

# **Rape & Child Porn Comics are OK (or Australia's National Classification Scheme is failing): it's time for government to do better**

*"We are here today to demand that governments of all levels must do better, including my own, including every state and territory government."*

**Prime Minister Anthony Albanese, National Rally Against Gender-Based Violence**

**28 April 2024**

**WARNING!!!**

**THIS DOCUMENT CONTAINS IMAGERY WHICH IS PORNOGRAPHIC AND OFFENSIVE.**

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## Introduction

Thank you for the opportunity to provide a submission for the proposed Stage 2 reforms of Australia's National Classification Scheme.

This submission is primarily focused on publications but does make some general points that apply to other forms of media and classification processes generally.

This submission has been endorsed by 1,168 Australians at my website [bernardgaynor.com.au](http://bernardgaynor.com.au).

This submission is not confidential. I am willing to appear before any inquiry and am available to answer any questions in relation to this submission.

Bernard Gaynor

30 May 2024

## Content Warning & Need for Reform

This submission includes imagery and text of publications widely available in Australia to support its specific points.

### **DESPITE GOVERNMENT DECISIONS AUTHORISING DISTRIBUTION OF THIS MATERIAL TO MINORS, I WARN THAT THIS MATERIAL IS HIGHLY OFFENSIVE AND PORNOGRAPHIC.**

I have grappled with whether to sanitise this material due to its pornographic nature. I did so for the draft submission that I published on my webpage seeking public support. However, the final submission that I have lodged with the Department of Infrastructure, Transport, Regional Development, Communication and the Arts is not sanitised or redacted. I believe that those responsible for implementing the Stage 2 reforms of Australia's National Classification Scheme need to see this evidence to fully understand the current failings of the classification system. This broken system must be updated to ensure that it is fit-for-purpose and meets the needs of the Australian community.

There are two exceptions where imagery has been sanitised.

Firstly, imagery from a violent and pornographic website operated from the United States is redacted because its content has not been assessed by Australian officials and does not appear to fall under Australia's National Classification Scheme. Partially blurred images from this website are contained as evidence in this submission because its weblink is contained in *Gender Queer*, a publication that has been classified as Unrestricted by Australian officials. I strongly believe that where publications, games or films contain links to sexually explicit or pornographic websites that consumers should be warned of this fact and the classification rating should reflect the content of the linked website, even if that website itself does not fall under the jurisdiction of Australia's National Classification Scheme.

Secondly, obscene imagery of a depiction of bestiality from the comic series *The Boys*, which was recently classified as a Category 1 Restricted publication by the Australian Classification Board is included in a partially blurred form in this submission. Despite its status as a restricted publication, this comic series remains widely available in public libraries across Australia and can be borrowed by minors. This imagery is included to demonstrate that Australian officials are failing to apply even current standards that should result in publications being Refused Classification under the existing classification scheme.

In all other circumstances, the pornographic imagery contained in this submission has not been redacted because it has been deemed by Australian Government officials as being **content that should not be restricted from minors** or by Queensland Government officials as being **content which is not required to be assessed for restriction** under Australia's National Classification Scheme.

***This content has been purchased by local governments and is widely available for minors to borrow from public libraries throughout Australia.***

This scandalous situation is a national disgrace and must not be allowed to continue.

There is widespread community concern about violence against women and the apparent disturbing lack of respect for women that has been fostered in modern Australian society.

Various state governments and the Commonwealth are now enthusiastically spending billions of dollars to tackle this problem with the usual profligate waste and self-defeating incompetence that is the hallmark of these kind of programs.

On the one hand, authorities demand that societal culture must change to protect women, while on the other they use the legal power of the state to permit and protect the very cancer that scientific studies and common sense tell us is central to its cause: pornography. It should be self-evident to any person capable of reason that the widespread availability of pornographic content is teaching boys and now generations of men to view women as objects and shaping violent attitudes towards them.

Given the Commonwealth and the states appear resolute in their unwillingness to confront even the most violent pornography while demonstrating both the capability and intent to remove almost any other content which upsets the political sensibilities of the bureaucratic class, one could be forgiven for cynically assuming that our governments are happy to foster this problem. It provides an opportunity to posture and a reason to impose ever more restrictive laws increasing powers to control and restrict politically inconvenient information on every other topic.

On Sunday 28 April 2024, the Prime Minister of Australia, Anthony Albanese, described levels of violence against women as a national crisis that needs to be addressed in a serious way. The Prime Minister is correct, even if it is uncertain that he is actually genuine.

Prime Minister Albanese further went on to state:

*We are here today to demand that governments of all levels must do better, including my own, including every state and territory government.*

*We're here as well to say that society, and Australia, must do better.<sup>1</sup>*

Again, the Prime Minister is correct.

The lack of respect for women that manifests all too often in tragic violence is fostered in a culture and legal system that is so broken that public funds are used to purchase pornography, including violent rape pornography, obscene conduct such as bestiality and even content containing children engaged in sexual activity for our nation's public libraries.

The Commonwealth has given the tick of approval to this material. The various agencies of each of the states have also given the tick of approval to this material. And local governments are lending it to Australia's children.

If all governments and Australian society is to do better and we are to foster a culture that truly respects women, this must stop and there needs to be a radical change to Australia's National Classification Scheme.

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<sup>1</sup> <https://www.pm.gov.au/media/no-more-national-rally-against-gender-based-violence-march>

## Issue 1: Content to be Classified

The 2020 *Review of Australian classification regulation* states:

*Classification plays a crucial role in helping Australians make informed decisions about content they or those in their care watch, read and play.*<sup>2</sup>

There are two key reasons why Australian families rely on Australia's National Classification Scheme more than ever to ensure that the content that our older generations and the youngest Australians are exposed to is suitable for them to consume.

Firstly, the advent of technology means that Australians can access or easily purchase more content than ever before. Films and publications can be delivered quickly in a physical format or instantly via the internet. Computer games are increasingly played online and are an interactive experience. This interactivity is also spreading to films and publications, blurring traditional understandings of the content that these mediums provide to consumers.

Secondly, the subject matter, themes and content of media is arguably more controversial than at any previous time in history, due to the widespread dissemination of sexually explicit and pornographic content. It is certainly the case that many families are increasingly concerned about ensuring that content which children access is suitable for them to see or read.

Australians can confidently make informed decisions about the content that they, or those in their care, watch, read and play is if Australia's National Classification Scheme has robust standards and broad powers to assess all content. As such, online content must also be able to be assessed, classified, restricted or prohibited in a manner that is consistent Australia's National Classification Scheme under the *Online Safety Act 2021*.

Additionally, Australians rely on Australia's National Classification Scheme to uphold basic standards of behaviour, decency and morality. There is an important interaction between Australia's National Classification Scheme and state-based criminal provisions which make it an offence to possess, publish or distribute child pornography or other obscene material.

For instance, s.228E of the *Criminal Code 1899* (Qld) and s.36 of the *Classification of Publications Act 1991* (Qld) provide defences to a range of criminal offences relating to child exploitation material and obscene publications if those publications have been classified under Australia's National Classification Scheme. Similar provisions operate in other states.

These provisions essentially empower the Australian Classification Board to determine whether content containing children engaged in sexual activity will be permitted or prohibited in Australia. This puts officials at the Australian Classification Board, in a profound way, at the center of efforts to combat the sexual exploitation of children.

Given the powers that they have, officials operating Australia's National Classification Scheme are the arbiters of standards that will be accepted or tolerated in relation to child pornography and other obscene material widely accepted by the Australian community as material which should be prohibited.

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<sup>2</sup> <https://www.infrastructure.gov.au/department/media/publications/review-australian-classification-regulation-stevens-review>

Consequently, Australians rely on these officials to ensure that obscene material such as child pornography is not become tolerated or accepted in our society. Australians expect that these officials will stringently apply the highest standards and ensure that material depicting children engaged in sexual activity will be prohibited and Refused Classification.

Unfortunately, recent decisions made under Australia's National Classification Scheme show that these standards are not being maintained and that imagery of children engaged in sex acts or imagery of obscene conduct such as bestiality will be classified, even as Unrestricted. This problem will be addressed in further detail later in this submission but if this continues there will be an erosion in public trust in Australia National Classification Scheme.

**Recommendation 1:**

Australia's National Classification Scheme must have powers to assess and classify all films, publications and computer games, even if those powers are discretionary in some instances.

**Recommendation 2:**

Australia's National Classification Scheme should expand to include all online content, streaming services and webpages through the *Online Safety Act 2021* (Cth).

**Recommendation 3:**

All commercial films and computer games must be assessed.

**Recommendation 4:**

Publications and webpages or non-commercial films (such as a social media films) and games that contain pornographic, sexually explicit content or sexualized nudity must be assessed.

**Recommendation 5:**

Where a film, publication or computer game has been or can be assessed under Australia's National Classification Scheme and there is an online version of that content (such as an ebook or streamed film), the online version should be assessed and dealt with under the *Online Safety Act 2021* (Cth) in a manner that is consistent with the physical film, publication or computer game.

**Recommendation 6:**

Additional classification categories should be introduced for publications (and webpages) that reflect those for films and computer games and which will enable better targeted restrictions for publications which should legally be restricted from minors in a similar fashion to MA15+ films.

**Recommendation 7:**

'Refused Classification' should be renamed as 'Prohibited' to better reflect the meaning of this classification and to make this category more understandable for the Australian public.



## Issue 2: Aligned with Community Expectations

A growing and increasingly comprehensive body of scientific study has proven the harmful effects of pornography. The volume of this research is now so large that it is impossible to adequately reference the hundreds of studies detailing the damage that pornography does to individuals, families and society at large in this submission.

These studies demonstrate that:

- pornography is addictive and influences the brain in a similar fashion to illegal drugs;
- those who produce this material are exploited and suffer adverse health and mental health effects;
- those who consume this material experience a wide range of health and mental health problems from depression to erectile dysfunction;
- society is impacted by family breakdown, the inculcation of harmful and violent attitudes and behaviour towards women and even the furthering of racist stereotypes depicted in pornographic content;
- the insatiable demand for pornography fuels sex trafficking and enables the grooming and sexual abuse of minors and other criminal conduct; and
- children exposed to pornography suffer in ways that are akin to childhood sexual abuse.

### Pornography harms those who produce it

There can be no doubt that pornography harms those who produce it.

Although there are no studies examining suicide or early death in the pornography industry, anecdotal reporting suggests that this is a common occurrence due to self-harm, extreme physical abuse and rape, drug use and disease associated with filming pornographic content.

- The *Irish Independent* reported in 2010 that “suicide is rife among performers”.<sup>3</sup>
- Salacious newspaper articles frequently report on the tragic lives of pornographic performers. One example from the British *Daily Star* titled, “Most chilling porn star deaths exposed - Sepsis, overdoses and falling off railings” describes the large number of suicides, overdoses and accidents causing death in the pornography industry.

*“Five young porn actresses died in chillingly quick succession, each losing their life to suicide or a suspected overdose between November 2017 and January 2018.”<sup>4</sup>*

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<sup>3</sup> <https://www.independent.ie/life/porn-industry-in-numbers/26641891.html>

<sup>4</sup> <https://www.dailystar.co.uk/showbiz/suicide-sepsis-killer-infections--21370980>

For another example see the more recent article: <https://www.dailymail.co.uk/news/article-13172607/Porn-deaths-adult-actress-suicide-drugs-eating-disorders.html>

- Ms Mercedes Grabowski, who died by suicide in December 2017 at the age of 23, sent text messages shortly before her death about a scene she had performed in, detailing that she was abused and took drugs to cope. After her death her husband uploaded these messages to her Twitter account.

*“The guy was way too rough with me. He was dragging me around and choked me with my panties, slamming my head down on the table and was just WAY too rough and the scene didn’t even call for it. I was so enraged that when he pulled me down to kiss him I just spat in his face...*

*...It felt like rape but I was in a “fuck it” mood and I was just pissed and wanted to get paid for the bullshit I went through”<sup>5</sup>*

*“But I was in Vegas and we were already shooting most of the day and if I would have walked off set I wouldn’t have been paid :(...*

*...I just cried and took a Xanax and texted the director after saying “that wasn’t cool”<sup>6</sup>*

- Ms Lisa Ann, described as one of the most famous pornographic actresses in the world, has recounted the abuse she experienced in this industry to *The Independent*.

*“Everyone’s a ticking time bomb, and a lot of it is linked to the drugs. A lot of this new pain comes from these new girls who have to do these abusive scenes, because that does break you down as a woman.”<sup>7</sup>*

- Ms Brittni De La Mora recounted the physical abuse and need for drugs to cope in the pornography industry to the anti-pornography website, [fightthenewdrug.org](http://fightthenewdrug.org).

*“I remember wanting to cry during one scene. The male performer pulled my hair with so much strength that tons of it fell out. I’ve also done a scene where they whipped me with all kinds of things.*

*I didn’t see it as abuse back then, but now that I look back, clearly, I agreed to let people abuse me.*

<sup>5</sup> <https://pbs.twimg.com/media/DwFrBELVYAAYPs0?format=jpg&name=large>

<sup>6</sup> [https://pbs.twimg.com/media/DwFrBELVAAAy\\_gc?format=jpg&name=large](https://pbs.twimg.com/media/DwFrBELVAAAy_gc?format=jpg&name=large)

Additional anecdotal reporting about the distribution of videos of rapes that occurred on the set of pornographic studies can be found at this website: <https://fightthenewdrug.org/xvideos-porn-site-hosts-real-rape-videos/>

<sup>7</sup> <https://www.independent.co.uk/news/people/lisa-ann-on-how-demand-for-extreme-porn-is-damaging-new-performers-that-does-break-you-down-as-a-woman-a6838751.html>

*I had anorexia in high school and dabbled with cocaine to keep my weight down and hunger at bay. When I got into porn, a director (also a well-known bully) told me I was fat and needed to lose weight. I was only 105lbs, but that triggered me.*

*It had only been about six months since I was treated for anorexia. That rude comment set me back, and I started using cocaine again.*

*I used cocaine daily but couldn't stand the comedown. My then-boyfriend told me to use norcos to cut the comedown. So I would snort coke and then take norcos to avoid the comedown. It was a vicious cycle. Eventually, norcos quit working, so I started using oxycontin, and eventually heroin.”<sup>8</sup>*

- Ms Tanya Nichole Wynn recounted the abuse she suffered and her drug-taking coping mechanism to the founder of the Pink Cross Foundation, Ms Shelley Lubben.



This anecdotal reporting is supported by scientific studies finding that pornographic actors suffer from adverse health and mental health issues, physical trauma and substance abuse.

- Women who perform in pornographic films have worse mental health and higher rates of depression according to a 2011 study published in the *Psychiatric services* journal.

