CI 623 B Caradoc-davies

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Q1:
The existing classification framework has failed because the internet has rendered it irrelevant. The internet has reduced the barrier to entry for content creation to nearly zero and led to the proliferation of user-generated content. Most content is generated outside Australia. The existing classification scheme introduces a compliance burden and censorship that reduces Australian content. Even a tiny compliance burden is a massive barrier to entry for content creation because it is much larger than the zero barrier that exists without it. The ALRC should focus on developing a new voluntary self-labelling system that supports content labelling without introducing a compliance burden or censorship. If a suitable scheme exists in another country, the ALRC should consider adopting it rather than reinventing the wheel.
Q2:
The objective of a classification scheme should be establish a vocabulary of categories to aid the communication by content providers to content consumers of the likely impact and suitable audience of content. As it is in the interests of content providers to serve their customers, this scheme should be voluntary.
Q3:
Any classification scheme must relate to the nature of the content, not the means by which it is accessed.
Q4:
Any system that requires content to be classified on the basis of a complaint will be abused by those who wish to restrict the freedom of expression of others. Complaints should only be made to police, and then only about content that is the product of abuse or an incitement to violence or human rights discrimination. There is no human right to not be offended.
Q5:
Providers of content designed for children will likely adopt a voluntary self-labelling scheme because their product with otherwise be disadvantaged in the marketplace. Parents will choose content that is labelled as suitable for their children, and providers who mislabel would be subject to prosecution under consumer protection legislation. The role of the government should be to establish a simple voluntary self-labelling system and educate the public, and parents in particular, about it.
Q6:
All content producers should be treated equally, regardless of market size or reach.
Q7:
No content should require classification. A voluntary self-labelling scheme should support artworks. Requiring classification before publication is a prior restraint on freedom of expression.
Q8:
No content should require classification. A voluntary self-labelling scheme should support audio content.

Q9:
No content should require classification, regardless of size and composition of the audience. Gauging uptake before publication is difficult.
Q10:
No content should require classification, regardless of the place of access. With notebook computers and broadband internet access, any internet content can be accessed anywhere. How can a content provider know where their content will be accessed?
Q11:
Content should be labelled only when the content provider wishes to inform the content consumer of the likely impact and age-suitability of the content.
Q12:
Attempts to control access to online content are doomed. There is too much content, it is changing too quickly, and it available by too many online services and protocols. While even one country, such as the United States, respects freedom of expression, the existence of the internet will cause censorship to fail.
Q13:
Children's access to online content is best controlled by parental supervision. Parents may also choose to employ end-user filtering solutions configured to match their values and their child's level of development.
Q14:
Offline content is subject to excessive restrictions which should be eased. Current restrictions disadvantage local retailers over online providers.
Q15:
Classification markings should not be required by law.
Q16:
The role of users should be to report content that is the product of abuse or incitement to violence or human rights discrimination to law enforcement authorities, so that the perpetrators can be identified and prosecuted. Government agencies and industry bodies should educate the public about any labelling system and how to contact law enforcement authorities.
Q17:
A voluntary co-regulatory scheme would be more practical than the current arrangements.
Q18:
Industry should be able to self-classify all content, because the the likely classification is usually obvious.
Q19:
A voluntary self-labelling scheme would be free, other than the time taken to read the guidelines and minor adjustments to product labelling. A voluntary self-labelling scheme would not require a subsidy, because the cost barrier to entry would not exist.
Q20:
The distinction between M, MA15+, and AV15+ are lost on the general public. Why three categories for one age range? Likewise the R18+ and X18+ categories; why is actual sex (X18+) considered

more disturbing than horrific violence like that in Wolf Creek (R18+)? Is X higher than R? Why? The existing categories are frivolous and arbitrary.

Q21:

There are too many classification categories. They should be simplified to G, PG, M, and R. Unlabelled material should be treated the same as R. There should be no exemption or special treatment for religious content.

Q22:

Classification markings that are simpler would be more easily kept consistent across various media.

Q23:

All classification criteria should be consolidated. The current scheme is too confusing for consumers to understand.

Q24:

The content that is prohibited online should be the same as the content that is prohibited everywhere else. The only content that should be prohibited is that which is the product of abuse or an incitement to violence or human rights discrimination. Prohibited content should be dealt with by law enforcement and the courts, not by any classification or labelling system.

Q25:

The current Refused Classification category does not reflect the content that should be prohibited online; it does not reflect the content that should be prohibited offline either. Games that cannot be accommodated within the MA15+ classification are Refused Classification, despite their being lawfully available in other countries. Content that shows actual sex acts that are lawful in Australia and also depicts fictitious violence as part of dramatic content is Refused Classification. Sexually explicit content depicting harmless fetishes between consenting adults is Refused Classification. All these examples are lawfully available in western liberal democracies such as the United States, United Kingdom, Canada, and New Zealand, to name a few. The only content that should be prohibited is that which is the product of abuse or an incitement to violence or human rights discrimination. Note that depictions of abuse are not themselves abuse, in the same way that fictitious depictions of murder are not the same as the real thing. Content created by consenting adults is not the product of abuse, whatever it depicts.

Q26:

The inconsistency of state and territory censorship laws undermines the liberty of Australians and the rule of law. The situation would be improved if all state and territory powers were referred to the Commonwealth.

Q27:

The current cooperative censorship scheme should be replaced with a voluntary self-labelling scheme.

Q28:

The states should refer all censorship powers to the Commonwealth, to end the arbitrary, patchwork, and excessive censorship that exists today.

Q29:

The current censorship system is complicated, expensive, ineffective, and where it is applied, overly restrictive. It should be replaced with a voluntary self-labelling scheme.

Other comments:

Article 19 of the Universal Declaration of Human Rights states that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas" through any media and regardless of frontiers." (United Nations General Assembly, 1948). Australia's censorship system acts with little regard to freedom of expression, which in general is not protected in Australian law. Even if censorship represents majority views, it is worth remembering that human rights exist to protect minorities and individuals from the tyranny of the majority. In his first inaugural address, United States President Thomas Jefferson noted that "All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate would be oppression." (Jefferson, 1801).