

CI 104 A Moss

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Q1:

The ALRC should focus, in this inquiry, on improving key elements of the existing framework, and liberalising the entire framework. It's currently too restrictive, and this should be changed. The key elements would be things such as the classification categories and associated offences/restrictions, applicability cross-platform, and the inclusion of new media. This should also be streamlined, and simplified.

This approach is suggested given the current fiscal situation at all levels of government, and the tension in the political situation as it stands means any major overhaul could prove unnecessarily divisive, and unable to be passed, rendering this work useless

Q2:

The primary, most prescient and over-arching objective of a national classification scheme should be the belief that Adults should be free to see, hear and view what they want. The concept of a liberal democracy, freedom and rights in Australia privileges this, and it is unnecessary, opposed and always going to be evaded if any other goal is privileged.

The single other alternate goal should be to protect children from material they are not choosing to view. This is a more 'subjective', 'harm-principle-esque' approach and is easily exploited, and can infringe upon the rights of adults who are making conscious decisions which are not actually hurting anybody. Thus, this important goal should play 'second-fiddle' to the aforementioned primary goal.

Regarding the issue of upholding 'public good and social standards' - This has no place in Australia's national classification scheme. There is no generally agreed boundary about what is or is not acceptable. There are always grey areas. Often, this is pushed by religious groups - However, Australian politics, law and society aims to uphold a strict secularism.

Attempting to impose a notion of the general good, or social standard on a society infringes on basic human rights, and represents government 'pushing' and dictating their opinions onto the population.

Q3: Yes. I believe the internet should be exempt from classification. I am a strong advocate of a free, and unclassified, or censored, internet. The strength and power of the internet relies in its ability to be a free, and open network where anybody can contribute information, or access it - worldwide - in a matter of seconds. I strongly believe that the internet should not be classified or censored, as any restriction will be widely disregarded and un-enforced anyway, the strength of the internet relies in its freedom, and the speed and methods by which the internet operates make it completely un-feasible, inefficient, ineffective and cost-inefficient to have any kind of wide-spread online classification scheme.

Q4: I strongly believe many types of content should only be classified if the content has been subject of a complaint. Examples are many of the more 'overarching' themes such as advertising, billboards and the like. This

reduces the burden on the classification board, lowers costs, and given many of these are uncontroversial, it removes a lot of the 'pointlessness' from the system.

Q5:

Not at all. Potential impact is very different from actual impact. It is intangible, subjective, and very much likely to be greater than actual impact leading to unrepresentatively strict classifications.

Content designed for children should not be classified across all media, as I stated in my answer to question 2, however, I believe content designed for children does deserve a classification - Which the G category currently services.

Q6:

Not at all. Bigger producers or distributors should not be penalised for being popular, and smaller producers, who may easily produce more graphic content, should not be exempt from classification.

Sure, procedures should be streamlined to ensure bigger producers are able to have their material classified in the easiest and cheapest way possible, however, smaller producers should also be subsidised.

All content, within these other guidelines, should be classified however.

Potential mass market reach is unpredictable, subjective, ineffective and an inefficient marker of popularity, so as a result has no place in a National Classification Scheme.

Q7: Some artworks most definitely should be required to be classified before exhibition, but simply for the purposes of providing consumer advice, which is NOT legally restrictive. Art is art, and should be treated as such. Classification has no business in censoring or outlawing art. The Bill Henderson case is a perfect example of this. However, Classification could, and should, provide consumer advice which may assist in the ability of adults to make a free and informed decision to view aforementioned art.

Q8: I believe classification should apply to music and other sound recordings, however, a specialised system should be developed to ensure that unrepresentative or ill-fitting categories are not used. Again, music represents a form of art, and as a result, should not be outlawed. A more non-legally restrictive approach, with simply consumer advice could prove useful.

Q9: The potential size and composition of an audience is highly subjective, unpredictable, ineffective as a measure. It should not be included in a classification scheme for this very reason, as it is inappropriate and ineffective, and would lead to unfairly strict classifications, as the classification board would assume a more conservative approach.

Q10: Most definitely. Content accessed at home should be treated with a more lenient and liberal approach regarding classification, in line with the belief that adults should be able to see, hear or view what they want. If, however, classification is intended to be broadcast, disseminated or publicly exhibited or accessed in any other way, classification should be more strict and applicable in line with the secondary principle to protect children and those not willing to consume certain content from that occurring.

Q11: Linked in with the above, method of dissemination should be considered - If for example a movie was publicly broadcast...That's very different to a personally mail-ordered, or downloaded, DVD.

Q12:

As stated above various times in this submission - There are no effective, efficient or cost-efficient mechanisms in which access to restricted online content could be implemented in any meaningful way.

Systems such as AVS and the like are easily evaded with password-sharing et cetera. Requirement of Credit-card verification discriminates against those without credit cards...and all can be easily hacked anyway. These systems are impossible to implement.

As a result, I believe online content, with these massive deficits and the deleterious impact restriction would occur, should be unrestricted.

Q13:

As in my answer in questions 12 and others above in this submission, online content is very difficult and practically impossible to be restricted, regardless of the level.

Q14:

Offline content can be more easily controlled, but still should be treated liberally with regards to freedom and access.

Sexually explicit magazines et cetera should be required to be advertised and displayed only in specific ways, and sold in venues, or departments, where general access is restricted to those above a certain age. This could be facilitated by the presentation of proof-of-age on purchase.

However, very little can be done after point-of-sale.

Q15: Classification markings, warning and consumer advice should always be required to be displayed if the OFLC has made a decision regarding the classification of that material.