*“Our study found that female adult film performers were more likely than other young women in California to be depressed and to have significantly worse mental health. The performers reported poor mental health on more than seven days in the past 30 days, and a third met criteria for depression. Although we cannot determine causation, the association between adult performer status and poor mental health was consistent and highly significant...*

*...our study found an alarming rate of mental health problems and associated trauma among female adult performers. Not only were they exposed to physical health threats in the workplace, but they also reported serious mental health problems and high rates of physical and sexual violence.”<sup>10</sup>*

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<sup>8</sup> <https://fightthenewdrug.org/brittnis-story-how-i-survived-exploitation-and-addiction-in-the-porn-industry/>

<sup>9</sup> <https://nopornnorthampton.org/2007/10/16/why-jersey-jaxin-left-porn/>

These anecdotal reports are by no means uncommon. For further examples of the horrific violence suffered by pornographic actors while filming see additional statements at the following webpages:

- [https://www.collectiveshout.org/porn\\_stars\\_speak\\_out](https://www.collectiveshout.org/porn_stars_speak_out)
- <https://endsexualexploitation.org/articles/lovelacefilm/>
- <https://fightthenewdrug.org/10-porn-stars-speak-openly-about-their-most-popular-scenes/>

<sup>10</sup> Grudzen, Corita R et al. “Comparison of the mental health of female adult film performers and other young women in California.” *Psychiatric services* (Washington, D.C.) vol. 62,6 (2011): 639-45. [https://doi.org/10.1176/ps.62.6.pss6206\\_0639](https://doi.org/10.1176/ps.62.6.pss6206_0639)

- Pornographic actors suffer from high rates of sexually transmitted diseases and other health issues according to a 2008 study published in the *Journal of Urban Health*.

*“Performers engaged in risky health behaviors that included high-risk sexual acts that are unprotected, substance abuse, and body enhancement. They are exposed to physical trauma on the film set. Many entered and left the industry with financial insecurity and suffered from mental health problems. Women were more likely than men to be exposed to health risks. Adult film performers, especially women, are exposed to health risks that accumulate over time and that are not limited to sexually transmitted diseases.”<sup>11</sup>*

- Vulnerable women are targeted and coerced into increasingly more explicit activity due to the exploitation of their weaknesses according to a 2021 study published in *Dignity*.

*“Pornographers target marginalized women and girls who are more easily groomed, manipulated, controlled, silenced and exploited. The women’s vulnerability and lack of bargaining power allow pornographers and porn buyers to breach their personal boundaries. In order to sustain themselves financially over time, many women are forced to produce content more frequently, and content that contains greater levels of violence and humiliation.”<sup>12</sup>*

## Pornography harms those who consume it

Scientific studies find that those who consume pornography experience a loss of sexual satisfaction and suffer from a range of adverse health and mental health effects from suicidal ideation and depression through to erectile dysfunction. Consumption of pornography results in physical changes to the structure of the brain and these effects are exacerbated by the addictive nature of pornography which is akin to physical drug abuse.

- Consumption of pornography results in a loss of sexual satisfaction with findings reported in a 1988 study published in the *Journal of Applied Social Psychology*.

*“After consumption of pornography, subjects reported less satisfaction with their intimate partners—specifically, with these partners’ affection, physical appearance, sexual curiosity, and sexual performance proper. In addition, subjects assigned increased importance to sex without emotional involvement. These effects were uniform across gender and populations.”<sup>13</sup>*

- Erectile dysfunction rates have exploded with online pornography according to a 2017 study published in *Dignity: A Journal of Analysis of Exploitation and Violence*.

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<sup>11</sup> Grudzen, Corita R et al. “Pathways to health risk exposure in adult film performers.” *Journal of urban health: bulletin of the New York Academy of Medicine* vol. 86,1 (2009): 67-78. <https://doi.org/10.1007/s11524-008-9309-4>

<sup>12</sup> Donevan, Meghan ““In This Industry, You’re No Longer Human”: An Exploratory Study of Women’s Experiences in Pornography Production in Sweden.” *Dignity: A Journal of Analysis of Exploitation and Violence* vol. 6: Iss. 3, Article 1 (2021): 1-25. <https://doi.org/10.23860/dignity.2021.06.03.01>

<sup>13</sup> Zillmann, Dolf, et al. "Pornography's impact on sexual satisfaction1". *Journal of Applied Social Psychology*, vol. 18, no. 5, (1988): 438-453. <https://doi.org/10.1111/j.1559-1816.1988.tb00027.x>

*“Today’s pornography is having a devastating impact on the sexual health of the Internet generation. For example, rates of erectile dysfunction among young men are skyrocketing, and are directly related to the more frequent use of increasingly interactive Internet pornography. In the 1940’s, less than 1% of men under 30 experienced erectile dysfunction (ED). In 1992, 7% of men under 30 experienced ED. Several recent studies now show that 30% of young men experience ED. In fact, in just the last 10 years, the rate of erectile dysfunction doubled in the U.S. military. If a man’s use reaches the level of addiction, he is 60% more likely to have ED. And all of these men have erectile dysfunction when they are with a person—but not when they are alone with their porn.”<sup>14</sup>*

- Those who view pornography are more likely to suffer from loneliness according to a 2018 study published in the *Journal of sex & marital therapy*.

*“Those who viewed pornography were more likely to experience loneliness, and those who were experiencing loneliness were more likely to view pornography.”<sup>15</sup>*

- Men who consume pornography lose self-control, feel emasculated, view women as objects and experience diminished sexual function according to a 2019 study published in the *Psychology of Men & Masculinities* journal.

*“The men valued qualities of self-control, willpower, and discipline, and yet pornography completely undermined these traits and their efforts to be optimal versions of themselves. Such an undermining represented a form of disempowerment and even emasculation. Over time, their continued and repetitive use began adversely impacting various aspects of and experiences of sex. The men perceived that pornography had resulted in having unrealistic expectations when it came to sex and sexuality, the way they viewed women (solely as objects of sex), and lead to diminished sexual function.”<sup>16</sup>*

- Consumers of pornography are more likely to report suffering from emotional abuse according to a 2020 study published in the *Journal of American College Health*.

*“...with each additional increase in pornography frequency score, the odds of reporting emotional abuse increased nearly 17%. While specific to sexual assault, previous IPV literature reports female victims of sexual violence were more like to report ever watching porn or currently watch porn. A possible*

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<sup>14</sup> Foubert, John D. "The Public Health Harms of Pornography: The Brain, Erectile Dysfunction, and Sexual Violence". *Dignity: A Journal of Analysis of Exploitation and Violence*, vol. 2, iss. 3, article 6 (2017). <https://doi.org/10.23860/dignity.2017.02.03.06>

<sup>15</sup> Butler, Mark H et al. "Pornography Use and Loneliness: A Bidirectional Recursive Model and Pilot Investigation." *Journal of sex & marital therapy* vol. 44,2 (2018): 127-137. <https://doi.org/10.1080/0092623X.2017.1321601>

<sup>16</sup> Sniewski, L., & Farvid, P. "Hidden in shame: Heterosexual men’s experiences of self-perceived problematic pornography use." *Psychology of Men & Masculinities*, 21(2), (2020): 201–212. <https://doi.org/10.1037/men0000232>

*explanation for these results for emotional abuse could be that less self-worth and more depressive symptoms have been associated with pornography use.”<sup>17</sup>*

- Consumption of pornography is addictive and can cause depression and suicidal ideation according to a 2013 study published in the *Rhode Island Medical Journal*.

*“Of particular concern, pornography addiction was associated with depression and suicide ideation.”<sup>18</sup>*

- Consumption of pornography is a destructive and addictive behaviour with neuroplastic effects akin to drug use according to a 2013 study in the *Socioaffective neuroscience & psychology* journal.

*“Pornography is a perfect laboratory for this kind of novel learning fused with a powerful pleasure incentive drive. The focused searching and clicking, looking for the perfect masturbatory subject, is an exercise in neuroplastic learning. Indeed, it is illustrative of Tinbergen's concept of the ‘supranormal stimulus’...*

*...These issues warrant greater respect for the power of natural addictions, which can, as their substance counterparts do, ‘change the stamp of nature’. Sex, like drug rewards, places its stamp on neuronal receptors, dendrites, and gyri as it facilitates neuroplastic change, thus meriting the addiction label when compulsively and destructively expressed.”<sup>19</sup>*

- Consumers of pornography lose grey matter volume in their brain and show brain patterns comparable to those who engage in high-risk behaviours such as drug use, according to a 2014 study published in the *JAMA Psychiatry* journal.

*“...Grey Matter volume of the right caudate of the striatum is smaller with higher pornography use. Furthermore, task-related functional activation of the left putamen of the striatum was found to be lower with higher Pornography Hours when sexually explicit material was presented...*

*...Dysfunction of this circuitry has been related to inappropriate behavioral choices, such as drug seeking, regardless of the potential negative outcome.”<sup>20</sup>*

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<sup>17</sup> Spadine, Mandy et al. “Predicting emotional abuse among a sample of college students.” *Journal of American college health* vol. 70,1 (2022): 256-264. <https://doi.org/10.1080/07448481.2020.1740709>

<sup>18</sup> Noel, Jonathan K et al. “Pornography: A Concealed Behavior with Serious Consequences.” *Rhode Island medical journal* (2013) vol. 106,3 29-34. 3 Apr. 2023 <https://pubmed.ncbi.nlm.nih.gov/36989095/>

<sup>19</sup> Hilton, Donald L Jr. “Pornography addiction - a supranormal stimulus considered in the context of neuroplasticity.” *Socioaffective neuroscience & psychology* vol. 3 20767. 19 Jul. 2013. <https://doi.org/10.3402/snp.v3i0.20767>

<sup>20</sup> Kühn, Simone, and Jürgen Gallinat. “Brain structure and functional connectivity associated with pornography consumption: the brain on porn.” *JAMA psychiatry* vol. 71,7 (2014): 827-34. <https://doi.org/10.1001/jamapsychiatry.2014.93>

Further reporting detailing the harmful effect of pornography on the brain is detailed at these webpages:

- <https://www.yourbrainonporn.com/relevant-research-and-articles-about-the-studies/brain-studies-on-porn-users-sex-addicts/#brain>
- <https://fightthenewdrug.org/how-porn-can-change-the-brain/>
- <https://fightthenewdrug.org/how-porn-can-affect-the-brain-like-a-drug/>



## Pornography harms society

Pornography causes wider harm to society by fostering attitudes that result in demeaning and violent treatment of women, including specific behaviours such as choking that are linked with an increased risk of murder. In addition, consumption of pornography is destructive of the family unit causing great misery and unhappiness to spouses and children.

- A significant portion of pornographic content depicts aggression which is almost always directed against women and may encourage consumers to learn to display violence against women according to a 2020 study published in the *Archives of Sexual Behaviour*.

*“Examining Pornhub, 45.1% of scenes contained at least one act of physical aggression, while in the Xvideos sample, 35.0% of scenes contained at least one act of physical aggression...”*

*...Overall, women were the target of aggression in 96.7% of physically aggressive acts in the Pornhub sample and 96.8% in the Xvideos sample. Men were the aggressors against women in 75.9% of all acts of physical aggression in Pornhub and 76% of all acts of physical aggression in Xvideos...*

*...As such, most physical aggression has not just been normalized in the sexual script, it has been normalized to be against women...*

*...This study suggests that a significant portion of pornography contains depictions of aggression against women with no negative responses from targets; this may lead to the development among consumers of a sexual script that encourages the learning of aggression against women.”<sup>21</sup>*

- Men who view pornography are more likely to develop dehumanising views about women according to 2021 study published in the *Journal of sex and marital therapy*.

*“Men who use more pornography are more likely to see women as close-minded, impassive, cold, or mechanical, much like instruments or robots. They are also more likely to see women as uncivilized, irrational, unsophisticated, or lacking self-constraint, like animals or beasts. The two types of dehumanization combine to provide male pornography viewers with a specific sexual script in which women either are denied their full agency and human nature, or only have agency only within the narrow role of a wild sexual creatures that lacks characteristics of human uniqueness.”<sup>22</sup>*

- Exposure to pornography and the belief that it is realistic is significantly associated with sexual aggression according to a 2021 study published in the *Journal of Health Communications*.

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<sup>21</sup> Fritz, Niki et al. “A Descriptive Analysis of the Types, Targets, and Relative Frequency of Aggression in Mainstream Pornography.” *Archives of sexual behavior* vol. 49,8 (2020): 3041-3053.  
<https://doi.org/10.1007/s10508-020-01773-0>

<sup>22</sup> Zhou, Yanyan et al. “Pornography Use, Two Forms of Dehumanization, and Sexual Aggression: Attitudes vs. Behaviors.” *Journal of sex & marital therapy* vol. 47,6 (2021): 571-590.  
<https://doi.org/10.1080/0092623X.2021.1923598>

*"Consistent with expectations, having been exposed to pornography and perceiving pornography as realistic were associated with increased sexual aggression risk."*<sup>23</sup>

- Viewers of pornography are more likely to engage in 'sexual choking' according to a 2023 study published in the *Health communication* journal.

*"Results were consistent with a sequential model positing that consuming pornography more frequently leads to more exposure to pornographic depictions of sexual choking, which in turn predicts a higher likelihood of choking sexual partners through the belief that sexual choking is pleasurable, the belief that sexual choking is safe, and the disbelief that sexual choking requires consent from the person being choked."*<sup>24</sup>

- 'Choking' is an increasingly common experience of sexual behaviour that women find 'scary' according to 2019 study published in the *Journal of Sex & Marital Therapy*.

*"Choking and other aggressive behaviors (such as hitting and forceful hair pulling) were also often described among the scary sexual experiences.*

*Like anal sex, choking appears to have become more commonly portrayed in sexually explicit media and sexual choking behaviors (and interest in choking) are associated with pornography use...*

*However, choking and breath play are associated with serious risks—including accidental death—and thus it is not surprising to see choking often described as scary. Most of the choking instances described appear to have not been*

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<sup>23</sup> Wright, Paul J et al. "Preliminary Insights from a U.S. Probability Sample on Adolescents' Pornography Exposure, Media Psychology, and Sexual Aggression." *Journal of health communication* vol. 26,1 (2021): 39-46. <https://doi.org/10.1080/10810730.2021.1887980>

<sup>24</sup> Wright, Paul J et al. "Pornography Consumption and Sexual Choking: An Evaluation of Theoretical Mechanisms." *Health communication* vol. 38,6 (2023): 1099-1110. <https://doi.org/10.1080/10410236.2021.1991641>

Anecdotal reporting also indicates that there is a significant rise in deaths from 'sex games gone wrong', as detailed in *The Guardian* article "The fatal, hateful rise of choking during sex" published on 25 July 2019 and found at this link: <https://www.theguardian.com/society/2019/jul/25/fatal-hateful-rise-of-choking-during-sex>:

*"Strangulation – fatal and non-fatal – "squeezing", "neck compression" or, as some call, it "breath-play" – is highly gendered. On average, one woman in the UK is strangled to death by her partner every two weeks, according to Women's Aid. It is a frequent feature of non-fatal domestic assault, as well as rape and robbery where women are the victims. It is striking how seldom it is seen in crimes against men.*

*Numerous studies have shown that non-fatal strangulation is one of the highest markers for future homicide..."*

For further details of the tragic deaths of women violently killed by strangulation during sex see <https://wecantconsenttothis.uk/>.

Further, anecdotal reporting from the US Army military police also suggests that victims of non-lethal domestic violence strangulation are 700 times more likely to become a victim of a homicide: [https://www.army.mil/article/216298/usamps\\_creates\\_new\\_course\\_focused\\_on\\_strangulation\\_cases](https://www.army.mil/article/216298/usamps_creates_new_course_focused_on_strangulation_cases)



*discussed by partners in advance; the other person just started choking the respondent. Consequently, some worried they were being strangled: a common form of intimate partner violence, especially committed against women who partner with men...*"<sup>25</sup>

- Non-fatal strangulation significantly predicts the likelihood of a future attempted homicide according to a 2007 study published in the *Journal of Emergency Medicine*.

