Submission from the Australia/Israel & Jewish Affairs Council on the Discussion Paper, "Material that Advocates Terrorist Acts"

As the classification given to the "Death Series" of DVDs by Sheikh Feiz shows, prompt action is needed to render illegal films and publications that advocate a terrorist act. Furthermore, it is important that this ban extends not only to materials that advocate a specific terrorist act, but to materials that advocate terrorist acts, or the support of terrorist groups, in general.

We are therefore in agreement with the decision to apply the "refused classification" (RC) category to materials that advocate terrorists acts, and with the proposed definition of "advocate" to include directly or indirectly counselling, urging or instructing on doing a terrorist act, or directly praising a terrorist act. We note that under the definition of "indirectly counsel" on page 3 of the Discussion Paper, that provision would include general exhortations to kill or harm sections of the community for religious, ideological or political reasons. We assume that this would also include advocating the steps leading up to a terrorist act, such as "information gathering" which, while a prerequisite to any terrorists act, may not be considered as part of the act itself. If this is not the case, the definition should be widened to include such materials.

We further note that directly praising a terrorist act would also result in the RC classification, but not indirectly praising a terrorist act. The example given on page 3 is praise of a specific terrorist attack. This would appear to exclude those who praise terrorist attacks and terrorists in general. We believe that material which praises, for example, Jemaah Islamiyah for causing the deaths of infidels in Indonesia, without referring to specific attacks, should also be refused classification. This type of material would surely be as dangerous as material that directly praises a specific attack. We therefore believe the definition of "advocate" should be widened to include indirectly praising a terrorist attack.

We also believe that material that counsels or urges support for or praises a group proscribed in Australia as a terrorist group should also be refused classification. For example, such material may not even mention the group's terrorist activities, but may still praise or advocate support for such a group in general terms, or may advocate funding for them. We believe the most effective way to achieve this would be to refuse classification to any material that advocates a terrorist act or advocates support for a terrorist organisation, including all the steps along a continuum that leads to acts of terrorist violence.

We note that the Discussion Paper expressly differentiates hate material from material that advocates terrorist acts and excludes the former from the review, arguing that such material is captured by other legislation. While it is true that other legislation governs such material, this legislation relies generally on civil action, and often takes years to resolve, as in the cases of Toben and Scully cited in the Discussion Paper. While these cases await resolution, the materials in question are freely available.

Some hate material may preach, for example, that certain sections of the community are the enemy of certain other sections or of all other people, or that they deserve death or damnation while not advocating a terrorist act even under the proposed definition. Such material may, especially cumulatively, generate incitement to terrorist acts. We have seen, for example, how second generation immigrants in the UK have become radicalised over time and formed home grown terrorist cells. We believe that such extreme hate material should also be refused classification, even though it would probably not be said to advocate a terrorist act, as the effect may ultimately be the same. Sadly the Jewish community in particular is often the target of this kind of general incitement, and regrettably specific acts of violence that are sometimes triggered by such incitement.

The circulation of abundant material by the internet poses significant problems. We note that the classifications would cover internet sites hosted in Australia, but not those hosted from overseas. We understand that this is due to problems of jurisdiction. We believe, however, that the amendments should make it clear that Australian law will apply to materials downloaded from overseas websites, but subsequently circulated within Australia. They should also apply to material drafted, for example, on a computer in Australia and circulated by email, rather than being published in hard copy or posted on a website.

Overall, we believe the amendments canvassed in the Discussion Paper represent important recommendations, but that the additional measures we have outlined should also be seriously considered.

Yours sincerely

Dr Colin Rubenstein AM
Executive Director