

CHAPTER 1

INTRODUCTION

Background

1.1 On 21 June 2007, the Senate referred the provisions of the Classification (Publications, Films, and Computer Games) Amendment (Terrorist Material) Bill (the Bill) to the Standing Committee on Legal and Constitutional Affairs, for inquiry and report by 30 July 2007.

1.2 The Bill amends the *Classification (Publications, Films and Computer Games) Act 1995* (the Classification Act) to require that publications, films or computer games that advocate the doing of a terrorist act be classified as 'Refused Classification'.

1.3 In his Second Reading Speech, the Attorney-General stated that the Bill:

...improves the ability of our laws to prevent the circulation of material which advocates the doing of terrorist acts...Currently there is too much uncertainty around whether the existing classification laws adequately capture such material.¹

Classification Regime in Australia

1.4 Classification decisions are made by the Classification Board and, on appeal, reviewed by the Classification Review Board (the Boards).

1.5 When making decisions the Boards follow:

- the Classification Act which establishes the Boards and sets out the procedures the Boards must follow when making classification decisions;
- the National Classification Code (the Code), which provides a broad description of the classification categories and can only be amended by agreement between the Commonwealth and the states and territories; and
- the Guidelines for the Classification of Film and Computer Games and the Guidelines for the Classification of Publications which describe the elements of the categories in more detail. The guidelines, like the Code, can only be amended following agreement between the Commonwealth and, the states and territories.

1.6 Materials which are classed as 'Refused Classification' are effectively banned since, under state and territory laws, it is prohibited to sell, distribute or publicly exhibit materials which have been refused classification.

1 The Hon Mr Philip Ruddock MP, Attorney-General, *House of Representatives Hansard*, 21 June 2007, p. 3.

Decision to Amend the Classification Act

1.7 In his Second Reading Speech, the Attorney-General stated that 'the classification scheme is a cooperative national scheme' and that he would 'prefer to see these provisions in the National Code and guidelines'.² However, the Attorney-General noted that:

I first sought state and territory agreement to changes to the classification laws in July 2006. To date, they have been reluctant to respond positively to my proposals. I am not prepared to wait indefinitely to address this problem.³

1.8 The Attorney-General went on to say that he was hopeful agreement could be reached when the Standing Committee of Attorneys General met in July 2007, in which case amendments to the Classification Act would not be required. On 27 July 2007, the Attorney-General's Department informed the committee that the Standing Committee of Attorneys General had not reached agreement.⁴

Consultation

1.9 In May 2007 the Attorney-General's Department released a discussion paper on the proposed changes to the classification regime and called for submissions from interested parties. The Code currently requires that material be refused classification if it promotes, incites, or instructs in matters of crime or violence. The discussion paper states that:

The elements of the term 'promotes, incites, or instructs in matters of crime or violence' are not fully explained in either the guidelines or by judicial consideration. There remains uncertainty around the classification of material which may more insidiously encourage people – whether or not they are naïve and impressionable – to commit terrorist acts. Material may be expressed in a way that does not clearly attract the operation of the provisions that would require it to be refused classification.⁵

1.10 The Department received 25 submissions from members of the public and various organisations. The submissions can be found on the Department's website: www.ag.gov.au.

2 The Hon Mr Philip Ruddock MP, Attorney-General, *House of Representatives Hansard*, 21 June 2007, p. 3.

3 The Hon Mr Philip Ruddock MP, Attorney-General, *House of Representatives Hansard*, 21 June 2007, p. 3.

4 Advice from the Attorney-General's Department to the committee secretariat on 27 July 2007.

5 Attorney-General's Department, *Material that Advocates Terrorist Acts Discussion Paper*, 1 May 2007 at [http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(878CAEAF8D7CA41B4CD31727CCC28450\)~Material+that+Advocates+Terrorist+Acts+-+Discussion+Paper+for+public+consultation+-+1+May+2007.PDF/\\$file/Material+that+Advocates+Terrorist+Acts+-+Discussion+Paper+for+public+consultation+-+1+May+2007.PDF](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(878CAEAF8D7CA41B4CD31727CCC28450)~Material+that+Advocates+Terrorist+Acts+-+Discussion+Paper+for+public+consultation+-+1+May+2007.PDF/$file/Material+that+Advocates+Terrorist+Acts+-+Discussion+Paper+for+public+consultation+-+1+May+2007.PDF) (accessed 27 June 2007).

1.11 In response to concerns raised in the consultation process, proposed subsection 9A(3) was added to the Bill to provide an exemption for material that could reasonably be considered to be part of 'public discussion, debate, entertainment or satire'.

Conduct of the inquiry

1.12 The committee advertised the inquiry in *The Australian* newspaper on 27 June 2007 and 11 July 2007, and invited submissions by 11 July 2007. Details of the inquiry, the Bill, and associated documents were placed on the committee's website. The committee also wrote to over 40 organisations and individuals.

1.13 The committee received 22 submissions which are listed at Appendix 1. Submissions were placed on the committee's website for ease of access by the public.

1.14 The committee held a public hearing on 17 July 2007. A list of witnesses who appeared at the hearing is at Appendix 2 and copies of the Hansard transcript are available through the Internet at <http://aph.gov.au/hansard>.

Acknowledgement

1.15 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearing.

Note on references

1.16 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard transcript.