*"Prior non-fatal strangulation was associated with greater than six-fold odds (OR 6.70, 95% CI 3.91–11.49) of becoming an attempted homicide, and over seven-fold odds (OR 7.48, 95% CI 4.53–12.35) of becoming a completed homicide. These results show non-fatal strangulation as an important risk factor for homicide of women, underscoring the need to screen for non-fatal strangulation when assessing abused women in emergency department settings."*<sup>26</sup>

- Viewing pornography is linked with an increased intent in male viewers to commit rape according to a 2011 study published in the *Sexual Addiction and Compulsivity* journal.

*"Results showed that men who view pornography are significantly less likely to intervene as a bystander, report an increased behavioral intent to rape, and are more likely to believe rape myths...*

*...With men's viewing of mainstream pornography during the last 12 months, which 83% of participants reported, such men indicated a greater behavioral intent to rape as shown by their answers to questions about their likelihood of committing rape and likelihood of committing sexual assault if they could be assured of not being caught or punished than men who chose not to view pornography."*<sup>27</sup>

- Consumption of pornography is linked with sexual aggression and an increased probability of the use or threat of force to obtain sex according to a 2016 meta study published in the *Journal of Communication*.

*"Pornography consumption was associated with both verbal and physical sexual aggression, but the association was stronger for verbal sexual aggression...*

*...Pornography consumption was associated with an increased probability of the use or threat of force to obtain sex."*<sup>28</sup>

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<sup>25</sup> Herbenick, Debby et al. "Feeling Scared During Sex: Findings From a U.S. Probability Sample of Women and Men Ages 14 to 60." *Journal of sex & marital therapy* vol. 45,5 (2019): 424-439. <https://doi.org/10.1080/0092623X.2018.1549634>

<sup>26</sup> Glass, Nancy et al. "Non-fatal strangulation is an important risk factor for homicide of women." *The Journal of emergency medicine* vol. 35,3 (2008): 329-35. <https://doi.org/10.1016/j.jemermed.2007.02.065>

<sup>27</sup> Foubert, John D. et al. "Pornography Viewing among Fraternity Men: Effects on Bystander Intervention, Rape Myth Acceptance and Behavioral Intent to Commit Sexual Assault." *Sexual Addiction & Compulsivity* 18, no. 4 (2011): 212–31. <https://doi.org/10.1080/10720162.2011.625552>

<sup>28</sup> Wright, P. J. et al. "A meta-analysis of pornography consumption and actual acts of sexual aggression in general population studies." *Journal of Communication*, 66(1), (2016): 183–205. <https://doi.org/10.1111/jcom.12201>

- Consumption of pornography is significantly linked to the non-consensual forwarding of ‘sexts’ according to a 2020 study published in the *Archives of Sexual Behaviour*.

*“The findings showed that for young people with both low and high levels of instrumental attitudes toward sex, pornography use predicted a higher willingness to engage in the non-consensual forwarding of a sexually explicit image of a stranger.”<sup>29</sup>*

- A significant number of women report that pornographic images of them have been distributed without their consent while a smaller number admit to having perpetrated this behaviour according to a 2019 study published in the *Psychology of violence* journal.

*“In our sample of 3,044 participants (54% women), one in 12 (8%) reported having been victims of nonconsensual pornography at some point in their lives, and one in 20 (5%) reported having perpetrated nonconsensual pornography.”<sup>30</sup>*

- Consumption of pornography is linked with the spread of sexually transmitted diseases according to a 2016 study published in the *Public Health Nursing* journal.

*“Our findings showed that high school students who preferred Internet pornography were more likely to have experienced STIs. Based on precedent studies where young people exposed to pornographic materials were more prone to risky sexual behaviors, Internet pornography preference could increase the risk of STIs. This study found that male and female students who preferred Internet pornography were 2.6 and 14.0 times more likely to have experienced STIs, respectively.”<sup>31</sup>*

- Pornographic content furthers racist stereotypes of black men and women according to a 2020 study published in *Gender Issues*.

*“Overall, the results from our analysis suggest there are damaging stereotypical portrayals of Black women and men in pornography. Black women are more often depicted as the target of aggression, while Black men were portrayed more often as the perpetrators of aggression. Additionally, Black couples are more likely to be portrayed as aggressive and lacking intimacy.”<sup>32</sup>*

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<sup>29</sup> van Oosten, Johanna et al. “Predicting the Willingness to Engage in Non-Consensual Forwarding of Sexts: The Role of Pornography and Instrumental Notions of Sex.” *Archives of sexual behavior* vol. 49,4 (2020): 1121-1132. <https://doi.org/10.1007/s10508-019-01580-2>

<sup>30</sup> Ruvalcaba, Y., & Eaton, A. A. “Nonconsensual pornography among U.S. adults: A sexual scripts framework on victimization, perpetration, and health correlates for women and men.” *Psychology of Violence*, 10(1), (2020):68–78. <https://doi.org/10.1037/vio0000233>

<sup>31</sup> Kim, Suhee, and Chungyul Lee. “Factors Affecting Sexually Transmitted Infections in South Korean High School Students.” *Public health nursing* (Boston, Mass.) vol. 33,3 (2016): 179-88. <https://doi.org/10.1111/phn.12211>

<sup>32</sup> Fritz, N., Malic, V., Paul, B. et al. “Worse Than Objects: The Depiction of Black Women and Men and Their Sexual Relationship in Pornography”, *Gender Issues* 38, (2021): 100–120. <https://doi.org/10.1007/s12147-020-09255-2>

- A review of multiple studies found that pornography can have several deleterious effects on romantic relationships and may increase the likelihood of divorce according to a 2016 study published in the *Journal of Family Theory and Review*.

*"Social learning theory (Bandura, 2011) suggests that as pornography consumers watch acts of aggression and violence or view sexist or degrading portrayals, they can adopt attitudes supportive of those behaviors and learn to enact them with their own partners (although they may also learn more varied sexual techniques in the process). Similarly, pornography may inform sexual scripts that increase the likelihood of infidelity (Braithwaite et al., 2014), and consumers may unfairly compare their romantic partners or their own relationships to those they see in pornography (Zillmann & Bryant, 1988b) or perceive those outside the relationship as better able to fill sexual needs (Gwinn et al., 2013). Taken together, these effects have the potential to be problematic in the context of a committed romantic relationship (Schneider, 2000) and may increase the likelihood of divorce (Shumway & Daines, 2012)."*<sup>33</sup>

- Married consumers of pornography are more likely to suffer from divorce compared to those who do not view pornography according to a 2018 study published in the *Archive of Sexual Behaviour*.

*"Findings affirmed that married pornography users were more than twice as likely to experience a marital separation in the 6 years following their reported pornography viewing compared to those who did not view pornography."*<sup>34</sup>

- Women married to men who consume pornography suffer significant emotional trauma according to a 2009 study published in the *Sexual Health and Compulsivity* journal.

*"Our findings supported the development of a model linking husbands' pornography use and concomitant deception to significant attachment injury and trauma-like experience and symptomatology for the pair-bond partner..."*

*...Analysis of wives' comments revealed (1) a breakdown of expectations and assumptions central to wives' evaluation of the marriage; (2) distance or disconnection from their husband; and (3) a general sense of being betrayed and harmed by their husband and subsequently feeling unsafe (emotionally and psychologically speaking) and insecure in their relationship."*<sup>35</sup>

- Women who have been in romantic relationships with male partners who view pornography suffer from a range of issues including anxiety, low self-esteem, and even

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<sup>33</sup> Rasmussen, K. "A historical and empirical review of pornography and romantic relationships: Implications for family researchers." *Journal of Family Theory & Review*, 8(2), (2016): 173–191. <https://doi.org/10.1111/jftr.12141>

<sup>34</sup> Perry, Samuel L. "Pornography Use and Marital Separation: Evidence from Two-Wave Panel Data." *Archives of sexual behavior* vol. 47,6 (2018): 1869-1880. <https://doi.org/10.1007/s10508-017-1080-8>

<sup>35</sup> Zitzman, S. T., & Butler, M. H. "Wives' Experience of Husbands' Pornography Use and Concomitant Deception as an Attachment Threat in the Adult Pair-Bond Relationship." *Sexual Addiction & Compulsivity* 16(3), (2009): 210–240. <https://doi.org/10.1080/10720160903202679>

unhealthy eating disorders. These effects continue even into new romantic relationships according to a 2015 study published in the *Psychology of Women Quarterly*.

*“Therefore, even if they have not adopted thinness as a personal standard, they may have taken their previous partners’ pornography use as a sign that they need to lose weight, even if it means that they have to use unhealthy means to do so. If some women do indeed believe that they must lose weight to appear sexually attractive, in this way, pornography confronts these women with the threat that they are at risk for “losing” their male partners if their bodies do not appear like female bodies their partners see in pornography.*

*In addition, previous male partners’ pornography use was found to incrementally predict other forms of women’s distress, such as experiencing greater negative affect and relationship anxiety and lower self-esteem and body appreciation, independent of women’s reports of being bothered by pornography use and being targets of interpersonal sexual objectification. Thus, not only is previous partners’ pornography use related to a woman’s negative view of herself and her body, it is also negatively linked to her satisfaction and comfort within her current romantic relationship and emotional well-being.”<sup>36</sup>*

## Pornography harms children

The destructive impact of pornography is especially felt by children and adolescents exposed to this content. This exposure causes distress and anxiety, builds unrealistic sexual expectations and increases the likelihood that those exposed will engage in sexual violence. Furthermore, adult pornography is used by child sex offenders to ‘groom’ minors for sexual abuse. Anecdotal reporting noted by the Australian Psychological Association also links the rise in childhood sexual assaults perpetrated by other children to exposure to pornography.

- Many children and adolescents are exposed to pornography as young as 7 years of age, with exposure causing distress and then later affecting sexual behaviours, including the copying of ‘rough sex’ according to a 2020 study published by the British Board of Film Classification. This study found that exposure to pornography disturbs minors, leads them to seek out increasingly violent pornographic content, creates unrealistic and undesirable expectations of sex, pressures minors to copy behaviour observed in pornographic content and negatively influences perceptions of body image.

*“Many children were first exposed to pornography accidentally and at a young age. Respondents in the qualitative research described having first stumbled across pornography, with some stating that it happened when they were as young as 7 years old. Similarly, just over 6 in 10 (62%) 11 to 13-year-olds who reported having seen pornography...*

*...Most boys and girls across the sample indicated they had seen content they found upsetting or disturbing at some point, usually relating to ‘violent’ or ‘aggressive’ pornography. Often, they were first exposed to this type of content*

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<sup>36</sup> Tylka, T. L., & Kroon Van Diest, A. M. “You Looking at Her “Hot” Body May Not be “Cool” for Me: Integrating Male Partners’ Pornography Use into Objectification Theory for Women.” *Psychology of Women Quarterly*, 39(1) (2015): 67-84. <https://doi.org/10.1177/0361684314521784>

*accidentally. Some girls in particular spoke of their fear that aggressive depictions of sex would be seen as 'normal' among young male viewers of pornography, and accordingly be copied in real-life sexual encounters. Young people echoed this concern in the online survey: 41% of those who knew about pornography agreed that watching it made 'people less respectful of the opposite sex'...*

*...Some felt pornography had affected their expectations and behaviour during sex, particularly in the copying of rough or forceful sex, as well as replicating the noises and positions that they had seen in pornography. 18% of 16 to 17-year-olds who had an active sex life said they had either asked or been asked to incorporate things from pornography into their relations with their partner(s)."<sup>37</sup>*

- Adolescents who view pornography suffer from a range of adverse conditions and behaviours from early sexual experimentation through to depressive symptoms according to 2021 study published in the *Sexual Addiction and Compulsivity* journal.

*"Collectively, these studies suggest that youth who consume pornography may develop unrealistic sexual values and beliefs. Among the findings, higher levels of permissive sexual attitudes, sexual preoccupation, and earlier sexual experimentation have been correlated with more frequent consumption of pornography...*

*...research suggests that adolescents who use pornography, especially that found on the Internet, have lower degrees of social integration, increases in conduct problems, higher levels of delinquent behavior, higher incidence of depressive symptoms, and decreased emotional bonding with caregivers."<sup>38</sup>*

- Exposure to violent pornography is strongly associated with the emergence of sexual violence in adolescents according to a 2018 study published in *Prevention science: the official journal of the Society for Prevention Research*.

*"After adjusting for potentially influential characteristics, prior exposure to parental spousal abuse and current exposure to violent pornography were each strongly associated with the emergence of Sexual Violence perpetration..."<sup>39</sup>*

- Child sexual offenders often 'groom' victims by exposing them to adult and child pornography and 'sex education' material according to a 2010 report published by the United States' Center for Missing & Exploited Children.

*"Adult pornography is frequently left out for the children to "discover." A collection of adult pornography is effective in sexually arousing and lowering the*

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<sup>37</sup> *Young people, Pornography & Age-verification*, (2020) British Board of Film Classification

<sup>38</sup> Owens, E. W. et al. "The Impact of Internet Pornography on Adolescents: A Review of the Research." *Sexual Addiction & Compulsivity*, 19(1-2), (2012): 99-122. <https://doi.org/10.1080/10720162.2012.660431>

<sup>39</sup> Ybarra, Michele L, and Richard E Thompson. "Predicting the Emergence of Sexual Violence in Adolescence." *Prevention science: the official journal of the Society for Prevention Research* vol. 19,4 (2018): 403-415. <https://doi.org/10.1007/s11121-017-0810-4>

*inhibitions of adolescent boys. This is an important reason why preferential child molesters collect adult pornography...*

*...Books about human sexuality, sex education, and sex manuals are also used to lower inhibitions. Children accept what they see in books, and many pedophiles have used sex education books to prove to children such sexual behavior is acceptable. Adult pornography is also used, particularly with adolescent boy victims, to arouse them or lower inhibitions.”<sup>40</sup>*

In addition to the above research findings, anecdotal evidence suggests that there has been an increase in sexual assaults perpetrated by children against children due to pornography.

- The Australian Psychological Society raised concerns in 2015 about the increase of childhood sexual assault perpetrated by children due to exposure to pornography.

*“Over the past decade, we have seen a growing trend of younger children engaging in problem sexual and sexually abusive behaviours generally aimed at younger children – in other words, children sexually assaulting children. As well as a rise in the rate of such sexual abuse and the children committing the behaviours being younger, anecdotal evidence from agencies engaged with these youth suggests that the abusive behaviours also include more episodes of anal and oral penetration – both the staple fodder of pornography. Pornography is providing too many 10-year-olds with the mechanical knowledge to anally, orally and/or vaginally penetrate younger siblings, cousins and acquaintances.”<sup>41</sup>*

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<sup>40</sup> Lanning, Kenneth V. *Child Molesters: A Behaviour Analysis*, National Center for Missing & Exploited Children (2010) <https://www.missingkids.org/content/dam/missingkids/pdfs/publications/nc70.pdf>

These findings are replicated in the 2017 report published by the International Centre for Missing & Exploited Children, “Online Grooming of Children for Sexual Purposes” which found:

*“The online grooming process often includes sexual conversation, showing adult pornography and/or child sexual abuse material to the victim, and pressuring or coercing the child to create and share sexual images of him or herself...*

*...Offenders use pornography to teach the child how to masturbate, pose for sexual photos, perform oral sex, and/or engage in intercourse and other sexual activities. Often, the offender will introduce the victim to 'mainstream' adult pornography, progress to hard-core pornography, and then on to more abusive images of children. Exposure to such material primes victims for being manipulated into sending pictures or videos of themselves to the offender.”*

This report can be found at this link: [https://www.icmec.org/wp-content/uploads/2017/09/Online-Grooming-of-Children\\_FINAL\\_9-18-17.pdf](https://www.icmec.org/wp-content/uploads/2017/09/Online-Grooming-of-Children_FINAL_9-18-17.pdf)

<sup>41</sup> <https://psychology.org.au/inpsych/2015/april/pratt>

For further anecdotal reporting about children committing sexual assaults against children see:

- <https://fightthenewdrug.org/children-committed-nearly-20-of-reported-sex-crimes-in-ireland/>
- <https://fightthenewdrug.org/heidi-olson-sane-child-on-child-sexual-assault-and-porn/>
- <https://fightthenewdrug.org/how-porn-fuels-child-on-child-sex-attacks/>



## Australia's National Classification Scheme must address pornography

The research into the effects of pornography is clear: pornography is harmful and akin to the trade in illegal substances. However, the pornography industry profits from a greater evil: trading mental poison to demanding ever more degrading images of the bodies of primarily young women.

