

Chapter 4

Regulation of the electronic and print media

Introduction

4.1 Term of reference (c) requires the committee to:

...examine strategies to prevent and/or reduce the sexualisation of children in the media and the effectiveness of different approaches in ameliorating its effects, including the role of school-based sexuality and reproductive health education and change in media and advertising regulation such as the Commercial Television Industry Code of Practice and the Commercial Radio Codes of Practice.

Potential changes to media regulation

4.2 Term of reference (c), to examine potential changes to systems of media and advertising regulation in Australia, is the heart of the committee's inquiry, which fundamentally concerns the effectiveness of advertising and media content regulation in striking a balance between:

- (a) facilitating commercial interests and freedom of individual choice and public expression;
- (b) protecting children from exploitation while allowing parents to make and effect choices about their children's wellbeing and sexual development; and
- (c) maintaining systems of media and advertising regulation that are accessible, predictable and fair, and which deliver outcomes that reflect prevailing community standards.

4.3 The committee's consideration of the issue of sexualisation of children in the media has therefore involved an assessment of how effectively advertising and media standards are regulated, and of the complaints mechanisms that exist for complainants to seek to have possibly sexualising material reviewed and, more broadly, to influence conceptions of what are prevailing community standards.

4.4 Accordingly, in this and the following chapter the committee has sought to make recommendations that focus on the design and operation of the systems, codes and regulations that govern media content standards. As previously stated, at paragraph 1.27, the committee has not sought to make substantive judgements about the character and/or quality of individual advertisements, programs and other media content.

4.5 This approach recognises that there is an inherent tension in regulatory systems that seek to give effect to the principle that 'adults should be able to read, hear

and see what they want', on the one hand, and that children 'should be protected from material likely to harm or disturb them' on the other.¹

Overview of regulatory systems

4.6 Australia has developed slightly different systems of industry regulation for different aspects of advertising and media content. In every case, these systems utilise codes developed by the relevant media or service industry—such as television, radio, print and advertising—on which complaints systems are based. Codes seek to reflect and protect prevailing community standards by empowering a broadly representative board to make determinations on complaints.

Regulation of broadcasting

4.7 The broadcast media—radio and television (including subscription services)—are subject to a system of co-regulation involving broadcasters and the government regulator. Broadcasters are required to develop codes of practice. These codes are registered with the Australian Communications and Media Authority (ACMA) and are reviewed on a regular basis. The National Classification Code (see below) establishes general principles for the classification of films shown on television, and industry codes are required to align with the film classification system.

4.8 Complaints concerning breaches of codes are initially handled by the broadcaster but complainants may appeal to ACMA if dissatisfied by the broadcaster's response. ACMA also has the responsibility to carry out research into community standards with regard to content and may initiate inquiries into specific issues relating to content.²

4.9 Children's television content is regulated by the broadcasters in the first instance and ACMA. Note that television considered suitable for children has two aspects: television produced specifically for children that carries the ACMA rating P (Preschool Children's) or C (Children's), and television broadcast prior to 8.30 pm that carries a G or PG classification. Programs in the latter category are not necessarily made for children; the classification merely indicates that the content does not contain elements that would require more restrictive classification.

1 These principles are taken from the statement of purpose contained in the National Classification Code (NCC), which is a schedule to the *Classification (Publications, Films and Computer Games) Act 1995*. The NCC uses the term 'minor', defined as a person under the age of 18; the committee has substituted the term for child in keeping with the focus of the inquiry. The NCC is available at the ComLaw website, <http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrument1.nsf/framelodgmentattachments/A4DD01BB110AD94DCA25700D002EF73E> (accessed 9 June 2008).

2 Broadcasting regulation is dealt with more fully in this committee's recent report into *The Effectiveness of the Broadcasting Codes of Practice*, June 2008, available at http://www.aph.gov.au/senate/committee/eca_ctte/broadcasting_codes/index.htm (accessed 23 June 2008).

4.10 Commercial radio broadcasting does not produce any programming aimed specifically at children, thus there is no classification analogous to television's G, PG and M ratings. However, as a general practice radio content that is considered unsuitable for minors, particularly because of coarse language or explicit sexual references, is restricted to post-9.00 pm time zones.

4.11 ACMA is also responsible for the control of internet content. The committee acknowledges that this is an area where effective regulation is extremely difficult. Some control of content may be exercised by parents or guardians through supervision and through the use of software that blocks access to certain sites or types of content; but this is a rapidly developing medium, one of whose great strengths is its flexibility and independence from particular legal jurisdictions. Thus it is inherently difficult to regulate.

Regulation of children's television content in Australia

4.12 The committee's investigation of this issue was essentially limited to free-to-air television and to the classification codes covering material intended to be viewed by children either alone or with parental guidance. The committee considered the high level of parental choice and control over both pay television services and children's exposure or access to adult viewing time zones as placing those areas outside the practical limits of the inquiry's terms of reference; this view was supported by the fact that few submitters addressed these particular areas.

How children's television content is regulated

4.13 The body that regulates television broadcasters in Australia is ACMA. ACMA's role, powers, functions and policy objectives are defined in the *Broadcasting Services Act 1992* (the BSA). A number of the objects of the BSA are specifically relevant to the issues of community standards, complaints systems and the welfare of children. These are:

- to encourage providers of broadcasting services to respect community standards in the provision of program material;
- to encourage the provision of means for addressing complaints about broadcasting services; and
- to ensure that providers of broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them.³

4.14 ACMA oversees the broadcasting codes of practice and standards that govern television content. The submission from Free TV Australia, the free-to-air commercial television industry body, explains:

3 *Broadcasting Services Act 1992*, section 3.

