial classification. That company then supplies the publication to its customers, modified according to the classification. Competitors of this company then often supply their customers with an unmodified version. When the unmodified version is found in the market place the company who invested in the serial classification and acted lawfully has their classification revoked because they are the only ones who the ACB can link to the publication. To appeal this decision they must fork out another \$10,000

The classification of publications in Australia is problematic overall. Numerous companies bring in the same titles so who classifies? On top of that, companies often

only import 100 copies of a title so a minimum \$900 fee to classify a small imported adult magazine is completely prohibitive. They would have to load each copy by nine dollars just to recover classification costs. We estimate currently less than five percent of adult titles are classified for this very reason.

Recommendation

- The cost of classification be reduced and self classification be considered.
- Classification of post print modified publications be linked to the applicant.

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

Any national uniformity to the display and sale of restricted publications is generally supported by industry. Currently the laws are inconsistent in all states.

Taking Category One Restricted publications as an example, the guidelines state very clearly that their covers must be of an unrestricted nature *“Covers must be suitable for public display. Publications with covers which are considered not suitable for public display will not be permitted in this classification category unless sealed in plain opaque wrapping.”*

Yet in many states all Category One publications must be covered in opaque wrapping. Why?

In QLD it is illegal to sell a Category One publication. In WA Category One can only be sold from restricted premises. In Tasmania they can be sold in a variety of restricted ways. In other states they can be sold to adults in sealed wrappers from unrestricted premises.

Category Two publications can be sold only from restricted premises in most states with the exception of Tasmania, WA and QLD. Tasmania and WA still allow minors to sell Category Two publications. QLD prohibits the sale.

Restricted Films

In the states where X rated films are legal to be sold their display is strictly limited to age restricted premises. This entirely appropriate. In the rest of the states where the sale of these films is illegal they are actually available from a large variety of unrestricted venues – both over and under the counter. In a private survey of former Victorian Premier Steve Brack’s electorate in 2004, Eros found 14 family stores selling a mixture of X rated films and restricted magazines.

R rated films, although age restricted like X, are also available from a wide variety of unrestricted venues including video shops, petrol stations, newsagencies and convenience stores. Their covers are not all that different from MA rated films in content and impact.

Recommendation

- Category One publications be sold in sealed packaging and that the packaging only be opaque on direction of the classification board
- Category Two publications only be sold from age restricted premises

- The regulated sale of X rated films effectively contains their display to age restricted premises
- No restrictions of the display of R rated films is necessary - except where acts of murder, disembowlement, decapitation, rape and serious assault are graphically depicted on a box cover

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

The call in system for adult publications is entirely ineffective. While available for all classifiable material it is only ever used on publications. It is unclear as to what the point actually is in 'calling in' a publication and purpose it serves. As stated earlier, numerous companies sell the same publication. The end result of a call in, is that the classification of the modified version is revoked even though that was not the version found in the market place.

To appeal the decision the applicant must stump up \$10,000 which is a totally unrealistic cost to a small importer and effectively means that there will never be an appeal. This is a form of economic censorship which is at odds with the spirit of the Act.

The enforcement on the sale of X rated films is only successful in the Territories where it is legal.

Recent changes to the NSW Enforcement Act shows how ignorant of the system the NSW Attorney General is. He included a new law that allows for the automatic calling in of a publication, which has been called in by any other state. This completely overlooks the fact that SA, WA and Tasmania all retain the power to make their own laws on publications. What he is saying is that if Tasmania bans a particular magazine, then NSW will blindly follow without an examination of the facts as they apply to his state. A copy of *Australian Hustler* that was produced in NSW and classified by the ACB was recently Refused Classification in SA. Under these new laws, the NSW company that produced that magazine could go to jail even though it had been classified by the federal government and sold in NSW without complaint.