These women have become objects with a single purpose: to help men to masturbate. Their figures are squeezed until every dollar and ounce of dignity is wrung from them. In the process, these daughters and sisters have their souls destroyed. If there is a 'patriarchy' – a world run by men for men – it must surely count the pornography industry as its sordid playground.

If Australia truly wishes to respect women and address the growing concern about gender-based violence it has one clear and easy decision to make: prohibit pornography.

### **Recommendation 8:**

All pornographic content, including online content, should be Refused Classification (Prohibited).

However, I am also a realist. Any changes to Australia's National Classification Scheme will be made primarily by men. Based on numerous and repeated studies, it is statistically likely that the majority of men responsible for these changes will regularly access pornography and a significant proportion will have developed an addiction to it.

Additionally, as will be detailed in the next sections, Australia's National Classification Scheme is already failing to uphold even the current basic standards of the classification system.

In such circumstances, it is depressingly likely that no concrete action will be taken to address the growing scourge of pornography on our society and the lack of respect and violence against women that it fosters. Australian men will attempt to have their cake and eat it too: they will claim that they respect women while ensuring that their consumption of pornography can freely continue.

However, surely, we can at least take action to restrict pornographic and sexually explicit content from minors and prioritise their protection under the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)*. After all, pornography is used by child sex offenders to groom minors.

### **Recommendation 9:**

If the intestinal fortitude to prohibit pornography completely is lacking, all pornography, including online pornography, should be classified as restricted content and legally restricted from being displayed in public or distributed to minors.

### **Recommendation 10:**

S.11 of the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* should be amended to require that classification decisions prioritise the protection of minors over the freedom of adults to read or see whatever they wish.

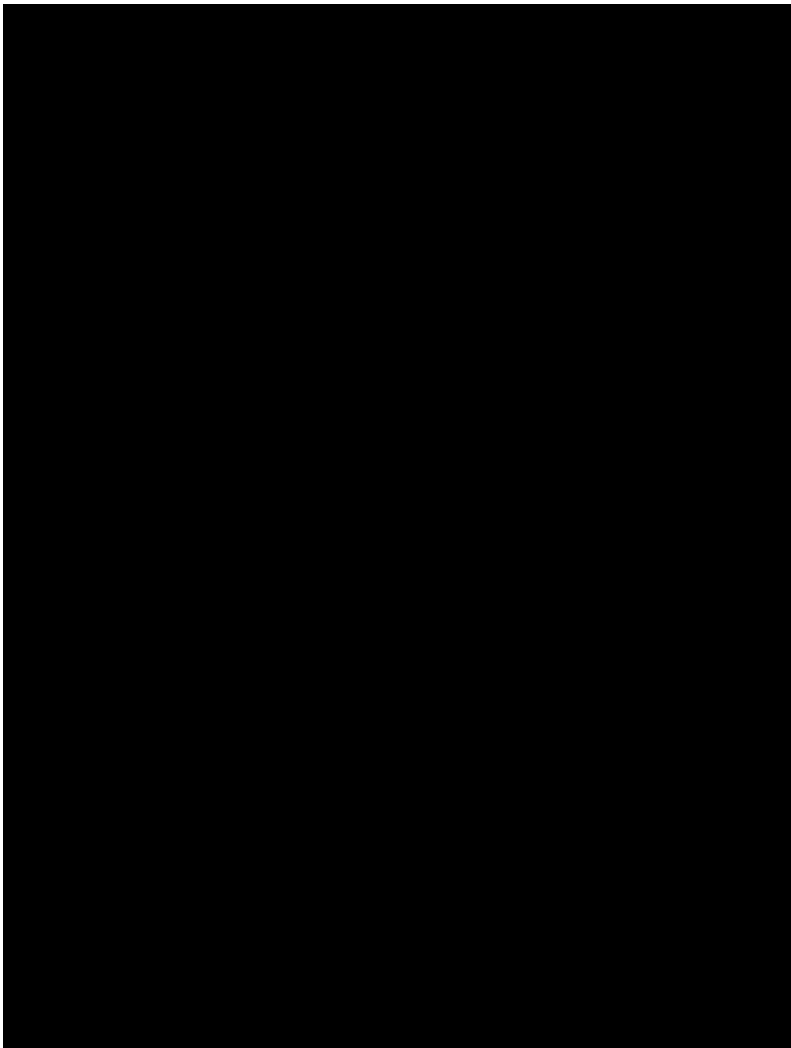
Unfortunately, the operation of Australia's National Classification Scheme is failing to even uphold current standards to protect minors as demonstrated by the following examples. These failings must be addressed to protect children and maintain the trust of Australian families.

### Failure Example 1: *The Boys* by Garth Ennis

*The Boys* is a comic series written by Mr Garth Ennis published primarily between 2006 and 2012. It is set in a dystopian world containing people with superpowers. Despite first being published almost two decades ago, these publications were not assessed by the Australian Classification Board until mid-2023, after I lodged complaints about *The Boys* with the Queensland police and the Queensland Office of Fair Trading.

On 1 June 2023 the Australian Classification Board determined that Volumes 1 (comics #1-#14), 3 (comics #31-#38 and the Herogasm spin off) and 5 (comics #48-59 and the Butcher-Baker, Candlestick maker spin off) of *The Boys* were Category 1 Restricted publications due to their pornographic content and other obscene material.

I found these publications in my local public library – they were available for children to borrow. The fact that it took up to 17 years to assess and restrict them demonstrably proves that Australia's National Classification Scheme is failing to protect minors from harmful content.



Shocking as that is, it is even worse that Volumes 2, 4 and 6 of *The Boys* were classified Unrestricted.

Volume 2, in particular, contains frequent depictions of pornographic content and other obscene material, including multiple scenes of nudity and adults engaged in sex, victims of childhood sexual abuse engaged in group masturbation, and depictions of a man agreeing to be urinated on by multiple persons.

It also contains imagery of a man's face covered in menstrual blood following sexual activity and depicts a large group of grown child sex abuse survivors defending their abuser, claiming that they chose to accept abuse in exchange for receiving 'superpowers'.



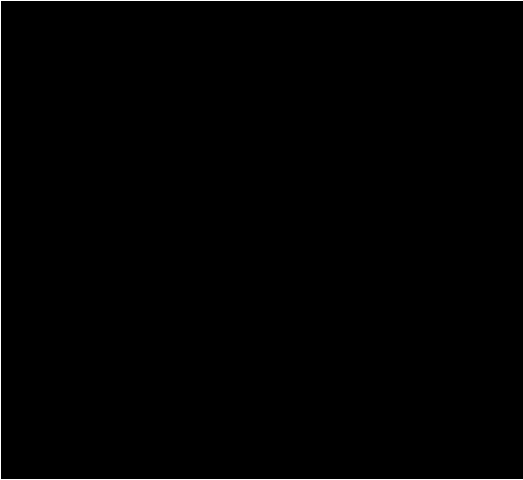
However, the most disturbing imagery contained in Volume 2 of *The Boys* is a pornographic depiction of consensual but aggressive and degrading ‘rough sex’ between a male character and his workplace supervisor which transitions into a violent and threatening rape.

Pages 374-376 of Volume 2 of *The Boys* and the Australian Classification Board report for this publication are attached to this submission at Annex A. The report describes this imagery (shown at right) in the following terms:



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<sup>42</sup> Australian Classification Board Decision Report T23/19535 dated 1 June 2023 (found at Annex A)



In the recent high-profile judgement in *Lehrmann v Network Ten Pty Limited* (Trial Judgment) [2024] FCA 369, Lee J outlined the three elements necessary to convey the ordinary meaning of rape, namely that sexual intercourse occurred, that it occurred without consent and that the perpetrator knew that the victim did not consent.<sup>43</sup>

It follows from this judgement that an ordinary and reasonable member of contemporary Australian society would form the view that a publication depicted rape if it conveyed that sexual intercourse had occurred, that it occurred without consent and that the perpetrator knew the victim did not consent.

It is obvious that the images at page 374-376 of Volume 2 of *The Boys* depict a rape. Firstly, sexual intercourse is drawn in a highly explicit and pornographic manner.

Secondly, the publication clearly depicts a lack of consent: the female character is forcefully pinned to a desk while a man threatens to kill her and murder her family. Even the Board noted the ‘fear’ depicted on her face.

Thirdly, the publication clearly depicts that the perpetrator knew the victim failed to consent and that he enjoyed her suffering. He is pictured smiling over her and above the words ‘Rodeo Fuck’ – evoking images of a man riding a bucking animal attempting to escape. The intended meaning of this is sickening: that the victim’s desperate attempt to escape in response to violent threats only increases the sexual gratification of the rapist. Mr Garth Ennis appears to be glorying in the power of the rapist by likening the female victim to a wild beast to be ridden for entertainment.



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<sup>43</sup> *Lehrmann v Network Ten Pty Limited* (Trial Judgment) [2024] FCA 369  
<https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2024/2024fca0369>

[REDACTED]

[REDACTED] This is a woeful indictment on a government body tasked with upholding and protecting the standards of decency and morality in society.

When the Prime Minister addressed the National Rally Against Gender-Based Violence on 28 April 2024 and stated that the Australian government needed to do better it is unlikely that he was aware of exactly much improvement is required to protect women. The Australian

[REDACTED] government and its agencies not only approve rape pornography for distribution to minors, but they do so on the basis that the violent rape being depicted is ‘consensual’.

The Board’s reasoning is grotesque and offensive to ordinary Australians. It is also flatly wrong.

The next time these two characters met it was abundantly clear that the female character was scared and angry to see the male character, aiming a pistol at him and stating:

*“You get out of my office right now or I will fucking shoot you dead.....Fuck you, you evil cocksucker, the last time you came here you said you’d kill my children! I am going to count to five, and if you’re not gone by then--”*

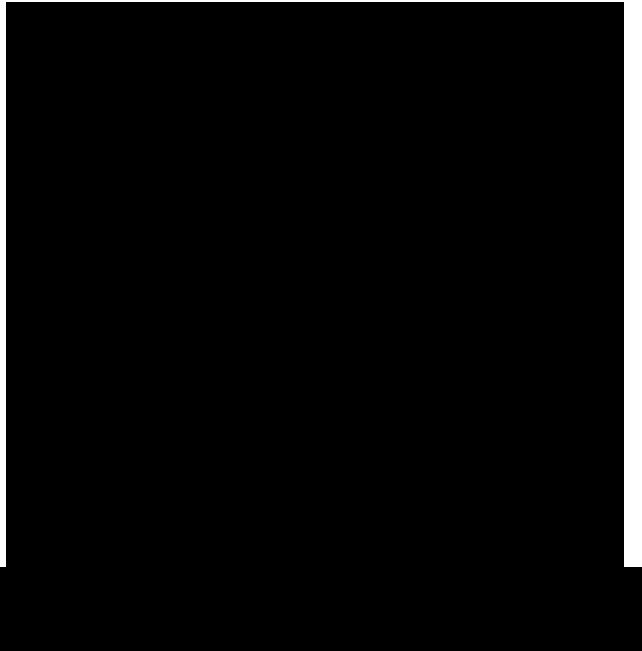
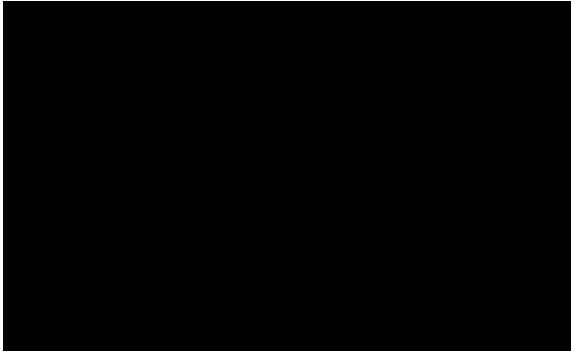
The female character clearly believed that she was violently threatened and raped, remaining fearful of her rapist. However, the degrading theme of *The Boys* continues: this character is then depicted without dignity, defeated by her lack of self-control and almost begging her rapist to have sex again – to his great satisfaction. It appears that the Board did not even fully read *The Boys* before assessing its content. If it was not so embarrassingly inept, it would have Refused Classification to Volume 2 of *The Boys* in accordance with the *Guidelines* which prohibit gratuitous, exploitative or offensive depictions of sexual violence.

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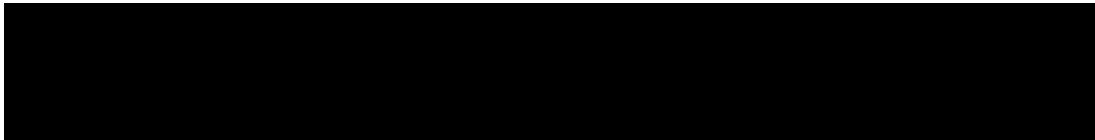
<sup>44</sup> Australian Classification Board Decision Report T23/19535 dated 1 June 2023 (found at Annex A)

<sup>45</sup> Ibid.

In addition to the approval of rape pornography detailed above in Volume 2 of *The Boys*, the classification system has failed to properly assess and classify a depiction of bestiality in Volume 3 of *The Boys* (partially redacted image shown at right).



However, despite acknowledging that this image is presented at the conclusion of pages featuring increasingly ‘confronting implied sexual’ activity, the Board report attempts to avoid the reality of this image, stating:



The Board’s report is not honest. This image plainly depicts ‘sexual activity’ which is defined in the *Guidelines for the Classification of Publications* 2005 in the following terms:

*“Sexual Activity: Matters pertaining to sexual acts but not limited only to portrayals of sexual intercourse.”<sup>48</sup>*

The image above clearly depicts a woman having sex with a dog while onlookers cheer. A reader does not need to see genital contact to understand that this image depicts bestiality.

Volume 3 of *The Boys* which contains this image has at least been classified as a Category 1 Restricted publication. And while the *Guidelines* state that ‘realistic’ (as opposed to ‘stylised’) depictions of bestiality are to be Refused Classification, the *Guidelines* also state that exploitative depictions of sexual activity accompanied by fetishes or practices which are revolting or abhorrent are also to be Refused Classification.

The image of the woman having sex with a dog surely depicts practices which are revolting or abhorrent and does so in a way which meets the definition of ‘exploitative’:

*“Exploitative: Appearing to purposefully debase or abuse for the enjoyment of readers/viewers, and lacking moral, artistic or other values.”<sup>49</sup>*

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<sup>46</sup> Australian Classification Board Decision Report T23/19541 dated 1 June 2023 (found at Annex B)

<sup>47</sup> Ibid.