Content of...programs on commercial free to air television is regulated by the Commercial Television Code of Practice...and in the case of programs for children, the Children's Television Standard...⁴

4.15 The Free TV Australia submission states that 'compliance with the Commercial Code of Practice and the...[Children's Television Standard] is a condition of licence for the [broadcasting] networks.'⁵ In addition, ACMA has available to it:

...a wide range of enforcement powers which act as a significant deterrent against...[Commercial Television Code of Practice and Children's Television Standard] breaches.⁶

Commercial Television Code of Practice

4.16 The development of the Commercial Television Code of Practice (the Commercial Code) is mandated by section 123 of the BSA, which requires broadcasters to:

...develop, in consultation with...[ACMA]...and taking account of any relevant research conducted by the ACMA, codes of practice that are to be applicable to the broadcasting operations of each...[section] of the industry.

4.17 The Commercial Code 'is designed to ensure that programming on television is in line with community standards'.⁷ Firstly:

It is a requirement of the BSA that the regulator must only register the [Commercial] Code if it is confident it reflects community standards and there has been sufficient public consultation.⁸

4.18 Secondly, the Commercial Code, as required by the BSA, is periodically reviewed to ensure that it is in accordance with prevailing community standards.

Children's Television Standard (CTS)

4.19 Programming specifically made for children is governed by the Children's (C) and Preschool Children's (P) classifications. These standards are not governed by the Commercial Code but by ACMA through the CTS. The ACMA website explains:

Any applicant seeking a C or P classification for a drama or non-drama program must apply to ACMA. Decisions about the classification of

4 *Submission 139*, p. 2.

5 *Ibid* p. 23.

6 *Ibid* p. 3.

7 *Ibid* p. 9.

8 *Ibid*.

programs as C or P programs are made by ACMA, an ACMA Member, or a delegated senior officer of ACMA.⁹

4.20 The CTS sets out the required standards for children's programming with the objective of ensuring that 'children have access to a variety of quality television programs made especially for them'.¹⁰ The criteria for a C or P classification require that a given program:

- is made specifically for children or groups of children;
- is entertaining;
- is well produced using sufficient resources to ensure a high standard of script, cast, direction, editing, shooting, sound and other production elements;
- enhances a child's understanding and experience; and
- is appropriate for Australian children.¹¹

4.21 As noted above, compliance with the CTS is a licence condition for all commercial television broadcasters. Licensees must broadcast annually a combined total of 390 hours of programs classified as C and P (see paragraph 4.19) and broadcast in children's time zones (see paragraph 4.39). Compliance with the CTS is monitored by ACMA.¹²

4.22 Ms Jenny Buckland, Chief Executive Officer, Australian Children's Television Foundation (ACTF), while praising the CTS annual requirements for screening of P and C programs, was critical of the actual timing of such programming:

...[children's content] is scheduled on television at four o'clock in the afternoon, sandwiched between *Judge Judy* and *Antique Roadshow* and it is very hard to access for today's child who is not watching television at four o'clock in the afternoon.¹³

4.23 The ACTF felt that under current arrangements full value was not being extracted from the content being developed for children under the CTS, as it might be broadcast only once or twice by a commercial broadcaster and therefore be seen by a small number of children. Accordingly, the ACTF suggested that the current CTS requirement for commercial broadcasters to screen half an hour of children's television a day resulted in much of that programming being missed by children.

9 ACMA website, http://www.acma.gov.au/WEB/STANDARD/pc=PC_91815 (accessed 5 June 2008).

10 Free TV Australia, *Submission 139*, p. 3.

11 ACMA website, <http://www.acma.gov.au/webwr/aba/tv/content/requirements/children/documents/assessment%20procedures.pdf> (accessed 5 June 2008).

12 ACMA, *Annual Report 2006-07*, p. 48.

13 *Committee Hansard*, 29 April 2008, p. 44.

4.24 Ms Buckland suggested that more children tended to watch such programming when it was aired in larger blocks of time—such as on weekend mornings—and suggested that the half hour a day requirement be removed to allow broadcasters to schedule children's programs in larger blocks across a given period.¹⁴

4.25 With regard to content and standards, Ms Buckland advised the committee that advertising restrictions also operated in relation to children's content:

...we would note that the other aspect of the children's television standards is that there is no advertising at all during P programs. There is restricted advertising during the C programs in terms of the number of advertisements and the kinds of advertisements that are appropriate.¹⁵

4.26 Although the CTS does not have a specific prohibition on sexualisation, the ACTF felt that the operation of the CTS within the present system had prevented any issues concerning sexualisation of children arising:

The codes and the regulation that apply to advertising during those C-program times would preclude inappropriate advertising to children...We are not aware of any inappropriate advertising, from a sexual point of view or a sexualisation of children point of view, in children's programs.¹⁶

It can be concluded that, as regards program content and advertising during P and C programming, sexualisation of children is not an issue.