As stated above, this organisation is implacably opposed to the use of Commonwealth Public Servants in the Classification Liaison Service, to walk into our member's shops, make clandestine notes about what is on sale in the shop and then slink back to their offices and write a report to the local police station forcing them to conduct expensive and resource-rich raids on the shop. This is not the job description that was given to the CLS when it was originally formed and we believe that these officers are acting ultra-vires. We urge the Committee to investigate this allegation. The Eros Association has been threatened with legal action for suggesting to our members that they bar entry to CLS officers unless they are in there to purchase products for themselves and that they should peaceably eject them if found in their shops under threat of police action. If the Commonwealth wants these so called 'educators' to act as 'porn police' or 'censorship police' then they should give them search and entry powers like police and let the public know that Australia

needs this extra layer of security these days. They should issue them with proper ID so they can formally identify themselves in shops instead of going under cover as they currently do. It is a folly that these people are partly paid from the classification fees of the same X rated films that they seek to prosecute. Most state police do not thank the CLS for having to apportion up to six or seven officers for at least two or three days to raid and mount a prosecution for X rated films. However, as the letters arrive on federal Attorney General's letterhead, they feel that they have no options. It is notable that the number of state police raids on adult shops for selling X rated films has quadrupled since the letters that the CLS sends out, changed from Office of Film and Literature letterhead in the 80s and 90s to federal Attorney General's letterhead in 2006.

Recommendation

- That the call-in scheme be abolished
- That the CLS cease reporting breaches of state law that do not offend Commonwealth law to state police and that they revert to their original job description of liaising and educating the community.

The interaction between the National Classification Scheme and customs regulations

New operating rules within Customs (suddenly adopted only weeks ago) have thrown the viability of classifying the bulk of X rated films into chaos. Customs now maintain that the industry cannot import a film or publication that 'may' be Refused Classification. As stated earlier, most publications and almost all films need to be modified to meet the stringent Australian classification guidelines. For the past 30 years this has meant that bona fide operators have had to bring in a master tape or disk from overseas which is modified, then submitted and classified and then duplicated from. Now Customs are saying that even a master disk has to be classified to bring it in but you cannot classify the film if you do not have a copy of it in the country. This association has politely tried to reason this ridiculous Catch 22 situation without success so far. If this situation continues for much longer there will be no classification of X rated films in Australia whatsoever which will play into the hands of pirates and the black market who will succeed in getting around Customs. Already because of the bans on X rated material in the states, we have seen the number of X films classified drop nationally from 6,000 per year in the 1990s to under 1,000 last year. If the stand off at Customs continues there will be zero classifications over the next 12 months without any visible diminution of sales in the states. We would expect that sales in the two Territories where it is legal, would plummet as traders were unable to access new release X titles.

The fairly recent changes to the Customs incoming passenger cards also pose a problem for Australian travellers and overseas tourists. It is not illegal to possess content that is unclassified or may be deemed refused classification with the exception of child porn. But the regulation 4A of the Customs Act makes it illegal to import material that might be refused classification. For example an Australian adult could have attended Hellfire club and filmed themselves there and stored that

footage on their computer or phone. This is entirely legal but becomes illegal when that person travels internationally. In fact the fine is up to \$110,000. International tourists could be caught unwittingly with content that is entirely legal in their country and in fact shown on free to air TV but would be RC in Australia.

Recommendation

- Commercial importers be allowed to import master material to modify for classification.
- The question about illegal pornography on the incoming passenger card be removed. A question about child pornography should replace it.

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

Although it is never stated, artistic merit is the sole reason that films like *The Texas Chainsaw Massacre* and slasher films make it through the R18+ classification. If non violent explicit sex is so offensive that the X18+ rating is warranted to protect people's sensibilities, how else can you justify a film where the main plot depends entirely on depictions of killing people in the most gruesome ways? And so for the civil liberties of those who enjoy this style of film we would suggest that if artistic merit were ever to be withdrawn as a reason to classify a problematic film, this whole genre would be under fire.

Having said that, claiming artistic merit to assist in an appeal against a certain classification is something only available to mainstream publishers and producers. It has never been available to those dealing in the adult media area which is a discriminatory and arbitrary decision without intellectual merit or popular backing.

In NSW we recently saw the withdrawal of artistic merit as a defence to a charge of child pornography. This has left many publishers of serious literary and creative works open to a prosecution and we wonder how long it will be before one of the nation's many moral's groups decides to lodge a complaint with the NSW police. In this respect we would like to draw the Committee's attention to one of Penguin Books' best selling classics, *Delta of Venus* by Anais Nin. Without the defence of artistic merit the publishers of this book are now under direct threat. The book's opening short story, *The Hungarian Adventurer*, tells the story of an aging European Baron and the creative ways in which he engages in sex with two sisters, aged 10 and 12 years old. This is followed by explicit descriptions of sex with his own two daughters and the rape of his son. Under the definitions of child pornography in the Crimes Act, these descriptions clearly fit the crime.