<sup>48</sup> *Guidelines for the Classification of Publications* 2005

<sup>49</sup> Ibid.

It is hard to imagine how an image of a woman having sex with a dog at the conclusion of a series of pages depicting increasingly confronting sexual activity in a storyline titled 'Herogasm' which the Board found to be set in a 'hedonistic festival of deliberately extreme sex and extravagance' has any moral, artistic or other values. If Australia's National Classification Scheme was working effectively, Volume 3 of *The Boys* would have been Refused Classification.

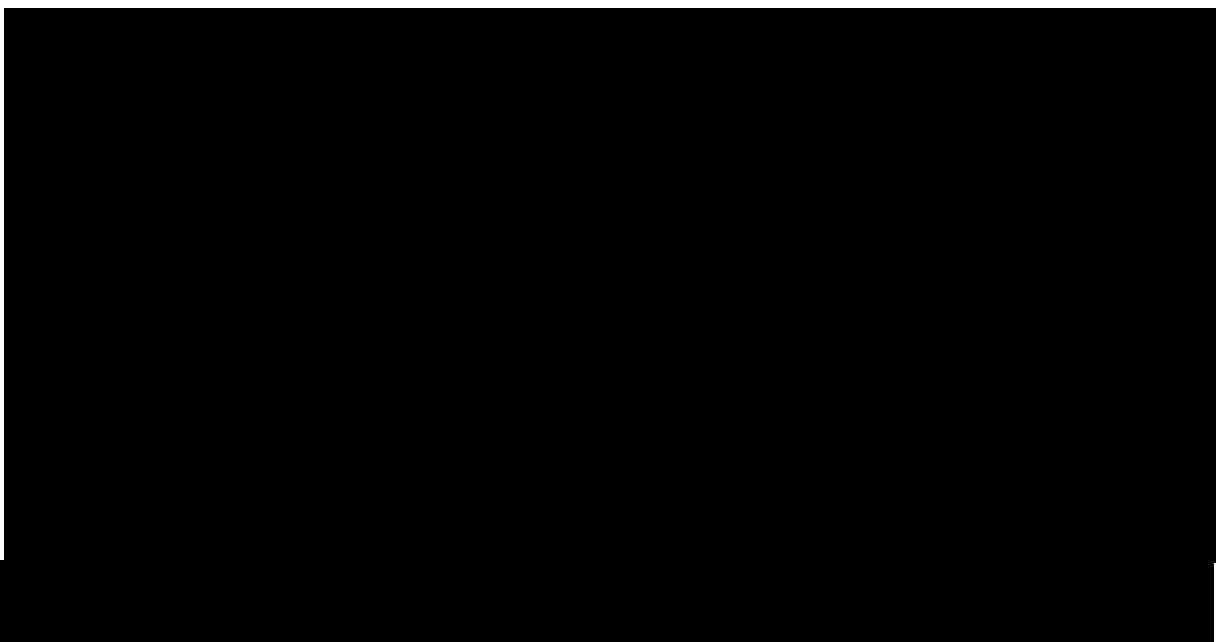
## Failure Example 2: *Gender Queer* by Maia Kobabe

*Gender Queer* is a comic-style autobiography written by Ms Maia Kobabe and first published in 2019. This publication was 'called-in' in 2023 after I complained about its content to the Queensland police and Queensland Office of Fair Trading.

The Australian Classification Board and then the Classification Review Board have both granted an Unrestricted classification to this publication with consumer advice 'Not recommended for readers under 15 years'. These reports are attached as Annex C and D to this submission.

*Gender Queer* has numerous pornographic and explicit depictions of sex and nudity, as well as depictions of sexual themes including discussion of masturbation (including while driving a vehicle), sex toys, sexting, tasting 'vagina slime' and links to violent and extremely 'hardcore' pornographic websites.

One depiction in *Gender Queer* which is of great concern pictures the author fantasising about paedophilia in the context of explaining her masturbation habits and preferences.



This image is not hard to understand. It shows Maia Kobabe fantasising about an adult male touching a boy's penis. The kneeling adult has an erection, pubic hair and a beard. The standing figure is no taller than the kneeling adult male. But this smaller figure is not a dwarf. Nor is it a midget. It is plainly a boy.

In fact, Maia Kobabe admits herself that this imagery depicts an adult male touching the genitalia of a minor. In relation to litigation in the United States against this publication, Maia Kobabe filed legal documents which state:

*“The only image in the book of nudity or a sexual act indisputably involving a minor depicts a scene from Plato’s Symposium (p. 135 of the book)...”<sup>50</sup>*

Dr Lesley-anne Ey is an expert in research into child sexual exploitation and children's and young people's harmful sexual behaviour from the University of South Australia. She states the following about this image in a letter attached at Annex E:

*“It is my opinion that this image depicts a full-grown man and a child aged approximately 12 years...The male child depicted in this picture is clearly half the size of the male adult in physical structure. The child has no, or little pubic hair and his penis size is much smaller than a typical adult size penis suggesting it has not reach full maturation. Boys commonly reach full secondary sexual maturation between the age of 15-17 years.*

*My concern about this image is that it depicts sexual activity between a child and an adult which is classified child sexual abuse. Images depicting sexual abuse of a child is illegal, immoral and offensive to a reasonable adult. The availability of such image's risks normalising child sexual abuse.”<sup>51</sup>*

The Classification Review Board rejected Dr Ey's expert analysis and their own eyes, deciding that the image above was a depiction of two adult males:

*“The Review Board determined that the Greek artwork inside the panel image on page 135 is a depiction of an older-looking male and a younger-looking male, and not a depiction of paedophilia, child exploitation, child pornography, or any other interaction between an adult and a minor.”<sup>52</sup>*

Those operating Australia's National Classification Scheme can view an image of rape and conclude that it depicts consensual sex. As such, it should probably come as no surprise that they can also view an image of paedophilia and be unable to identify the child.

This scandalous situation must be rectified if Australians are to maintain trust in the Australian Classification Board and the Classification Review Board. It is unacceptable that officials in these bodies are seemingly blind, inept and incompetent. It only fuels perceptions in the community that the assessments made are deliberately dishonest as part of a sinister agenda to change societal norms to accept child pornography by those entrusted to uphold standards of decency and morality and to protect children from harmful and disturbing content.

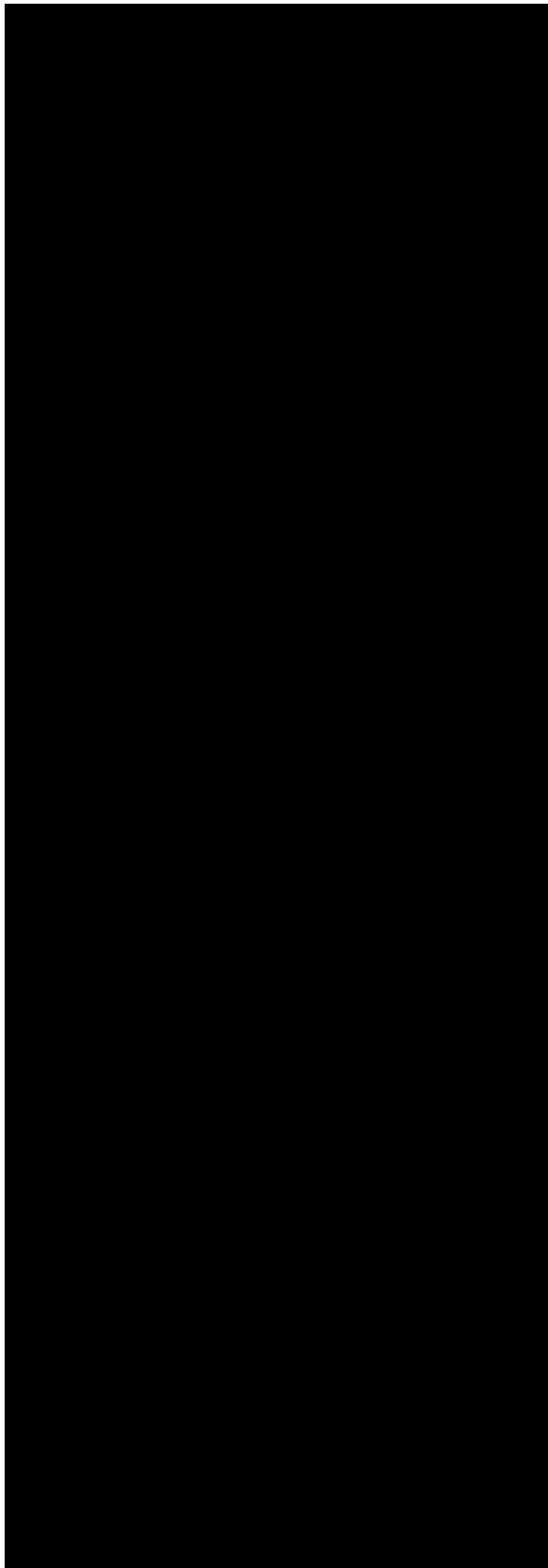
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<sup>50</sup> *Brief in support of motion to dismiss*, 26 July 2022 <https://mediacoalition.org/files/litigation/in-re-gender-queer-maia-kobabe-brief-support-motion-dismiss.pdf>

<sup>51</sup> Letter of Dr Lesley-anne Ey dated 23 May 2023 (found at Annex E)

<sup>52</sup> Classification Review Board decision for *Gender Queer* dated 5 July 2023 (see Annex D)

It is also disturbing that *Gender Queer* was not found to reach the threshold of being a publication that is unsuitable for a minor to see or read given its other pornographic depictions of sexual activity and the obscene dialogue in the book.



For instance, one section depicts the author and her sister discussing tasting their 'vagina slime' with the following text:

*"WHEN I FINALLY GOT OLD ENOUGH NOT TO BE EMBARRASSED TALKING ABOUT THIS STUFF WITH MY SISTER:*

*SISTER: It really never occurred to you to put something into you vagina, not even a finger?*

*AUTHOR: It really didn't.*

*SISTER: So you've never tasted yourself?*

*AUTHOR: What? NO! EW!*

*AUTHOR: WAIT – you have?*

*SISTER: HAHA, of course! You should try.*

*AND SO: Vagina slime..."*

A different section deals with 'sexting':

*"FAST-FORWARD: WE'VE BEEN DATING FOR TWO MONTHS. WE'VE MADE OUT, WE'VE HAD SEX, WE'VE MOVED ON TO SEXTING AT WORK.*

*TEXT: I got a new strap-on harness today*

*TEXT: I can't to put it on you it will fit my favorite dildo perfectly*

*TEXT: you are going to look SO HOT*

*TEXT: I can't wait to have your cock in my mouth – I'm going to give you the blow job of your life*

*TEXT: Then I want you inside me*

*AUTHOR: HOLY SHIT*

*AUTHOR: This is the most turned on I've ever been in my life. I am DYING."*

Image 9: Two separate panels from "Gender Queer".

Another problem with *Gender Queer* is that it promotes the web address of a highly disturbing pornographic website that specialises in violent and degrading pornography.

This is the only web address in any text in *Gender Queer* and it essentially acts as an invitation or promotion to readers of this publication to visit this pornographic website. It is reasonable to conclude that many readers of *Gender Queer*, including minors, would visit this weblink.

The home page of this website contains numerous degrading and pornographic images of primarily gagged women bound and suspended by chains and ropes. Several have been tortured with pegs placed onto sensitive areas of the body, including genitals, breasts and nipples.

The home page of this website promotes material including:

- Bound Gang Bangs
- Brutal Sessions
- Families Tied
- Public Disgrace
- Sadistic Rope
- Electrosluts
- Men in Pain
- 30 Minutes of Torment
- Bound in Public



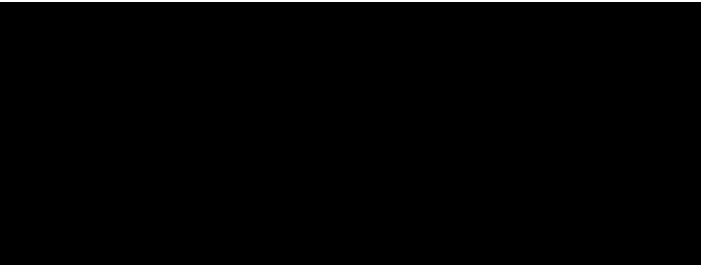
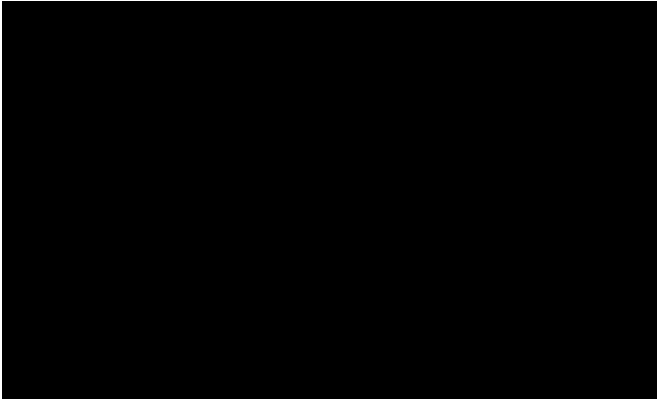
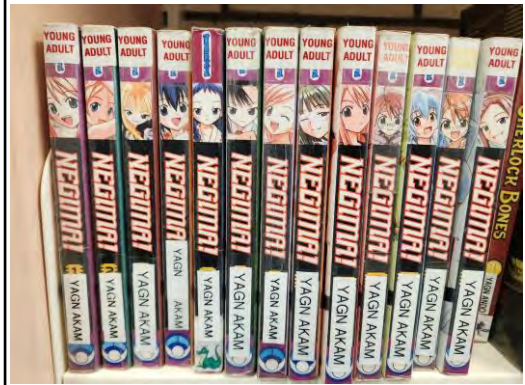
### Failure Example 3: Ken Akamatsu



Mr Ken Akamatsu was elected as a member of the Japanese Diet in 2022. Prior to that, he led a successful campaign to ensure that Japanese-style comics or ‘manga’ containing images of children engaged in sexual activity did not become illegal.