4.27 The ACMA annual report for 2006-07 states:

ACMA is currently reviewing the CTS and on 26 June 2007 called for public submissions in response to an issues paper for the review. The review and gazettal of the new CTS are expected to be completed in 2008.¹⁷

4.28 The committee also notes that the advent of digital television will provide increased opportunities for broadcasters to develop and air content produced specifically for children.

Recommendation 3

4.29 The committee recommends that, as part of its review of the Children's Television Standard (CTS), the Australian Communications and Media Authority consider revising the requirement that CTS content be broadcast for at least half an hour per day to enable broadcasters to schedule it in extended blocks at times which are more likely to attract children to watch it.

14 Ibid.

15 Ibid p. 45.

16 Ibid p. 49.

17 ACMA, *Annual Report 2006-07*, p. 48.

Classification

4.30 Programming outside the CTS is subject to classification according to the code of practice of each broadcaster. The system of classification is intended to manage 'the impact of programming on viewers of all ages'.¹⁸ Thus it should provide a guide to parents and other adults when managing children's television viewing. The Free TV Australia submission states:

The television classification system is comprehensive and detailed to ensure it covers the whole range of television content (which includes drama, documentary, sport, news and current affairs, light entertainment and variety).¹⁹

4.31 The classification system is based on the Office of Film and Literature Classification guidelines for its general categories—G, PG, M and MA15+ et cetera—with some differences to accommodate classification of a wider range of content and the use of time zones (see paragraph 4.39).

4.32 The particular classifications relevant to standards of children's television are described in Appendix 4 of the commercial code. These are the General (G) and Parental Guidance Recommended (PG) classifications. As noted above, G and PG categories do not guarantee that programming so classified was made for children, only that the content does not include matter unsuitable for children.

4.33 Appendix 4 of the Commercial Code describes the G classification in the following way:

Material classified G is not necessarily intended for children but it must be very mild in impact and must not contain any matter likely to be unsuitable for children to watch without supervision.

4.34 Under the G classification, 'sex and nudity'—as the class of material presumably covering material capable of sexualising children—must be treated as follows:

Visual depiction of, and verbal references to, sexual behaviour must be brief, infrequent, contain little or no detail and be strictly limited to the story line or program context. Restrained, brief and infrequent visual depiction of nudity only when absolutely necessary to the story line or program context.²⁰

4.35 The PG classification:

18 Free TV Australia, *Submission 139*, p. 3.

19 Ibid p. 2.

20 Commercial Code, Appendix 4, p. 23.

...may contain careful presentations of adult themes or concepts but must be mild in impact and remain suitable for children to watch with supervision.²¹

4.36 Under the PG classification, 'sex and nudity' must be treated as follows:

Visual depiction of and verbal reference to sexual behaviour must be restrained, mild in impact and justified by the story line or program context. Restrained visual depiction of nudity is permitted, but only where justified by the story line or program context.²²

4.37 A given program's classification and time zone is determined according to its 'impact' with reference to key elements such as sexual behaviour and nudity. 'Impact' is judged by the 'frequency' and 'intensity' with which such elements appear in given content.²³ Other factors considered are:

- the merit of the production;
- the purpose of a sequence;
- the tone;
- the camera work;
- the relevance of the material; and
- the treatment.²⁴

4.38 The Commercial Code provides the following explanation of how these factors interact with the determination of given content's 'impact':

...[the above] factors must be all taken into account and carefully weighed. This means that some actions, depictions, themes, subject matter, treatments or language may meet current community standards of acceptability in one program, but in another program may require a higher classification, or be unsuitable for television. Contextual factors do not permit the inclusion of material which exceeds a program's classification...²⁵

Time zones

4.39 Free-to-air television content standards are also regulated by the use of time zones. The Free TV Australia submission provides the following description of the rationale and operation of time zones:

21 Ibid.

22 Ibid.

23 Ibid.

24 Ibid.

25 Ibid.

The time zone system is designed to ensure that only material appropriate to the available audience is shown in particular time zones. Programs classified G (general) can be broadcast at any time of the viewing day. Programs with a classification greater than G are restricted from broadcast during certain time zones. Material which has appeal to an adult audience but which is clearly not appropriate for children is broadcast later in the evening.²⁶

4.40 With particular reference to children, Free TV Australia submitted that time zones:

...provide an important level of protection for the child audience. They are designed to ensure that material broadcast at times of the viewing day when children are likely to be watching is appropriate for them.²⁷

4.41 Ms Buckland, from the ACTF, echoed a common criticism made to this committee in its recent inquiry into broadcasting regulation:

Most five- to 12-year-olds are watching television between the hours of six and 8.30 at night. It is very hard for children and their parents to even know that [CTS] content exists.²⁸

Consumer advice

4.42 Mr Donald McDonald, Director, Classification Board, advised the committee that the classification scheme is complemented by a system of consumer advice:

A key element of classification information is consumer advice, which the board formulates when making classification decisions. Consumer advice, which is published along with the product, provides consumers with greater clarity in terms of the content that can be expected. Consumer advice generally lists the principal elements which have contributed to the classification of a film and indicates their intensity and/or frequency. It can also be used to alert consumers to serious or potentially distressing content.²⁹

4.43 Free TV Australia provided the following information on the use of consumer advice:

...consumer advice [is broadcast] for all M and MA15+ programs and for PG programs broadcast between 7pm and 8.30pm on weekdays or between 10am and 8:30pm on weekends if the program contains material of a

26 *Submission 139*, p. 4.

27 *Ibid* p. 7.