Q16:

The OFLC and the Classification Board should simply be a body for classification and the provision of consumer advice. Their ability to ban goods should only be to the extent of any specifically illegal material (i.e. Child Pornography, Beastiality, Murder et cetera). Any kind of application of a 'social good' or harm principle et cetera should be avoided.

Police/Customs should not be in any way obliged, or able, to seize any unclassified goods - Unless there is clear and irrefutable evidence that actual (not depicted/described/fantasy) illegal content exists (e.g. Beastiality). Police should have power to prevent and enforce any restrictions relating to public exhibition or access to any kind of content. Possession however should not be treated as an enforceable offence at any stage.

Industry bodies should be encourage to promote knowledge and awareness of applicable classification laws and guidelines, but these laws should be liberalised so as content is not greatly affected, and instead simply advise re: classification procedures, costs et cetera.

Users should have the ability to complain re: classification decisions, and make submissions to the body, however, little more role in the actual regulation of content should be applied, as they are free consumers to a large extent.

Q17: This system most definitely has a potential to be a strong, pragmatic, effective, efficient and practical solution, however various issues - Regarding enforceability, cost, effectiveness et cetera would need to be addressed before this could become a systematically powerful and implementable system.

Q18:

General magazines, books, music et cetera should all be classified in this way. As much as possible should be classified in this manner so as to reduce OFLC costs and effort.

Even hard and soft core pornography could be classified in this manner, as it is fairly straightforward to discover where it could lie. Magazines are another example of this.

Q19:

The classification of content is a system controlled, demanded and enforced by government. As a result, all classification of content should be provided free of charge to producers and distributores.

It is senseless revenue raising for the Government to implement a law, which is required and applies to all bodies, groups and individuals, and then demand that they pay all associated costs for complying with said law, or face prosecution if they don't.

Q20:

The G, PG and M categories are generally understood in the community.

MA 15+ has confusion as to whether it is a legally restricted category.
R18+ is generally understood.

X18+ is not understood as it is generally not available in most states, unless via mail order (this should be expanded) RC is not understood at all in the community as it is not adequately defined in the legislation, encompasses a surprisingly and unfairly large swathe of material and isn't 'seen' around like the others.

Q21:

No new classification categories should be developed.

The classification of RC should be, well, not removed but drastically scaled back only to the level of the law - Outlawing actual depictions of illegal practices (murder, rape, bestiality, incest, child pornography et cetera) - I'm excluding cartoons or 'fantasy' depictions in my explanation here.

This would then obviously lead to an expansion/quasi-merging of the X18+ category, where the legal practices that were RC (Spanking, Bondage, Golden Showers, Fisting et cetera) would be let into that category...As a result, the R18+ category could be expanded to include 'softcore' porn - stripping it out of X18+.

This is in line with the guiding classification principle of adults being able to see, hear and view what they want.

Q22: I guess a more general application of the G-RC guidelines should be applied cross more general content, but this is a significantly difficult issue that requires significant investigation.

Q23: The classification criteria should most definitely be consolidated and reformed across mediums in line with the aforementioned principles. This would allow for a more simple, streamlined process with a greater uniformity, and fairness.

Q24: No content should be entirely prohibited access online. It is an infringement of basic civil liberties and personal freedoms, and is tantamount to censorship and totalitarian rule. It is an unfair and unjust concept and directly violates the principle held by the OFLC that Adults should be able to see, hear and view what they want.

Q25:

Most definitely not. The scope of the RC category is far too large. Many fetishes deemed 'inappropriate' such as golden showers, fisting, spanking, waxing et cetera are entirely legal and not prevented under any kind of Australian law. Actually engaging in them is fine. So why should viewing them be treated differently?

Much of the RC category could be 'stripped out' and proposed into the X18+ category, with the RC category really being limited to what is prevented under the law (actual rape, beastiality, child porn et cetera - Depictions, fantasies, or cartoons et cetera should not be included).

This is important not only online, but across all different mediums of accent.

Q26:

Consistency of State and Territory laws is important, but not as important as free and liberal access. Thus, if for example one state and territory outlawed possession of X18+ material, for example, and all others didn't...the residents of that state are being inequitably discriminated against.

Thus, as a result, if national unity can be achieved within a liberalised classification scheme, that's fantastic, and a worthy goal. However, uniformity should not be promoted ahead of freedom and liberalism.

Q27: If the current scheme were to be replaced, either an entirely state, or entirely commonwealth based scheme should be introduced, in line with my answer to Q26.

Q28:

In line with my answers to questions 26 and 27, I do not see referring power to the Commonwealth as a desirable solution. Confederation is an important and powerful check and unfettered power is a dangerous concept.

The Commonwealth and the states should cooperate to draft uniform legislation for introduction in all states and territories, however, this must be drafted from a liberal perspective and not infringe on personal rights.

Q29: The introduction of an R18+ category for games is an important and powerful concept. It's been discussed to death, and I won't lay out a substantial argument here, but I fully endorse all arguments in support.

Other comments:

Please find attached a copy of the Australian Democrats' policy on Censorship and Classification.

I am a party member, however, I'm presenting this submission as a personal submission, ENTIRELY UNAFFILIATED WITH THE PARTY IN ANY WAY.

I simply am referring you to this public-available policy off the website, as I believe that it encapsulates my arguments and philosophy better than I could, and I believe that it is a powerful and a right-track 'blue-print' that should be considered as a good model for Australia's classification system. For the purposes of this document, I can be considered an 'interested but external observer'.