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Submission On Modernising Australia's Classification Scheme - Stage 2 Reforms

Thank you for the opportunity to make a submission on these important reforms to Australia's Classification Scheme.

My current role is as a lecturer within Criminology and Justice Studies at RMIT University, having previously worked for many years as an independent policy consultant and researcher on the regulation of 'vice' including sex work, pornography and illicit drugs.

My interest in classification reform has been longstanding, having been involved in the early days of this review whilst working for the Eros Association, Australia's adults-only industry body. I'm very pleased to see there is finally some movement in modernising Australia's classification regime.

My concern regarding the existing classification scheme has always been the disconnect between the guiding principle of the National Classification Code that "adults should be able to read, hear, see and play what they want" – and the actual scope of the classification regime.

This is most notably the case in regard to sexually explicit or 'pornographic' material classifiable under the X18+ marker.

As it currently stands, the sale, exhibition and production of X18+ material is criminalised across all jurisdictions in Australia, with the exception of the ACT which operates an outdated, ineffective X18+ licensing regime. In some cases, where pornography depicts 'fetishes', the sale, exhibition and production of material carries serious criminal penalties as material is excluded as 'refused classification' under existing guidelines.

Meanwhile, pornography is freely available online, seemingly impervious to the (already quite broad) regulatory powers of the eSafety Commissioner.

This is a bizarre and outdated state of affairs, out of step with community expectations, and should be addressed as part of broader classification reforms.

Response to Select Discussion Questions

- *Do you support the proposed criteria that defines what material should be classified under the Scheme?*

The proposed criteria identified in the Stevens Review are appropriate, and ensure that classification decisions are reserved for professionally produced, commercially oriented media.

- *Do you support changes to the definition of a ‘submittable publication’ to provide clarity on publications requiring classification under the Scheme?*

As written, it’s unclear whether the definition of a ‘submittable publication’ proposed is a separate requirement under the scheme – along with the criteria that the publication be professionally produced, commercially made and directed an Australian audience – or exists as an additional criteria.

If it exists as a separate requirement, it is not a suitable one. There are no good grounds for why a publication, made by an individual for their own purposes, should require submission for classification.

If it is an additional requirement, designed to limit the number of publications required to be submitted for classification, this is a suitable definition.

- *Do you support the establishment of an independent Classification Advisory Panel or similar body?*

A Classification Advisory Panel may be suitable for the establishment of developmentally appropriate classification markers. However, the Panel should have no say over the availability of media aimed at adults (including R18+ and X18+ material).

The current classification guidelines for X18+ material are ill-conceived, outdated and overly censorious. The only appropriate guideline for this material should be ‘if it is legal for consenting adults to do something, it should be legal to film, exhibit and sell media depicting those acts’.

The reference in the Discussion Paper to “concerns around the harms of pornographic material which is currently classified X18+ or RC” are unhelpful. The latest systematic reviews and meta-analysis of research regarding individual or social harms as a result of pornography exposure have found widespread methodological issues and contradictory

results in existing research.^{1 2 3 4 5 6 7} As such it is premature to speak of ‘harms’ associated with pornographic material, particularly when that material is consumed by adults.

Furthermore, any restriction on the ability for an adult to ‘read, hear, see and play what they want’ in a liberal democracy such as Australia should only be justified by a clear body of empirical evidence demonstrating social harm. This is simply not the case.

- ***Do you support the consolidation of classification functions under a single national regulator at the Commonwealth level? Do you support the consolidation of classification functions under a single national regulator at the Commonwealth level?***

The existence of divergent classification bodies in each State or Territory has been unhelpful in ensuring Australia’s classification laws are in keeping with community standards. A single national regulator would be a preferable step.

The Classification Board still serves an important function in providing advice to parents regarding age-appropriate media for children. It should continue that role as part of a national regulator.

There is, however, no need for a classification scheme to cover media which is made for and consumed by adults.

Thank you again for the opportunity to provide my thoughts on these reforms. If I can be of any further assistance, please don’t hesitate to get in touch.

Yours sincerely,

Mr Jarryd Bartle

¹ Mestre-Bach, G., Villena-Moya, A., & Chiclana-Actis, C. (2024). Pornography Use and Violence: A Systematic Review of the Last 20 Years. *Trauma, Violence, & Abuse*, 25(2), 1088-1112. <https://doi.org/10.1177/15248380231173619>

² Litsou, K., Byron, P., McKee, A., & Ingham, R. (2021). Learning from pornography: results of a mixed methods systematic review. *Sex Education*, 21(2), 236–252. <https://doi.org/10.1080/14681811.2020.1786362>

³ Hoagland, K.C., Grubbs, J.B. Pornography Use and Holistic Sexual Functioning: a Systematic Review of Recent Research. *Curr Addict Rep* 8, 408–421 (2021). <https://doi.org/10.1007/s40429-021-00378-4>

⁴ Binnie, J., & Reavey, P. (2020). Development and implications of pornography use: a narrative review. *Sexual and Relationship Therapy*, 35(2), 178–194. <https://doi.org/10.1080/14681994.2019.1635250>

⁵ Hakkim S, Parsa AD, Arafat SMY, et al. Pornography—Is It Good for Sexual Health? A Systematic Review. *Journal of Psychosexual Health*. 2022;4(2):111-122. doi:[10.1177/26318318221088949](https://doi.org/10.1177/26318318221088949)

⁶ Ferguson, C. J., & Hartley, R. D. (2022). Pornography and Sexual Aggression: Can Meta-Analysis Find a Link? *Trauma, Violence, & Abuse*, 23(1), 278-287. <https://doi.org/10.1177/1524838020942754>

⁷ McKee, a, Litsou, K, Byron, P and Igham, R ‘The relationship between consumption of pornography and consensual sexual practice: Results of a mixed method systematic review’ *The Canadian Journal of Human Sexuality* 2021 30:3, 387-396