28 *Committee Hansard*, 29 April 2008, p. 44. The committee's report, *Inquiry into the effectiveness of the codes of practice*, is available at http://www.aph.gov.au/senate/committee/eca_ctte/broadcasting_codes/index.htm (accessed 23 June 2008).

29 *Committee Hansard*, 30 April 2008, pp 66-67.

strength or intensity which the parents or guardians of young children may not expect. Examples of consumer advice are: some coarse language, mild violence, sexual references, a sex scene, and adult themes.³⁰

Consumer awareness and promotion of the classification system

4.44 Reviews conducted by ACMA, cited in the Free TV Australia submission, have found high levels of awareness of the system of regulation of television standards generally in Australia:

In both 2003 and 2007, the Australian viewing public overwhelmingly indicated awareness of classification symbols, consumer information shown before programs, warnings about story content before an item in news/current affairs program, and restrictions on the times when different types of programs may be shown.³¹

Complaints about sexualisation of children

4.45 A viewer who is concerned that children are being exposed to prematurely sexualising material because program content is (a) wrongly classified (b) being played in an unsuitable time zone for its classification or (c) otherwise in conflict with prevailing community standards must first take their complaint to the broadcaster. If not satisfied with the response or processes of the broadcaster, the complainant may then take the complaint to ACMA.

4.46 Free TV Australia submission states that there is 'no level of viewer concern expressed in relation to the contribution of free-to-air television to the sexualisation of children'.³² Concerning specific complaints about sexualisation of children to broadcasters:

Complaints to broadcasters about the sexualisation of children are non-existent...in...program content and there is no evidence of significant community concern around the sexualisation of children on commercial free to air television.³³

4.47 Free TV Australia further advised that ACMA is presently undertaking a review of the CTS. Research undertaken for the purposes of the review, as well as submissions received as part of a process of public consultation, have established neither a 'correlation between television programming...[and] the sexualisation of children' nor any 'level of community concern around the issue'.³⁴

30 *Submission 139*, p. 4.

31 ACMA, *Reality Television Review – Final Report*, 30 March 2007, p. 66.

32 Free TV Australia, *Submission 139*, p. 8.

33 *Ibid* p. 2.

34 *Ibid* p. 11.

4.48 The ACMA annual report for 2006-07 provides tables showing that over that period it upheld one complaint relating to a PG classification on the grounds of sex and nudity, and dismissed 14 relating to either G and PG classifications or 'contemporary standards of decency' on the same ground.³⁵

Video music clips

4.49 Video music clips were the one area of programming often mentioned in submissions as being a source of inappropriately sexualising material. There were two aspects to this: (a) music video clips broadcast in children's viewing time zones, and thus produced for and directed to children and (b) music video clips broadcast in adult viewing times proximate to children's viewing times, and thus easily or likely to be seen by children.

4.50 Many felt that television programming is tending to blur distinctions between appropriate content for adults and children respectively. For example, shows such as *Rage*, a late night music video program for mature viewers, precede the 6am start of children's weekend morning programming; other music video shows often continue throughout weekend mornings, when children are likely to be at the television:

[*Rage*] runs all night for the older teenage brigade, but we also all know that most young children are up and about at 6am...Mum and Dad sleep in and think [their] little one is watching the Wiggles, when in fact he/she may be being exposed to sexually explicit lyrics, swearing and sexual scenes.³⁶

The issue of young children viewing material in adult time zones is primarily one for parents and guardians to deal with.

4.51 Where video clips are approved for showing during G rated time zones, the coarse language is 'bleeped' or edited out but dance and clothing styles may be little changed. The standard letter submission prepared by Kids Free 2B Kids (KF2BK) recommended that 'Sexualised Music Video clips...only be shown outside children's viewing hours'.³⁷

4.52 Free TV Australia advised the committee that all music video clips are subject to classification, and subsequently treated in the following way:

If the material is determined to be unsuitable for the relevant time zone (usually G or PG), then the video is edited before broadcast or else is it not included in the respective program. For G classified programs networks take extra steps to ensure the videos are very mild in impact and safe for children to watch without adult supervision as required under the Code. For a PG show, the networks apply the Code at the lower end of the PG

35 ACMA, *Annual Report 2006-07*, pp 103-109.

36 Ellen Choat, *Submission 1(a)*. See also Ben and Nicole Myers, *Submission 57*, pp 1-2; Trevor Thomas and Jude Powell Thomas, *Submission 79*, p. 2.

37 *Submission 1*, p. 1.

classification requirements as they are mindful that younger viewers could be watching these programs.³⁸

4.53 In response to the claims made to the inquiry that music video clips are contributing to the sexualisation of children, the Free TV Australia submission contends that 'network complaint figures do not support this view'. This assertion is based on the very low number of complaints received about music video clips over the past five years: just 32, representing 0.8 per cent of the total of all complaints about television content over that period.³⁹

4.54 The committee acknowledges the small number of complaints received with regard to music video clips but equally notes the high level of concern expressed in submissions and correspondence received by the committee. As noted above, the G classification requires, in part, that:

Visual depiction of...sexual behaviour must be brief, infrequent, contain little or no detail and be strictly limited to the story line or program context.

4.55 The committee acknowledges that there can be some debate as to whether certain styles of dancing can be classed as 'visual depiction of sexual behaviour'; however, it does accept that some music video clips contain sexually suggestive material which may be inappropriate for children.