Mr Akamatsu was asked by CNN about his views on child pornography comics in a 2014 article titled “Sexually explicit Japan manga evades new laws on child pornography”, stating:

*“Actual children suffering and crying is not acceptable. But manga doesn’t involve actual children. So there are no actual victims.”<sup>53</sup>*

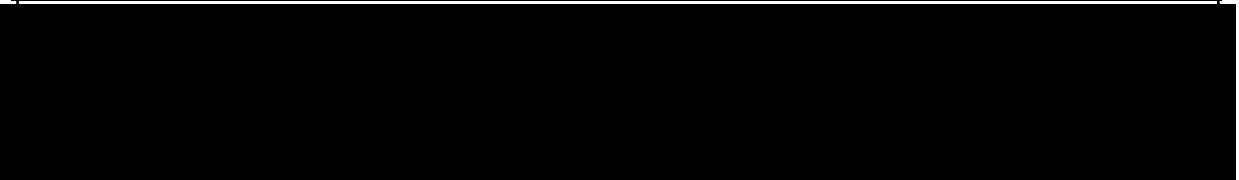
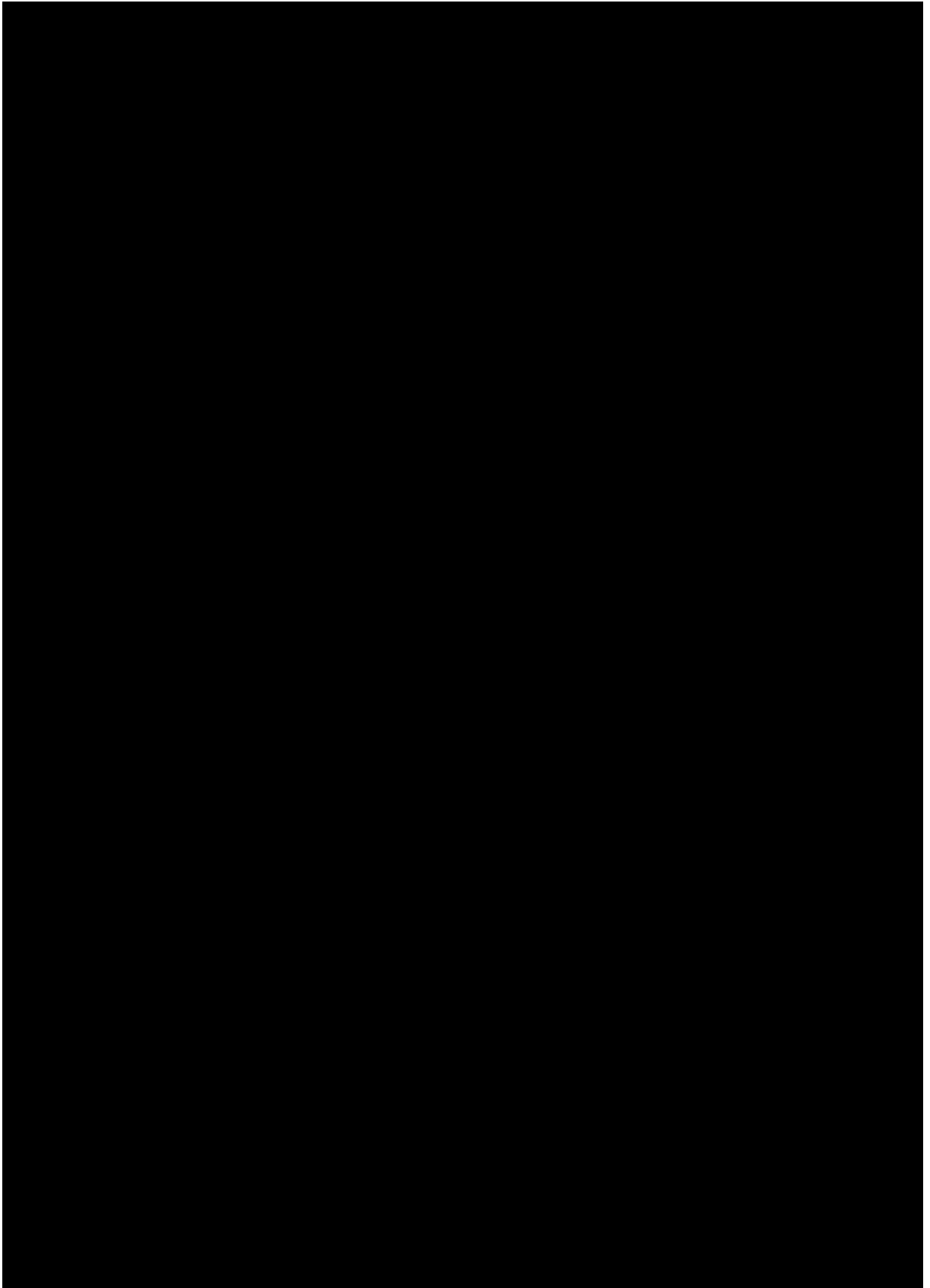


Shel Raphen, a US-based librarian and self-described bisexual, transgender and genetic freak describes parts of *UQ Holder!* as follows:

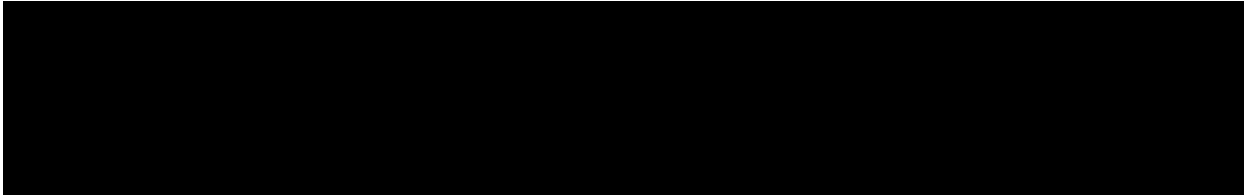
*“But then I notice in the corner... how it says it’s for an 18+ audience only? I flip through and the entire volume is just a lot of very explicit sex scenes. Like, very explicit. Tits out, [redacted] dick out sex. Lots and lots of sex... suddenly, in just this volume, it became pretty explicitly porn. Like, the entire volume.”<sup>54</sup>*

<sup>53</sup> <https://edition.cnn.com/2014/06/18/world/asia/japan-manga-anime-pornography/index.html>

<sup>54</sup> <https://cohost.org/shel/post/372692-the-uq-holder-incid>



I lodged complaints against Mr Akamatsu’s comics with the Queensland Office of Fair Trading in 2023. The complaints were not actioned on the basis that there was no power to refer these publications to the Australian Classification Board, even though only weeks earlier the Office of Fair Trading had referred *The Boys* for assessment using powers under the *Classification of Publications Act 1991 (Qld)*. Further, those powers were effectively used, with half the publications discovered in libraries and being lent to children found to be pornographic and classified as Category 1 Restricted publications.



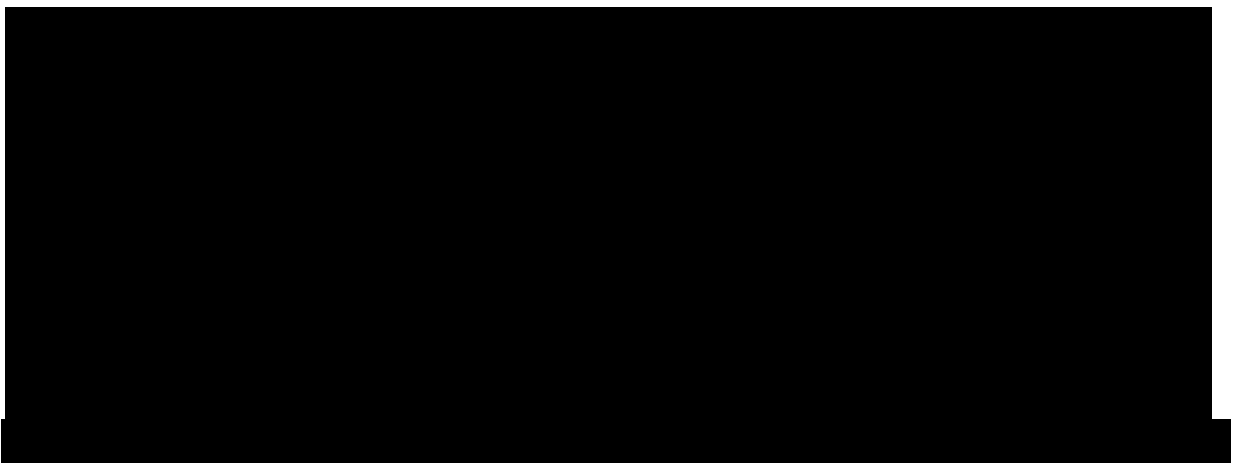
Queensland bureaucrats do have the power to refer publications to the Australian Classification Board. The fact that they are now refusing to use those powers mean that, essentially, Queensland bureaucrats have decided that Mr Ken Akamatsu’s child pornography comics can freely circulate in the community.

#### Failure Example 4: *Sex Criminals* by Matt Fraction and thousands of other visually pornographic publications

*Sex Criminals* by Mr Matt Fraction is another comic series that depicts pornography and other obscene and disturbing imagery, including frequent pornographic sex acts, grandmothers engaged in group masturbation sessions, sexualised nudity and cocaine snorting off the bodies of strippers.

Again, the Office of Fair Trading has refused to refer this series to the Board for assessment. It is currently widely available in public libraries across Australia. *Sex Criminals* represents thousands of other unassessed pornographic publications which are available across Australia for children to read – often provided to them by public officials after being purchased using public funds.

Given their visual nature, these publications must be legally restricted so that minors cannot access them. Unlike text-based publications which require the ability to read, disturbing themes in these publications will be conveyed instantly to the youngest child who opens them.



## Failure Example 5: Australian Penthouse

In other example of clearly pornographic material being given the greenlight under Australia’s National Classification Scheme, *Australian Penthouse* magazines have often been classified as Unrestricted. For instance, the Classification Review Board assessed the May 2013 edition of the now defunct Australian Penthouse magazine, finding:



Image 15: “Australian Penthouse” magazines

*“The Board in particular considered the images on pages 43-50 which is the pictorial titled ‘Sparring Partners’. This pictorial consists of a series of photographs of two adult females, Karina and Eufat. These photographs include: on page 44 one woman with her tongue on the other woman’s right nipple, on page 45 one woman kneeling in front of the other apparently undoing the bikini bottom of the other woman, on pages 46-47 one woman kissing the back of the other now nude woman who is posed in a rear facing position on elbows and knees, page 48 with one woman holding the other woman’s left breast and placing her mouth close to (but not touching) the breast, page 49 two women nude stand with their bodies touching each other, depicting their tongues touching and one woman’s hand apparently brushing the other woman’s breast, and page 50 with the two women nude standing opposite each other with the pubic area of one woman visible.”<sup>55</sup>*

Despite making these findings about this edition of Australian Penthouse, the Australian Classification Board went on to state:

*“The Review Board considered that these images discreetly imply sexual activity involving consenting adults which is not high in impact.*

*According to the Publications Guidelines, this content would be permitted in the Unrestricted Category.”<sup>56</sup>*

It should be beyond belief that officials responsible for upholding decency and morality in Australian society and for protecting minors from content that may harm or disturb them believe that the material as described above is not high in impact – especially given that it is published in a magazine predominantly used by men for the purpose of sexual gratification and masturbation. This material is pornographic and is unsuitable for a minor to see or read. It should not be permitted to be displayed in public and it should be restricted from distribution to children.

## Failure Example 6: Fifty Shades of Grey

While all the examples above deal with visual depictions of pornography, pornographic content can be textual. The *Guidelines* state that Unrestricted publications must be discreet:

*“Written references to sexual activity involving consenting adults should be discreet.”<sup>57</sup>*

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<sup>55</sup> Classification Review Board decision for *Australian Penthouse* (serial classification) dated 5 November 2013

<sup>56</sup> Ibid.

<sup>57</sup> *Guidelines for the Classification of Publications* 2005

*Fifty Shades of Grey* by Ms E.L. James is an example of a high profile pornographic textual publication which has been made widely available despite Australia's National Classification Scheme clearly requiring that such a publication should be restricted. The fact that this publication and many others have never been assessed is proof that distributors have contempt for Australia's National Classification Scheme, the protection of minors and the standards of morality and decency in Australian society. It is also proof that bureaucrats operating Australia's National Classification Scheme are completely inept and are unprepared to meet their statutory responsibilities and duties. This publication should have been called in.

An excerpt of *Fifty Shades of Grey* clearly demonstrating its pornographic and disturbing content is reproduced below:

*"He places his hand on my naked behind, softly fondling me, stroking round and round with his flat palm. And then his hand is no longer there...and he hits me – hard. Ow! My eyes spring open in response to the pain, and I try to rise, but his hand moves between my shoulder blades keeping me down. He caresses me again where he's hit me, and his breathing's changed – it's louder, harsher. He hits me again and again, quickly in succession. Holy fuck it hurts. I make no sound, my face screwed up against the pain. I try and wriggle away from the blows – spurred on by adrenaline spiking and coursing through my body.*

*"Keep still," he growls. "Or I'll spank you for longer."*

*He's rubbing me now, and the blow follows. A rhythmic pattern emerges, caress, fondle, slap hard. I have to concentrate to handle this pain. My mind empties as I endeavour to absorb the gruelling sensation. He doesn't hit me in the same place twice in succession – he's spreading the pain.*

*"Aargh!" I cry out on the tenth slap – and I'm unaware that I have been mentally counting the blows.*

*"I'm just getting warmed up."*

*He hits me again then he strokes me softly. The combination of the hard stinging blow and his gentle caress is so mind number. He hits me again...this is getting hard to take. My face hurts, it's screwed up so tight. He strokes me gently and then the blow comes. I cry out again.*

*"No one to he you, baby, just me."*

*And he hits me again and again. From somewhere deep inside, I want to beg him to stop. But I don't. I don't want to give him the satisfaction. He continues the unrelenting rhythm. I cry out six more times. Eighteen slaps in total. My body is singing, singing from the merciless assault.*

*"Enough," he breathes hoarsely. "Well done, Anastacia. Now I'm going to fuck you."*

*He caresses my behind gently, and it burns as he strokes me round and round and down. Suddenly he inserts two fingers inside me, taking me completely by surprise. I gasp, this new assault breaking through the numbness around my brain."<sup>58</sup>*

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<sup>58</sup> *Fifty Shades of Grey* by E.L James, chapter 16 at about page 200

Similar pornographic text fills much of the rest of *Fifty Shades of Grey*. It is clearly not discreet. If this publication was assessed it would have to be restricted under Australian law. Indeed, given its intensity, it is likely that this publication would become a Category 2 Restricted publication. Instead, it is widely available for minors to read in public libraries all over the nation.

## Aligning the Classification Scheme with Community Expectations

The examples above in the submission clearly show a failure of Australia's National Classification Scheme to meet community expectations. It is shocking that the material presented above has been deemed by authorities as not reaching the threshold of requiring restriction from minors. Clearly, no child should be exposed to any of this content.

Australian society expects that Australia's National Classification Scheme will have robust powers to assess and classify all forms of pornographic content (including online content) so that this material can be restricted from public display and distribution to minors. They expect that all sexual imagery involving children and other obscene behaviour such as bestiality will be prohibited.

Further, given the widespread availability of internet pornography and the increasing level of interactivity in films, computer games and publications, consumers should be made aware of any links in content to pornographic websites. Further, the content of the pornographic website should be considered when making classification decisions about films, computer games and publications.

### **Recommendation 11:**

A strengthened and clearer definition of pornography should be developed to address the failings of the current system and to ensure that all pornographic content and sexualized nudity is restricted content which cannot be displayed in public or distributed to minors. This definition must be strong enough to capture all forms of pornography, including the pornographic text and comic imagery detailed in this submission.

### **Recommendation 12:**

A strengthened and clearer definition of obscene material should be developed to address the failings of the current system and to ensure that all obscene content such as descriptions or depictions of bestiality are Refused Classification (Prohibited).

### **Recommendation 13:**

A section should be inserted into the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* akin to s.9A to the effect that a publication, film or computer game that depicts or describes a minor in a sex act or sexualized nudity of a minor must be Refused Classification (Prohibited).

### **Recommendation 14:**

Where a film, publication or computer game displays a weblink to a pornographic website or links to a pornographic website, consumers should be warned of this link and the classification of the film, publication or computer game should take into account the content of the website as if that content was part of the film, publication or computer game.

## Issue 3: Fit for Purpose Governance

The examples outlined in the previous section of this submission demonstrate that the governance of Australia's National Classification Scheme has failed and needs reform.