However, taking into consideration the fact that the story was first published in the 1930s when, we are led to believe, that community standards were more relaxed than now and that, like *Lolita*, the author is a major literary figure, the publishers of this book should be exempt from prosecution. As should the publishers of the former Royal's photographer, David Hamilton, who has published at least a dozen photographic books in this country featuring minors in sexualised poses. These books are in hundreds of thousands of homes in Australia but under a broad reading

of the definition of child pornography, a case could easily be made by an over zealous (or religious) police officer and upheld by an equally over zealous (or religious) magistrate.

These are two examples of hundreds of books and films that in wide circulation in Australia which need the protection of 'literary merit' available to them in the case of a prosecution.

Recommendation

- Allowances should be made for artistic merit
- Artworks should not be deemed classifiable

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

X rated films are restricted to adults. They contain no depictions of minors or even the appearance of an adult as a minor. They contain no violence or sexualised violence of any kind. There is no published and peer-reviewed research that suggests Australian X18+ films play any role in the sexual abuse of children.

Moral's groups will of course bring up the fact that every now and then some pervert who has interfered with a minor has shown or attempted to show them a sexually explicit film. Whether these films are X rated or R rated or Refused Classification is never reported by the media and not even in the courts where the lazy word 'porn' or 'pornography' is substituted. This is an important issue in a discussion of this theme. Notwithstanding this, we believe that there are more cases of child sex offenders showing a victim some religious paraphernalia like a bible or some other aid to an offence, rather than an X rated film.

X rated films are produced to entertain, arouse and sometimes educate adult viewers. The effect on a minor being coerced to a sexual act would logically be one ranging from complete disinterest to revulsion. The possibility of a minor under physical pressure or even mild psychological coercion, becoming aroused from watching an adult sex film in the company of an abuser is simply beyond belief.

We submit the latest substantial research for the Committee's information on this topic.

<http://www.hawaii.edu/PCSS/biblio/articles/2005to2009/2009-pornography-acceptance-crime.html>

Pornography, Public Acceptance and Sex Related Crime: A Review, was authored by Milton Diamond in 2009 and published in the prestigious *International Journal of Law and Psychiatry* 32. This extensive research paper concluded that, amongst other important things relevant to this Term of Reference, "It has been found everywhere scientifically investigated that as pornography has increased in availability, sex crimes have either decreased or not increased."

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

Depictions and representations of all of the above can be found nightly after 8.30 on crime shows. The overarching objective of the Classification Act is that adults should be able to see hear and read what they want. Literature throughout the ages has depicted illegal activities. It is right to sanction these actual crimes but depictions are another matter all together no matter how abhorrent we find the subject.

Recommendation

- Clear content advice be provided on all media (books included) that include contentious material

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

We have responded to the current House of Reps review on outdoor advertising. Currently the scheme allows the ACB to consider ads for media that it classifies. To extend this to outdoor advertising would be unworkable and create bizarre double standards. For example an ad on TV, in a newspaper or online would not need to be classified but the exact same material on a billboard would require classification.

Recommendation

The current scheme is effective and no change is required.

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

It is not within the objective of the Act to address these subjective concerns. Changing social attitudes via censorship is not effective or possible. Education of parents and children is a far better tool. This issue was considered in 2008 by the Senate Environment, Communications and the Arts Committees' June 2008 report, on their Inquiry Into "Sexualisation of children in the contemporary media".

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 size and international nature of the internet makes any attempt to classify its content impossible. It in fact highlights the need for greater self-regulation of all media to ensure consistency. Site labelling is widely available and used by the adult industry. Governments should encourage greater use of systems such as the Restricted to Adults (www.rta.org) labelling scheme.

The Government's reviews of the Refused Classification (RC) category

With the exception of the ALRC independent review of the classification scheme we are not aware of any government review of RC ever taking place. With regard to content that is of a sexual nature, depictions of adult content that is legal to do should be legal to view.