

20 July 2011
CSCD/11/717

The Executive Director
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001

Dear Ms Wynn

We welcome the opportunity to provide a submission to the Australian Law Reform Commission's (ALRC) Issues Paper on the National Classification Scheme Review.

This submission is provided on behalf of three other Children's Commissioners who have a legislative mandate to promote and protect the rights, best interests and wellbeing of children and young people, particularly those who are most vulnerable, within our respective jurisdictions.

Together we acknowledge the complexity and breadth of issues and interests the ALRC will be canvassing in the course of this review into the National Classification Scheme. The long standing challenge of striking the right balance between the freedom of individuals to produce and access a wide range of media with the need to protect individuals, in particular children, from harm is more complex today because of the wide range of media platforms currently available and the speed with which new media technologies are created.

We believe the rights articulated in the United Nations Convention on the Rights of the Child (UNCROC) should be central to the manner in which the ALRC approaches this Review and any recommendations which arise from it. In drafting this submission we have focused on these rights, particularly the right of participation, the importance of acting in the best interests of children, children's right to access to media and their right to protection from harm.

Participation Rights

At the outset, children and young people should be given the opportunity to fully participate in this review. We know that children want to be involved in decision-making that affects their lives and we know they are capable of contributing to policy development. Therefore we believe it is important to hear from children and young people about what is important to them in terms of their access to media, what concerns them and what type of a classification system would be of most use to them. Such consultations should be designed to reflect the diverse developmental stages and ages of children as well as the diversity of their life experiences. We believe that better outcomes for children and young people will be achieved if they are involved in this process from the outset and their views taken into account in formulating recommendations. We would be happy to provide further information to the ALRC on how it might best provide children and young people with the opportunity to participate in this review.

Best Interests

Consistent with the UNCROC, the best interests of children should be a primary consideration underpinning the recommendations arising from this review. As noted above, we appreciate the complexity of the task before the ALRC and the need to balance competing interests. Protecting and promoting the best interests of children should be a primary objective of any classification scheme.

Access to Media

Article 17 of the UNCROC recognises the important role played by mass media and provides that governments should ensure that children have "access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health." In developing the classification scheme, consideration should be given to ensuring the scheme encourages access to such information for all children, includes guidelines for their protection and also supports the rights of children to freedom of expression as described in Article 13 of the UNCROC.

Protection from harm

All children have a right to be safe and to feel safe and governments have an obligation to take action to support this right. The classification system should be designed to protect children from harm and to empower parents, carers and children to make informed decisions about the media they access. To do so effectively, the scheme should be evidence based and consistent with what is known about the needs and abilities of children as they develop. Advice provided to consumers should be specific about the content of the media and the way in which the content may be harmful or frightening to children (for example, a description of the type of violence or of the features which may concern a child) and its suitability for children of particular ages.

In developing options to enhance the protection of children from harm, we recommend that the ALRC also:

- Consider how an independent authority with expertise in children's development and with a mandate to act in the best interests of children could assist with supporting consistent decisions, advice and warnings for consumers across a wide variety of media platforms. Such an authority could be empowered to monitor classification decisions and the way in which complaints by or relating to children are addressed. Consideration could be given by the ALRC to making the suggestion that the proposed National Children's Commissioner could be given this role in the future.
- Explore the most effective mechanisms to ensure parents, carers and children are provided with relevant information in an easy to understand format so that they are empowered to make informed decisions about the media children access. A broad based community education campaign should be implemented which should also include information for parents about how they can best protect and empower their children.
- Undertake a review of regulatory options for billboards and other advertising which is displayed in public spaces. Children, parents and carers have little choice about their exposure to advertising in public spaces. The highly sexualised nature of much of this advertising and the

way in which women, often young women, are depicted in this advertising is of concern to many in the community.

We look forward to learning more about the work of the ALRC as it progresses this review.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bernie Geary', with a long horizontal flourish extending to the right.

Bernie Geary OAM
Child Safety Commissioner

Signed on behalf of Commissioners:

- Aileen Ashford, Commissioner for Children (Tasmania)
- Megan Mitchell, Commissioner for Children and Young People (New South Wales)
- Michelle Scott, Commissioner for Children and Young People (Western Australia)