The Convenor of the Australian Classification Board has powers to 'call in' media to be assessed, while the various law enforcement agencies of the states also have powers to refer media to the Australian Classification Board for assessment. Further, there is an expectation under the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* that publishers of pornographic material will apply for classification of publications.

However, this system has clearly not worked. Publishers refuse to submit applications for assessment. And the powers under the Act are rarely utilised by officials despite the widespread availability of highly pornographic publications with extremely sexualized content that clearly appears to warrant restrictions under the standards of the current scheme.

Australia's National Classification Scheme must be reformed so that publishers are required to submit pornographic publications for assessment and will face significant penalties for refusing to do so.

Further, it is simply not reasonable for distributors of publications, such as public libraries, to claim that they have no responsibility in this field, especially as it is not always clear who is the first distributor or publisher of a publication in Australia. As such, any distributor of a publication (including public libraries) should bear the responsibility ensuring that the publications that they distribute are suitable and there should be penalties for distributors such as council libraries if they distribute pornographic publications to the public and especially minors.

### **Recommendation 15:**

The publisher or distributor of a film, publication or computer game containing pornographic content must be required to apply for a classification of that content under the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* and there should be heavy fines for failing to apply for a classification of pornographic content and jail terms for distributing a publication which would be Refused Classification (Prohibited) if assessed.

### **Recommendation 16:**

A publisher or distributor should be defined to include any person or entity that distributes a film, publication or computer game (such as a local council library).

This submission has also provided several clear examples where officials operating Australia's National Classification Scheme have made merits-based determinations that fly in the face of reality and which are clearly not based on a responsible or reasonable assessment of the content classified.

Further, in the case of the assessment of the publication of *Gender Queer*, the Classification Review Board has refused to provide the names of those involved in making the decision to





**Australian Government  
Classification Review Board**

**Date:** 18 October 2023

**Members:** Susan Bush (Convenor)  
Damien Power  
David Toll

**Applicant:** Alliance Against Islamophobia



**Australian Government  
Classification Review Board**

**Date:** 05 July 2023

**Applicant:** Bernard Gaynor

*Image 16: The last two Classification Review Board reports showing that the names of decision makers were listed for the decision about the film "Kerala" (top) but that they were not for the decision about "Gender Queer" (bottom)*

classify this publication as Unrestricted. This differs from every other decision ever made by the Classification Review Board in its history. This apparent intent to hide from public scrutiny only serves to heighten cynicism about this decision, given it approved for public distribution a publication that showed its author fantasising about paedophilia.

For the purpose of transparency and public confidence in the Australia's National Classification Scheme, all decisions (with reasons) of the Australian Classification Board and Classification Review Board should be made public. Further, the names of the decision makers should be put on every decision report and where a split decision is reached, the voting decision of each official should be noted.

An additional aspect of public accountability and governance is that the public must have confidence that decision makers will act in the public interest and not for partisan reasons. Given sexuality is a contentious issue and the inability of officials in the Classification Review Board to identify a child in an image depicting a paedophile scene contained in an LGBTQIA+ themed-book, this requirement for public trust is needed more than ever.

Given the Convenor of the Classification Review Board, Ms Susan Bush, publicly describes herself as an LGBTQIA+

**Susan Bush**



Convenor

APPOINTED: 15 September 2022

APPOINTMENT EXPIRES: 14 September 2024

Ms Susan Bush, 48, resides in Queensland and is a Freedom of Information Officer, actor, and writer. She has an extensive background in the television broadcast and film industries in both Australia and the UK. She holds a Master of Arts from The University of Queensland, and a Bachelor of Arts in Communication and Media Studies from Griffith University. She has appeared in numerous television and stage productions, and was awarded Certificate of Highest Achievement (Best Actress)

at the 2014 Australian Screen Industry Network Awards. She is also a licensed private investigator.

Ms Bush is a parent of three children, and an **advocate for LGBTQIA+ rights** and climate change action.

*Image 17: Screenshot of the Classification Review Board annual report showing that the Convenor, Ms Susan Bush, describes herself as an advocate for LGBTQIA+ rights.*



advocate, many Australians are likely to conclude that the decision made in relation to *Gender Queer* was taken for partisan reasons: officials did not want to publicly acknowledge that this book depicted a man fondling the genitalia of the boy because it would be embarrassing for the LGBTQIA+ movement.

Persons who are advocates for particular sexual identities should not have any role in overseeing any aspect of Australia's National Classification Scheme, nor should they be involved in assessing books that relate to the sexual identity that they advocate for.

Additionally, given the embarrassing reality that officials operating Australia's National Classification Scheme have been so incompetent as to describe rape pornography as 'consensual' and demonstrating that they are incapable of even identifying a child in a cartoon image of paedophilia in which the child is half the size of an adult, the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* must be amended to require officials be removed from their positions in such cases of abject and shocking incompetence.

The Act should also be amended to allow the Minister to reject classification decisions in such circumstances and to impose a higher level of restriction if of the opinion that it is necessary to do so to retain public confidence in the classification system or to maintain public standards of decency and morality.

**Recommendation 17:**

The *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* should be amended to require that all decision reports of the Australian Classification Board and Classification Review Board are made public and that the names of all officials who made those decisions are placed on decision reports.

**Recommendation 18:**

Senior officials operating Australia's National Classification Scheme should not be drawn from the ranks of those who advocate for specific sexual orientations and nor should such persons ever assess media containing themes relating to their favoured sexual orientation.

**Recommendation 19:**

A section should be inserted into the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* requiring officials to be removed from their positions if they demonstrate that they are manifestly unsuitable to exercise powers under Australia's National Classification Scheme, such as being unable to protect minors or uphold standards of decency or morality because they cannot identify a child in paedophile imagery or fail to comprehend the depiction of rape and other threatening and violent sexual conduct.

**Recommendation 20:**

The *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* should be amended to allow the Minister to reject a decision of the Australian Classification Board or Classification Review Board and to impose a higher level of classification if, in the opinion of the Minister, the classification decision manifestly misunderstood the content being assessed or failed to uphold the standards of decency and morality expected by the Australian public.

Lastly, this submission strongly believes that the current situation of forcing concerned parents to pay for classification decisions for pornographic content that has not been classified must end. Nor should they be required to pay for classification reviews if it can be demonstrated that there is a significant level of public concern about a classification decision.

Australia's National Classification Scheme is expected to uphold community standards. To ensure that this occurs, especially given the clear failures outlined above, the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* should be amended to provide for a mechanism for members of the public to challenge decisions without cost if they can demonstrate a significant level of community concern.

**Recommendation 21:**

The *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* should be amended to allow the public to require an assessment of a film, publication or computer game for classification (or a review of a classification) if it can be demonstrated that there is considerable public concern about the lack of classification (or classification decision) by submitting an application which has the support of 500 persons.

## Recommendations

### **Recommendation 1:**

Australia's National Classification Scheme must have powers to assess and classify all films, publications and computer games, even if those powers are discretionary in some instances.

### **Recommendation 2:**

Australia's National Classification Scheme should expand to include all online content, streaming services and webpages through the *Online Safety Act 2021* (Cth).

### **Recommendation 3:**

All commercial films and computer games must be assessed.

### **Recommendation 4:**

Publications and webpages or non-commercial films (such as social media films) and games that contain pornographic, sexually explicit content or sexualized nudity must be assessed.

### **Recommendation 5:**

Where a film, publication or computer game has been or can be assessed under Australia's National Classification Scheme and there is an online version of that content (such as an ebook or streamed film), the online version should be assessed and dealt with under the *Online Safety Act 2021* (Cth) in a manner that is consistent with the physical film, publication or computer game.

### **Recommendation 6:**

Additional classification categories should be introduced for publications (and webpages) that reflect those for films and computer games and which will enable better targeted restrictions for publications which should legally be restricted from minors in a similar fashion to MA15+ films.

### **Recommendation 7:**

'Refused Classification' should be renamed as 'Prohibited' to better reflect the meaning of this classification and to make this category more understandable for the Australian public.

### **Recommendation 8:**

All pornographic content, including online content, should be Refused Classification (Prohibited).

### **Recommendation 9:**

If the intestinal fortitude to prohibit pornography completely is lacking, all pornography, including online pornography, should be classified as restricted content and legally restricted from being displayed in public or distributed to minors.

**Recommendation 10:**

S.11 of the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* should be amended to require that classification decisions prioritise the protection of minors over the freedom of adults to read or see whatever they wish.

**Recommendation 11:**

A strengthened and clearer definition of pornography should be developed to address the failings of the current system and to ensure that all pornographic content and sexualized nudity is restricted content which cannot be displayed in public or distributed to minors. This definition must be strong enough to capture all forms of pornography, including the pornographic text and comic imagery detailed in this submission.

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Where a film, publication or computer game displays a weblink to a pornographic website or links to a pornographic website, consumers should be warned of this link and the classification of the film, publication or computer game should take into account the content of the website as if that content was part of the film, publication or computer game.

**Recommendation 15:**

The publisher or distributor of a film, publication or computer game containing pornographic content must be required to apply for a classification of that content under the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* and there should be heavy fines for failing to apply for a classification of pornographic content and jail terms for distributing a publication which would be Refused Classification (Prohibited) if assessed.

**Recommendation 16:**

A publisher or distributor should be defined to include any person or entity that distributes a film, publication or computer game (such as a local council library).

**Recommendation 17:**

The *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* should be amended to require that all decision reports of the Classification Board and Classification Review Board are made public and that the names of all officials who made those decisions are placed on decision reports.

**Recommendation 18:**

Senior officials operating Australia's National Classification Scheme should not be drawn from the ranks of those who advocate for specific sexual orientations and nor should such persons ever assess media containing themes relating to their favoured sexual orientation.

**Recommendation 19:**

A section should be inserted into the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* requiring officials to be removed from their positions if they demonstrate that they are manifestly unsuitable to exercise powers under Australia's National Classification Scheme, such as being unable to protect minors or uphold standards of decency or morality because they cannot identify a child in paedophile imagery or fail to comprehend the depiction of rape and other threatening and violent sexual conduct.

**Recommendation 20:**

The *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* should be amended to allow the Minister to reject a decision of the Classification Board or Classification Review Board and to impose a higher level of classification if, in the opinion of the Minister, the classification decision manifestly misunderstood the content being assessed or failed to uphold the standards of decency and morality expected by the Australian public.

**Recommendation 21:**

The *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* should be amended to allow the public to require an assessment of a film, publication or computer game for classification (or a review of a classification) if it can be demonstrated that there is considerable public concern about the lack of classification (or classification decision) by submitting an application which has the support of 500 persons.

## Support

The following tables contain the initials and the post code of 1168 people from across Australia who have signed a form at my webpage supporting this submission.

<b>Initials</b>	<b>Post Code</b>	<b>Initials</b>	<b>Post Code</b>	<b>Initials</b>	<b>Post Code</b>
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K. T.	836	F. H.	2118	S. N.	2167
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S. G.	2019	L. T.	2126	A. M.	2204
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J. C.	2047	J. F.	2146	C. D.	2213
B. T.	2064	G. W.	2147	M. K.	2213
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L. T.	2072	M. B.	2148	L. M.	2219
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P. v.	2280	J. A.	2444	G. J.	2603
S. C.	2282	J. P.	2444	M. F.	2611
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B. P.	2299	J. K.	2455	J. B.	2614
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G. B.	2304	P. Z.	2462	B. L.	2617
J. L.	2305	R. S.	2474	C. R.	2617
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G. S.	2323	G. B.	2485	R. D.	2641
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G. M.	2753	V. Z.	3037	D. E.	3152
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J. O.	2765	G. K.	3046	D. O.	3174
C. O.	2765	D. S.	3056	D. S.	3175
C. M.	2768	S. P.	3059	S. C.	3178
S. Z.	2768	C. T.	3064	A. G.	3179
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D. H.	2903	J. M.	3134	B. L.	3266
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T. B.	3351	N. L.	3802	J. W.	4054
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D. A.	3634	E. S.	3831	E. S.	4075
P. S.	3658	L. C.	3840	C. W.	4076
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C. G.	3673	P. C.	3874	C. C.	4112
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I. D.	3726	E. C.	4000	S. M.	4114
D. M.	3737	J. H.	4011	M. B.	4116
R. K.	3747	K. P.	4017	G. M.	4118
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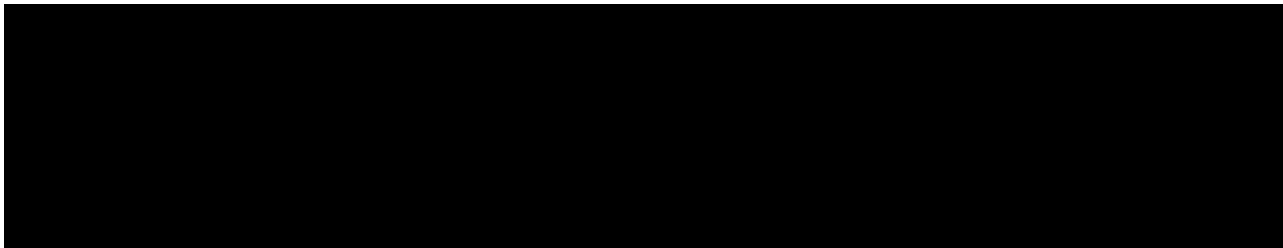
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S. E.	4118	P. C.	4159	J. T.	4211
S. H.	4118	L. M.	4159	J. M.	4212
B. K.	4121	D. S.	4159	A. S.	4212
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K. S.	4121	D. A.	4161	L. F.	4213
L. W.	4122	D. T.	4161	P. L.	4213
D. B.	4122	J. M.	4163	C. G.	4213
S. S.	4122	L. M.	4163	R. G.	4214
R. H.	4122	A. T.	4163	P. N.	4214
J. B.	4122	J. D.	4164	S. C.	4214
J. N.	4122	R. D.	4164	M. G.	4214
P. S.	4123	N. T.	4164	A. M.	4215
E. Q.	4123	D. B.	4165	J. C.	4215
D. T.	4123	L. A.	4165	S. S.	4215
L. R.	4123	C. S.	4165	P. S.	4216
A. W.	4124	D. D.	4169	B. S.	4216
E. F.	4124	M. W.	4170	A. W.	4216
J. F.	4124	C. W.	4170	P. P.	4216
M. H.	4124	J. P.	4170	C. B.	4217
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B. G.	4125	B. M.	4173	M. L.	4218
V. J.	4125	P. B.	4178	A. E.	4218
T. G.	4125	J. R.	4178	J. C.	4221
M. G.	4125	L. M.	4178	L. F.	4221
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C. M.	4133	J. R.	4209	M. B.	4227
V. A.	4151	M. E.	4210	W. F.	4228
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L. E.	4152	G. M.	4211	D. T.	4272