Recommendation 4

4.56 The committee recommends that broadcasters review their classification of music videos specifically with regard to sexualising imagery.

4.57 Complaints about the premature sexualisation of children either through television advertising or program content aimed specifically at children are not significant in number. The main area of concern is with children's exposure to more 'adult' material shown in the PG and M time zones. Here complaints do not refer specifically to sexualisation of children in younger age groups but range over the issues of coarse language, violence, sexual themes, nudity and 'adult' themes generally.

4.58 Taken together, classification, time zones and consumer advice are designed to enable those having care of children to manage their television viewing to minimize their exposure to inappropriate material. It appears from the evidence received by this committee that the system is working effectively. However there is some scope for further refinement.

4.59 In its recent report on broadcasting regulation this committee has commented at some length on the effectiveness of the system and has made a series of recommendations aimed at improving the operation of classifications, time zones and

38 *Submission 139*, p. 9.

39 *Ibid.*

consumer advice. A number of those recommendations are relevant to the issue of sexualisation of children, particularly in that they would provide better guidance to television content.

4.60 In that report the committee recommended that ACMA:

- examine whether the G and PG classifications should be extended by including age-specific sub-divisions into those categories—for example, G+8 or PG+13;
- examine the extent to which the current evening time zones in fact reflect children's television viewing habits; and
- review the classification codes to ensure that graphic and disturbing imagery and excerpts from M and higher classification material is not included in news and current affairs programming in early evening time zones.⁴⁰

4.61 The committee also recommended that industry codes of practice, as far as is practical, clarify the meaning of terms used in consumer advice—such as 'frequent', 'impact' and 'some'—and that classification information be displayed for longer periods of time.

4.62 Digital free-to-air television also offers some potential benefits in managing children's television viewing. Parental lock-out systems, already available on subscription services, should be made an industry standard for digital televisions in Australia. Datacasting should also be used to provide more detailed program information about content and to explain the reasons for a program's classification.

A children's television channel?

4.63 In addition to changing the programming requirements for the CTS, the ACTF recommended the establishment of a children's television channel on the ABC digital network. Ms Buckland described the features and benefits of a dedicated channel for children as envisaged by the ACTF:

...what we need in this country is an Australian children's channel,' a digital channel of the ABC, a commercial-free channel which is screening up until at least nine o'clock at night and providing access to all of those programs that are being produced and which could also provide new programs. It could provide news and current affairs; it could work in with the education sector during the day; it could look at the sorts of messages—education, information—that we want to convey to children, be it about sexuality or be it other issues that are important. It could do all of those things and, in the evening, it could entertain them with terrific Australian

40 The committee's report, *Inquiry into the effectiveness of the broadcasting codes of practice*, is available at http://www.aph.gov.au/senate/committee/eca_ctte/broadcasting_codes/index.htm (accessed 23 June 2008).

drama where they are going to see positive images of children and families working.⁴¹

4.64 Similarly, Dr Sally Cockburn and Ms Amelia Edwards, who appeared before the committee in a private capacity, called for a 'government funded free-to-air 24-hour commercial-free television...station...dedicated to children's under-16 programming'. This was proposed as a creative initiative 'to reduce the harmful impact of premature sexualisation of children...in the contemporary media and within the greater social context'.⁴²

Recommendation 5

4.65 The committee recommends that broadcasters consider establishing dedicated children's television channels.

4.66 The committee understands that this proposal is under active consideration by the ABC and would encourage other television broadcasters to examine the practicalities of providing children's TV channels.

Publications, films and computer games

4.67 Regulation of the print media, principally certain classes of magazine, is the responsibility of the Classification Board, which is also responsible for film, DVD and electronic games content. The Classification Board administers the criteria set out in the *Classification (Publications, Films & Computer Games) Act 1995*, the National Classification Code and published guidelines. It is of particular relevance to this inquiry to note that the Classification Board plays a limited role with regard to publications.

4.68 The function of the Classification Board is:

...to assist consumers, particularly parents and guardians, to make informed choices about entertainment material for themselves and those in their care. It remains the responsibility of parents and guardians to make decisions about entertainment appropriate for their children and to provide adequate supervision. The scheme also operates to protect people, particularly children, from material which may be offensive or inappropriate for their age, by limiting access to material or by banning it entirely.⁴³

4.69 The committee received very little evidence to suggest that film and DVDs are considered to be sources of inappropriate sexualisation of children. This can be viewed as a tribute to the work of the Classification Board. It might also reflect, as is the case with subscription television, the high degree of parental choice involved in

41 *Committee Hansard*, 29 April 2008, p. 44.

42 *Committee Hansard*, p. 51.

43 Mr Donald McDonald, *Committee Hansard*, 30 April 2008, p. 66.

the purchase of a DVD or a decision to go to a film, which allows parents to control access to these media.

Regulation of children's magazine content in Australia

Introduction

4.70 The committee's consideration of magazine content was confined to children's publications. This is because, apart from issues around the placement of adult magazines and 'submittable publications',⁴⁴ the committee received little evidence on adult magazine content as a direct or notable source of sexualisation of children.⁴⁵ In addition, unlike free-to-air commercial television, for example, exposure of children to magazine content involves a purchasing decision over which parents are assumed to have considerable control if they so wish.

4.71 The majority of evidence presented to the committee on this issue concerned publications directed to female children, and particularly the magazines titled *Girlfriend* and *Total Girl*, which it was claimed are aimed at the female teenage (12-16) and child markets respectively. Despite this, the committee's consideration of the issues raised applies equally to publications produced for male children, as it does more generally to the production of media content specifically for child consumers or the so-called 'tween' market.

How children's magazine content is regulated

The Classification Board

4.72 The Classification Board is responsible for the classification of, inter alia, 'certain publications' according to criteria defined in the *Classification (Publications, Films and Computer Games) Act 1995* (the Classification Act) and the National Classification Code (NCC).⁴⁶ Section 5 of the Classification Act defines 'publication' to mean 'any written or pictorial matter', excluding film, computer games or advertisements for a publication, film or computer game.⁴⁷

4.73 Mr Donald McDonald, Director, Classification Board, advised the committee that the Classification Act criteria are informed by additional processes and concepts:

44 In this chapter 'adult magazines' simply refers to publications directed to adults. Publications containing explicit content such as nudity and sexual acts are referred to as 'submittable publications' as per the classification scheme outlined at paragraphs 4.74 and 4.86.

45 The committee has acknowledged elsewhere in this report the role that material produced for adults but readily accessible to children may have in creating and reinforcing stereotypes images, particularly of young women.

46 Mr Donald McDonald, *Committee Hansard*, 20 April 2008, p. 66.

47 Advertising in children's magazines is regulated by the ASB as described in Chapter 5.

Classification tools applied by the boards in making classification decisions are agreed by Commonwealth, state and territory censorship ministers under the cooperative arrangements of the National Classification Scheme. Various mechanisms are also used to ensure board members remain abreast of community standards, including consumer feedback on decisions, community research and community consultation.⁴⁸

The classification scheme

4.74 The classification scheme employs three classifications in relation to publications: Refused Classification (RC), Category 2 restricted and Category 1 restricted. RC publications are not able to be sold or disseminated, Category 2 restricted publications can be sold only in 'restricted premises', and Category 1 restricted publications can be sold in regular retail outlets but must be sold in 'sealed packs'.⁴⁹ Neither category 1 nor category 2 publications are suitable for sale to minors—persons under the age of 18.⁵⁰

4.75 Apart from the three classifications outlined, all other publications are regarded as unrestricted publications and are thus able to be sold without restriction.

4.76 Mr McDonald noted that the RC (Refused Classification) classification had particular references and applications to the portrayal of children in particular sexual contexts:

...material...[is] refused classification...if it describes or depicts, in a way that is likely to cause offence to a reasonable adult, a person who is or appears to be a child under 18, whether they are engaged in sexual activity or not...

The guidelines for the classification of publications also note that sexualised depictions and descriptions of nudity involving minors...generally warrant 'refused classification' as they '... deal with matters of sex ... in such a way as to offend against the standards of morality, decency and propriety generally accepted by reasonable adults ...'⁵¹

4.77 Depictions of exploitative child nudity and sexual activity involving a child, sexual abuse or other exploitative or offensive depictions involving children are routinely refused classification.⁵²

48 *Committee Hansard*, 30 April 2008, p. 66.

49 *Ibid* p. 70.

50 Details of the classifications can be found at the ComLaw website, <http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrument1.nsf/framelodgmentattachments/A4DD01BB110AD94DCA25700D002EF73E> (accessed 10 June 2008).

51 *Committee Hansard*, 30 April 2008, pp 66-67.

52 *Ibid*.

4.78 The board may require each edition of any 'submittable publication' (see paragraph 4.86) to be submitted or may grant a serial classification for a period of 12 or 24 months, which requires the publication to conform to certain guidelines. Complaints against magazines subject to serial classification may result in the cancellation of that classification and a requirement that every future edition of the publication be submitted. Other publications may be brought to the board's attention by members of the public and may, depending on content, become subject to classification.

Principles underlying the classification system

4.79 The committee heard that the design of the classification system seeks to promote the principles of (a) informed choice for adults and (b) protection from harmful or disturbing material for children, to which the NCC requires classification decisions to give effect. Mr McDonald explained that the classification scheme:

...is primarily designed to assist consumers, particularly parents and guardians, to make informed choices about entertainment material for themselves and those in their care. It remains the responsibility of parents and guardians to make decisions about entertainment appropriate for their children and to provide adequate supervision. The scheme also operates to protect people, particularly children, from material which may be offensive or inappropriate for their age, by limiting access to material or by banning it entirely.⁵³

4.80 These principles are embodied in the NCC, which states that classification decisions are, as far as possible, to give effect to the following principles:

- (a) adults should be able to read, hear and see what they want; [and]
- (b) minors should be protected from material likely to harm or disturb them...⁵⁴

4.81 There was considerable discussion in submissions and at the committee's hearings of the content of magazines marketed specifically to teenage and younger children. Submissions were critical of a number of aspects of these publications:

- content which presented girls purely in terms of their sexual attractiveness and relationships with boys;
- content which dealt with the lives of celebrities, presenting them as desirable role models;
- advice columns which dealt with explicitly sexual issues; and

53 Ibid.

54 National Classification Code, *Classification (Publications, Films and Computer Games) Act 1995*, ComLaw website, <http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrument1.nsf/framelodgmentattachments/A4DD01BB110AD94DCA25700D002EF73E> (accessed 9 June 2008).

- advertising which relied on 'adult' images of girls to promote products, particularly clothes and cosmetics.

4.82 The question of advertising is dealt with in the next chapter. However, due to the Classification Board's role in the classification of publications, the committee sought the board's view with regard to some of the content of these magazines.⁵⁵

Classification of content in children's magazines

4.83 Magazines marketed to children in the younger age groups—early teens and younger—are not generally subject to regulation and come under the scrutiny of the Classification Board only as a result of complaints from the public. The board has reviewed the content of magazines aimed at teenage girls but did not find it to be in breach of the code.

4.84 The committee's consideration of children's magazine content centred exclusively on the magazines *Girlfriend* and *Total Girl*. Selected material from these magazines was provided by KF2BK in submissions as well as handouts provided at the Melbourne hearing; and the publisher of these titles, Pacific Magazines, provided issues of both magazines at the Sydney hearing. These materials formed the basis for consideration of appropriate standards and the potential for premature sexualisation of children by these magazines and similar publications.

4.85 The committee considered parts of the material contained in *Girlfriend* magazine to be sexually explicit. A number of examples of such material were drawn from a regular sealed-section advice column, which included advice on 'oral sex' and 'anal sex' in answer to such questions as 'Can I perform oral sex if I have braces?'.⁵⁶

4.86 Despite the inclusion of such material, the committee heard that children's magazines are not submitted to or otherwise routinely classified by the Classification Board, because they are not 'submittable publications'. Mr McDonald explained that submittable publications are those which contain:

...depictions or descriptions of sexual matters, drugs, nudity or violence that are likely to cause offence to a reasonable adult to the extent that the publication should not be sold as an unrestricted publication or is unsuitable for a minor to see or read.⁵⁷

4.87 The material described at paragraph 4.85 was not considered as coming under the definition of a submittable publication, because:

55 The Classification Board may also consider advertising when classifying 'submittable magazines'. See *Committee Hansard*, 30 April 2008, p. 73.

56 *Committee Hansard*, 30 April 2008, p. 67.

57 *Ibid.*

[The classification Act]...speaks about causing offence...[That] information is not necessarily, of its nature, offensive.⁵⁸

4.88 Using the example of nudity, Mr McDonald explained that the context and purpose for which material is presented are important considerations in determining whether or not material is regarded as offensive and is thus submittable for the purposes of the Classification Act:

[Nudity]...is of itself not necessarily offensive...It is the way in which nudity is treated in publications that the guidelines to the act, in particular, require us to take account of. The way in which information is presented will be very important to the way that the judgement is made about the material. If it is not presented in a way that is gratuitously offensive, then it is simply information.⁵⁹

4.89 The importance of context and purpose thus means that the classification scheme does not prevent the 'exploration' of 'strong themes' or 'controversial views' on issues such as 'child sexual abuse' or 'children's sexuality'.⁶⁰

Complaints about content in unrestricted publications

4.90 The committee was advised that the Classification Board will examine an unrestricted publication's content against the classification scheme in cases where a formal complaint is received.⁶¹ The Classification Board advised that it had in fact previously determined a complaint concerning a sealed section in *Dolly* magazine, similar in content to that mentioned above.

4.91 In answer to a question on notice, the Classification Board advised that despite the content contained in the sealed section the magazine was found not to be a submittable publication. It found:

With specific reference to the 'sealed section' of the magazine...it contained references to sexual matters which are not detailed and are justified by context. This section includes information about safe sexual practices, advice on medical matters that teenagers may feel embarrassed to consult their parents or other adults about, and encourages readers to seek help by contacting counselling/information services if they believe they have a problem with drugs...[None] of the content in this section appears gratuitous or unsuitable for minors (although it is noted that some children and parents may be embarrassed by the frankness of the information presented).

58 Ibid p. 68.

59 Ibid.

60 Ibid.

61 Mr Donald McDonald, *Committee Hansard*, 30 April 2008, p. 67.

It is ultimately the responsibility of parents or guardians to make decisions about appropriate reading material for their children and to provide adequate supervision.⁶²

4.92 It is important to note in this and in other contexts that parental discomfort or embarrassment is not an indicator of itself that material is offensive:

The act speaks about causing offence. The information is not necessarily, of its nature, offensive. Some parents might not want their children to have certain information, but that does not necessarily of itself make it offensive...⁶³

Effectiveness of regulation of children's magazine content

Complaints about sexualisation

4.93 Pacific Magazines and ACP advised the committee that in general they 'receive a negligible number of complaints in relation to content in their magazines'.⁶⁴ Specifically in relation to the sexualisation of children the companies believed that:

...the Australian Press Council has never received a complaint in relation to the sexualisation of children in any magazine published by ACP Magazines or Pacific Magazines.⁶⁵

As noted above, the Classification Board has been asked to consider a complaint against *Dolly* magazine.

4.94 The committee notes that submissions it received were mainly concerned about the explicitly sexual content of advice columns in some of these magazines. However, in terms of more general sexualising imagery it is obvious that the focus of the advertising and the content is on a very limited range of subjects—clothes, cosmetics, celebrities—and the range of female images presented is limited to the slender and glamorous. While there are valuable articles on real issues of concern to young people, they occupy a small proportion of the pages.⁶⁶

Lack of age classifications/application of classification scheme

4.95 A recurring theme throughout this report has been that informed and assisted parental choice is the best way to reconcile the principles of freedom of choice on the

62 Classification Board, answer to question on notice, 30 April 2008 (received 26 May 2008).

63 Mr Donald McDonald, *Committee Hansard*, 30 April 2008, p. 68.

64 Pacific Magazines, answer to question on notice, 30 April 2008 (received 26 May 2008).

65 Ibid.

66 Even where a magazine adopts a particular positive theme—for example, *Girlfriend's* 'Perfection is Boring' slogan that 'rejects the idea of beauty that's constantly rammed down our throats'—it is contradicted by the images presented in the advertising and other sections that make up the majority of the magazine.

part of adults and the need to protect children from inappropriate or offensive material. The chief concern raised with the committee was whether the current classification scheme, under which children's magazines are classed as unrestricted publications, is sufficient to enable parents to make informed choices about what type or amount of sexual content their children are exposed to.

4.96 A particular concern of the committee was the apparently broad spectrum of readership ages of magazines such as *Girlfriend*. Information supplied by Pacific Magazines in answer to a question taken on notice indicates that, although the average reader age is close to 16, around 20 per cent of *Girlfriend's* readership is between 11 and 12 years of age.⁶⁷

4.97 Accordingly, the committee considered the possibility of requiring magazines to display front-cover age classifications, such as 'Suitable for children aged 12 to 16', or, alternatively, the classifications used for television, film and computer games: G, PG, M et cetera.

4.98 In a response provided to a question on notice, Pacific Magazines and ACP, the publishers of *Dolly*, suggested that:

[In general the]...limited number of complaints [received] indicates that the vast majority of consumers have no concerns around their current ability to choose age-appropriate publications.⁶⁸

4.99 In addition, the publishers expressed a number of doubts and concerns about the effectiveness of age classifications. Primarily, age classifications were thought to be of limited value in assisting parents to choose appropriate publications for their children because of the significant 'variance in the developmental levels of people in their early teenage years'.⁶⁹

4.100 At the Sydney hearing, Mrs Nicole Sheffield, Publisher, Pacific Magazines, explained:

...I can sit in front of one 12-year-old and she will feel like a 21-year-old—she got her period when she was nine, and she has a totally different family situation—and I can meet another 12-year-old who is completely different. Their bodies and their minds are going through a totally different developmental cycle...I think putting a specific age on *Girlfriend* is challenging, because everyone's development is different. I really believe that, with *Girlfriend*...a lot of it is dependent on a girl's developmental cycle. To answer your question, there are some 12-year-olds who outgrew *Total Girl* at 10 or 11; they were over slumber parties et cetera. They were interested in the latest things, and their music tastes were different.⁷⁰

67 Ibid.

68 Ibid.

69 Ibid.

70 *Committee Hansard*, 30 April 2008, p. 63.

4.101 Other concerns raised were that age classifications did not inform as to the nature of content, could act to encourage consumption by younger age groups and, without broader application to publications such as books and newspapers, would effectively discriminate against magazine publishers.⁷¹

4.102 Mrs Sheffield considered that the alternative of applying the existing classification scheme codes to magazines was the more effective and preferable option:

I think if you say PG, parental guidance, then the parent is the one to decide and I am more than comfortable with that...I totally feel comfortable with giving parents the right to know and to understand.⁷²

4.103 The committee, having reviewed the comments received about the content of magazines aimed specifically at girls—from concerned parents, from specialists in the field of child development, from the regulator and from the industry—acknowledges that there are some sound arguments for assisting parents by bringing these publications within the classification system.

4.104 The committee does not support more rigorous control of the content of these magazines, particularly the sealed sections and advice columns. It is important to recognise that young people in their early to mid-teens are developing their identities including their sexual identities and need access to reliable advice and information:

Many young people access existing media in ways that may assist the formation of healthy sexual identities, including seeking factual information on sex and relationships from sex advisers and problem pages in magazines...⁷³

4.105 An alternative view, which reflected opinions expressed in many submissions is that magazines targeted at girls:

...feature sexually promiscuous stories awakening young girl's sexuality before they are mentally able to be responsible for their actions or have a morally formed conscience only to be deeply hurt leading to an increase in teenage pregnancy, sexual diseases and mental breakdown.⁷⁴

4.106 To assist parents who share these concerns, the committee does believe that it would assist them in making decisions about the material their children have access to if some indicator of the probable content of magazines were available. With regard to age-specific classification of magazines, the committee notes the argument that age is an unreliable indicator of a child's stage of development.

71 Pacific Magazines, answer to question on notice, 30 April 2008 (received 26 May 2008).

72 *Committee Hansard*, 30 April 2008, p. 63.

73 Dr Katherine Albury, *Committee Hansard*, 30 April 2008, p. 99.

74 Parents for a Real Choice, *Submission 144*, p. 4.

4.107 The committee does not believe that the Classification Board should be given the responsibility for classifying girls' magazines. This would represent a significant extension of its duties from its current and clearly limited role. The logic of classifying girls' magazines could equally be applied to other types of publication—for example, frank discussions of sexual matters in *Cleo* or *Cosmopolitan* could be said to warrant an M15+ rating—which would represent a significant and unwarranted extension of government regulation.

Recommendation 6

4.108 The committee recommends that publishers consider providing reader advice, based on the Office of Film and Literature Classification systems of classifications and consumer advice, on magazine covers indicating the presence of material that may be inappropriate for children.