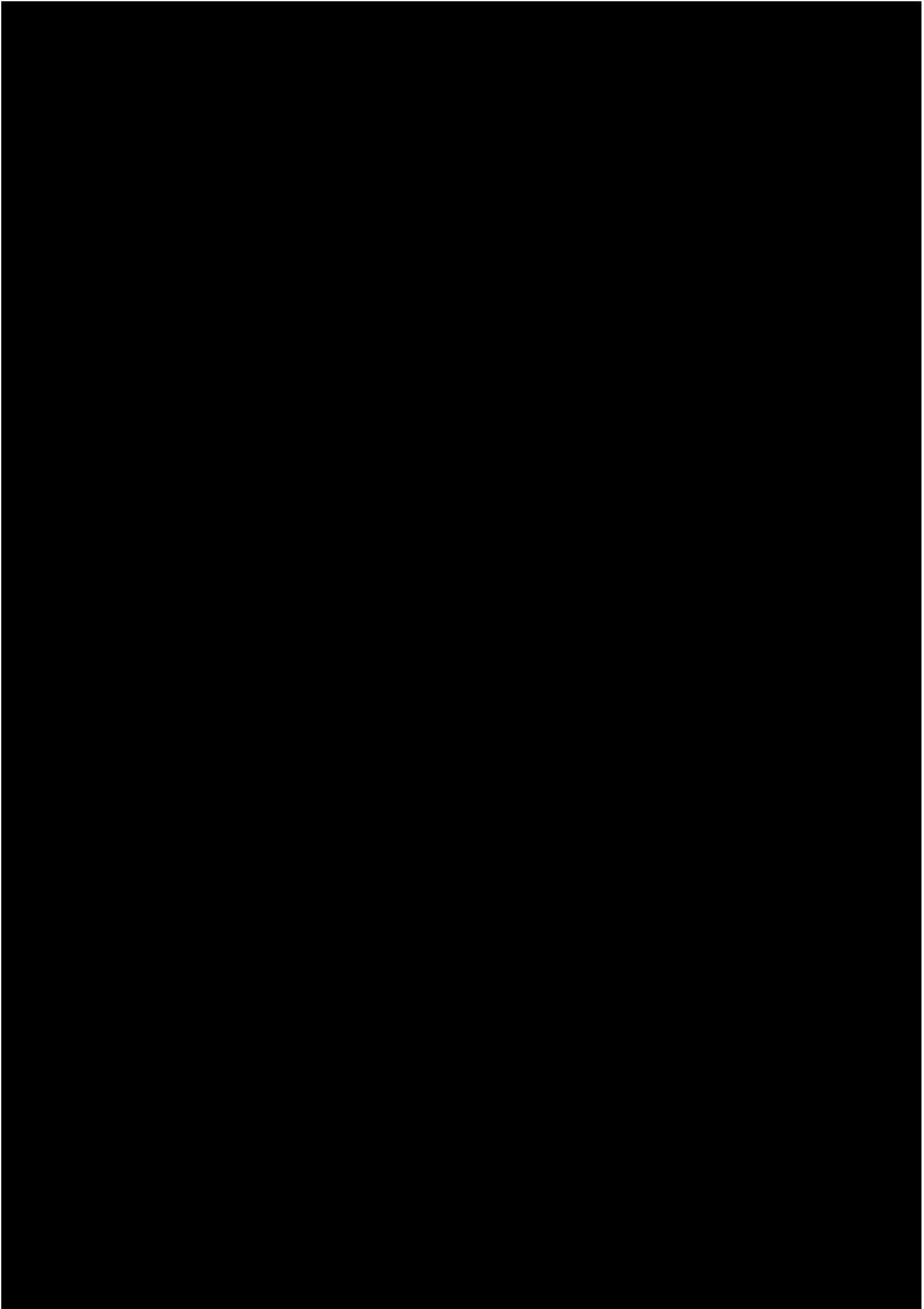
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K. W.	4305	E. C.	4362	J. P.	4553
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C. C.	4305	J. M.	4370	D. A.	4556
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R. R.	4305	P. K.	4401	T. R.	4556
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G. L.	4306	P. R.	4413	W. P.	4556
G. H.	4307	G. M.	4421	B. R.	4557
H. S.	4309	E. N.	4442	C. H.	4558
D. S.	4310	A. G.	4500	D. E.	4558
A. L.	4312	F. V.	4500	D. B.	4558
L. B.	4313	G. T.	4500	G. W.	4560
G. B.	4341	E. L.	4503	C. L.	4560
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R. E.	4350	S. M.	4505	B. K.	4561
L. E.	4350	L. V.	4505	J. K.	4561
R. D.	4350	R. W.	4505	M. B.	4561
B. L.	4350	M. B.	4506	A. R.	4564
D. H.	4350	P. C.	4508	A. P.	4565
K. P.	4350	J. A.	4509	L. C.	4570
D. M.	4350	R. M.	4510	P. P.	4570
K. S.	4350	K. H.	4510	P. C.	4570
B. B.	4350	R. B.	4511	B. A.	4573
C. W.	4350	E. B.	4514	C. W.	4573
A. T.	4350	R. O.	4515	I. B.	4575
D. K.	4350	A. O.	4515	W. G.	4575
C. N.	4350	R. N.	4516	A. H.	4575
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E. V.	4350	A. G.	4520	T. M.	4575

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G. F.	4655	L. C.	4740	L. T.	5022
P. W.	4655	S. C.	4740	N. Z.	5024
L. C.	4655	M. G.	4740	R. S.	5024
V. J.	4655	H. B.	4741	P. M.	5034
W. D.	4655	J. H.	4744	C. B.	5038
J. D.	4655	P. R.	4751	H. N.	5038
M. A.	4660	R. F.	4751	P. G.	5039
D. T.	4662	J. H.	4751	C. C.	5039
P. B.	4670	P. H.	4800	C. H.	5041
M. H.	4670	S. F.	4805	M. S.	5044
N. P.	4670	S. S.	4805	E. Š.	5045
J. G.	4670	K. F.	4805	R. A.	5050
B. R.	4670	J. C.	4807	V. C.	5051
C. W.	4670	B. O.	4812	J. A.	5052
T. F.	4670	S. M.	4812	B. M.	5052
J. P.	4670	C. B.	4814	M. S.	5064
N. G.	4671	M. G.	4814	D. B.	5072
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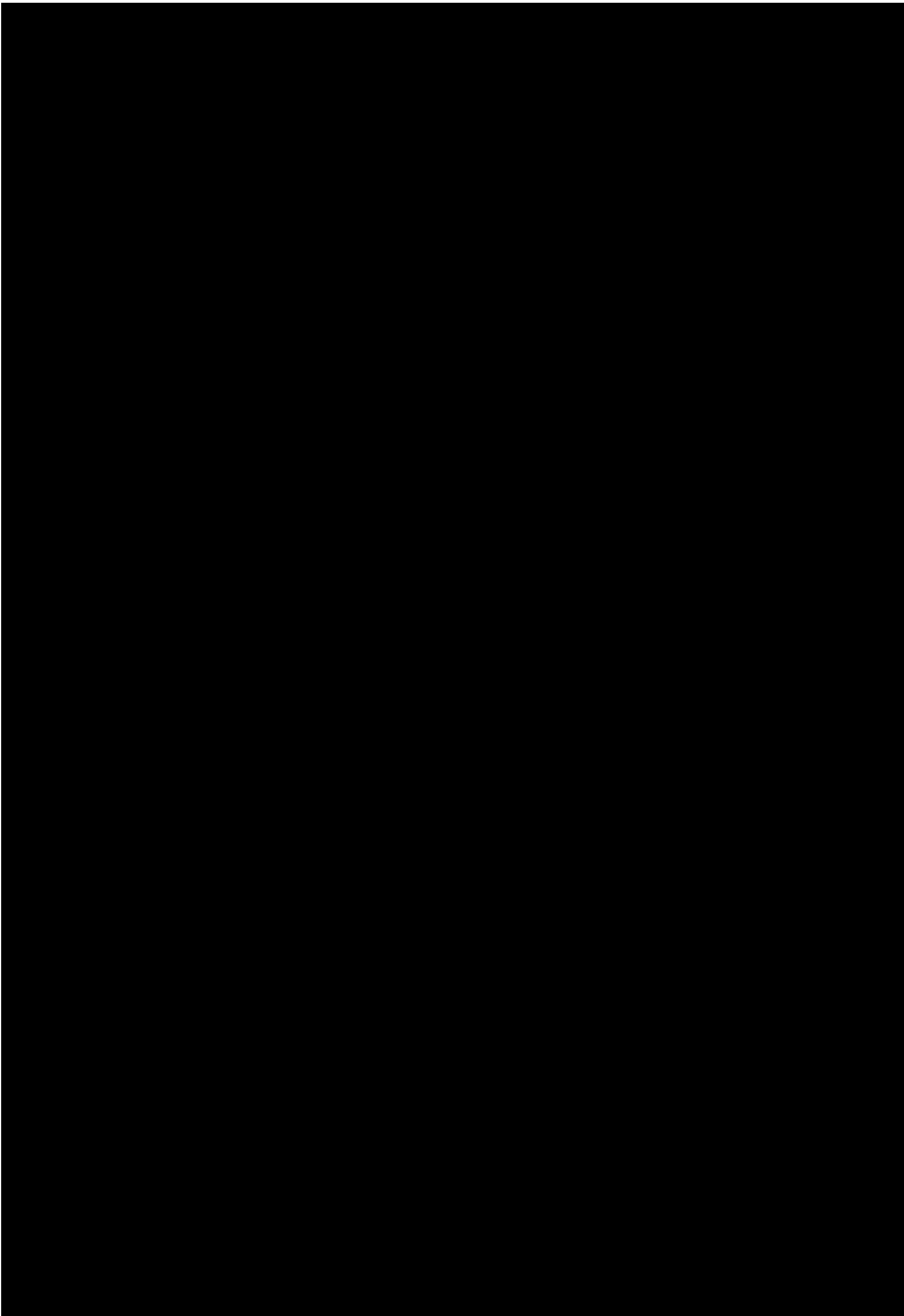
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J. B.	5162	M. V.	6050	D. B.	6163
S. S.	5163	G. D.	6053	J. T.	6164
D. C.	5173	L. N.	6054	G. S.	6166
S. D.	5204	P. H.	6055	J. M.	6166
J. C.	5214	B. M.	6056	K. R.	6167
P. A.	5231	L. E.	6057	M. d.	6167
P. S.	5235	J. T.	6059	L. d.	6167
M. C.	5244	S. d.	6061	V. d.	6167
A. C.	5251	M. d.	6061	T. W.	6168
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P. C.	5256	H. B.	6072	G. G.	6169
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L. C.	5290	R. D.	6084	C. W.	6208
J. M.	5333	G. H.	6084	B. D.	6208
J. K.	5606	A. C.	6100	T. W.	6210
F. W.	5631	D. S.	6101	K. S.	6220
M. C.	5671	L. R.	6104	A. I.	6226
M. C.	6000	B. A.	6104	P. S.	6230
D. R.	6008	D. H.	6107	T. A.	6280
R. W.	6009	A. S.	6107	R. C.	6280
K. H.	6009	G. S.	6107	J. S.	6280
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M. S.	6016	R. B.	6112	J. B.	6330
R. C.	6018	J. W.	6122	T. D.	6333
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J. M.	6019	J. B.	6148	B. M.	6430
A. M.	6020	J. C.	6152	A. E.	6502
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Initials	Post Code	Initials	Post Code	Initials	Post Code
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T. S.	6566	S. W.			
L. S.	6566	W. B.			
P. R.	6722	S. D.			
K. G.	6910	M. D.			
D. M.	7000	F. E.			
R. F.	7005	J. G.			
M. A.	7006	A. J.			
P. S.	7010	L. K.			
L. L.	7010	L. L.			
E. P.	7018	P. P.			
S. D.	7040	L. P.			
B. H.	7050	C. R.			
K. D.	7050	P. W.			
H. S.	7050	K. W.			
G. F.	7052	J. P.			
E. B.	7054	J. H.			
S. M.	7172	J. M.			
D. E.	7210	R. A.			
B. M.	7216	J. A.			
V. G.	7248	C. M.			
L. L.	7250	P. R.			
E. P.	7250	L. W.			
J. M.	7250	M. P.			
M. H.	7253	J. M.			
R. H.	7270	M. A.			
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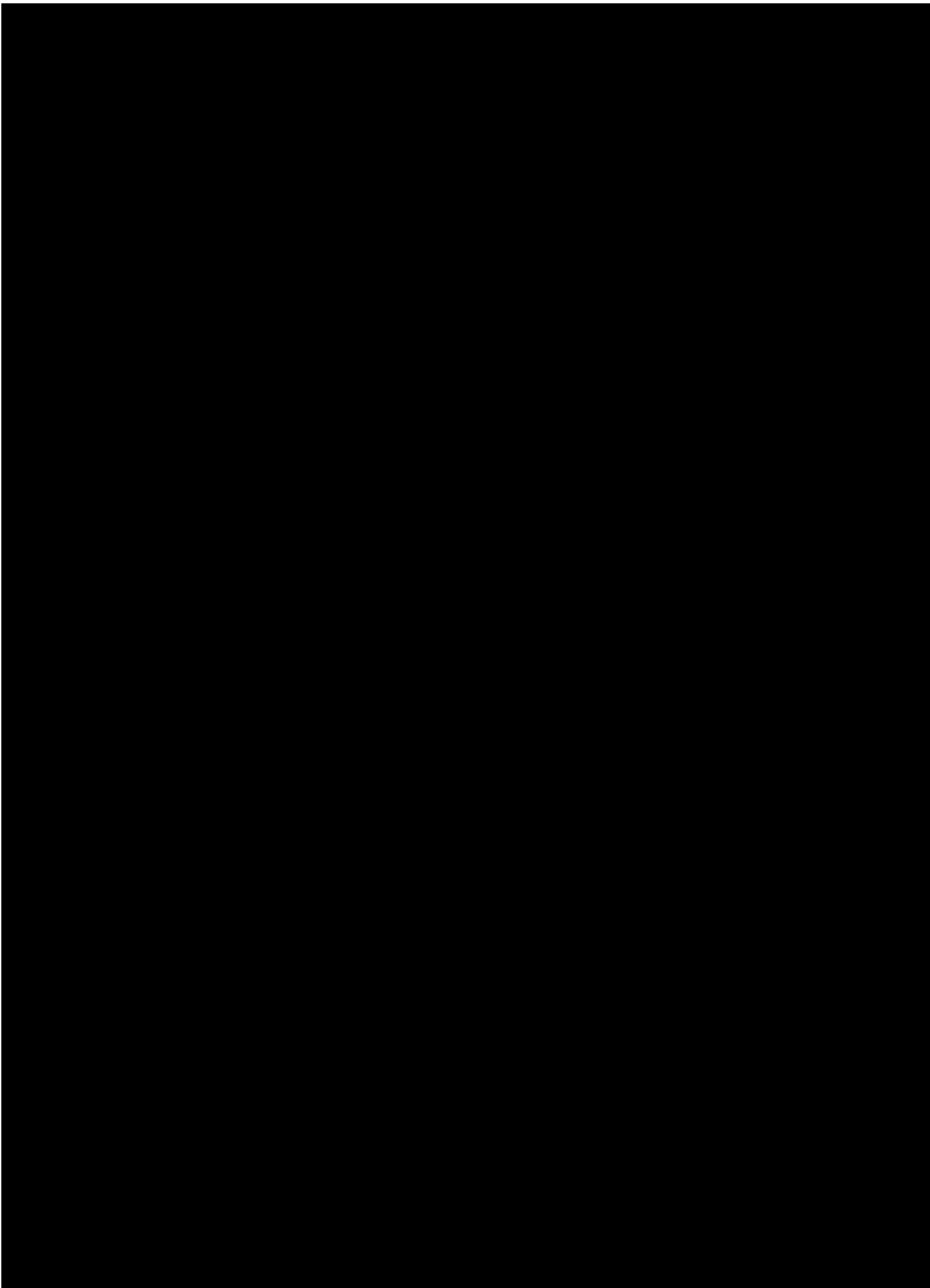




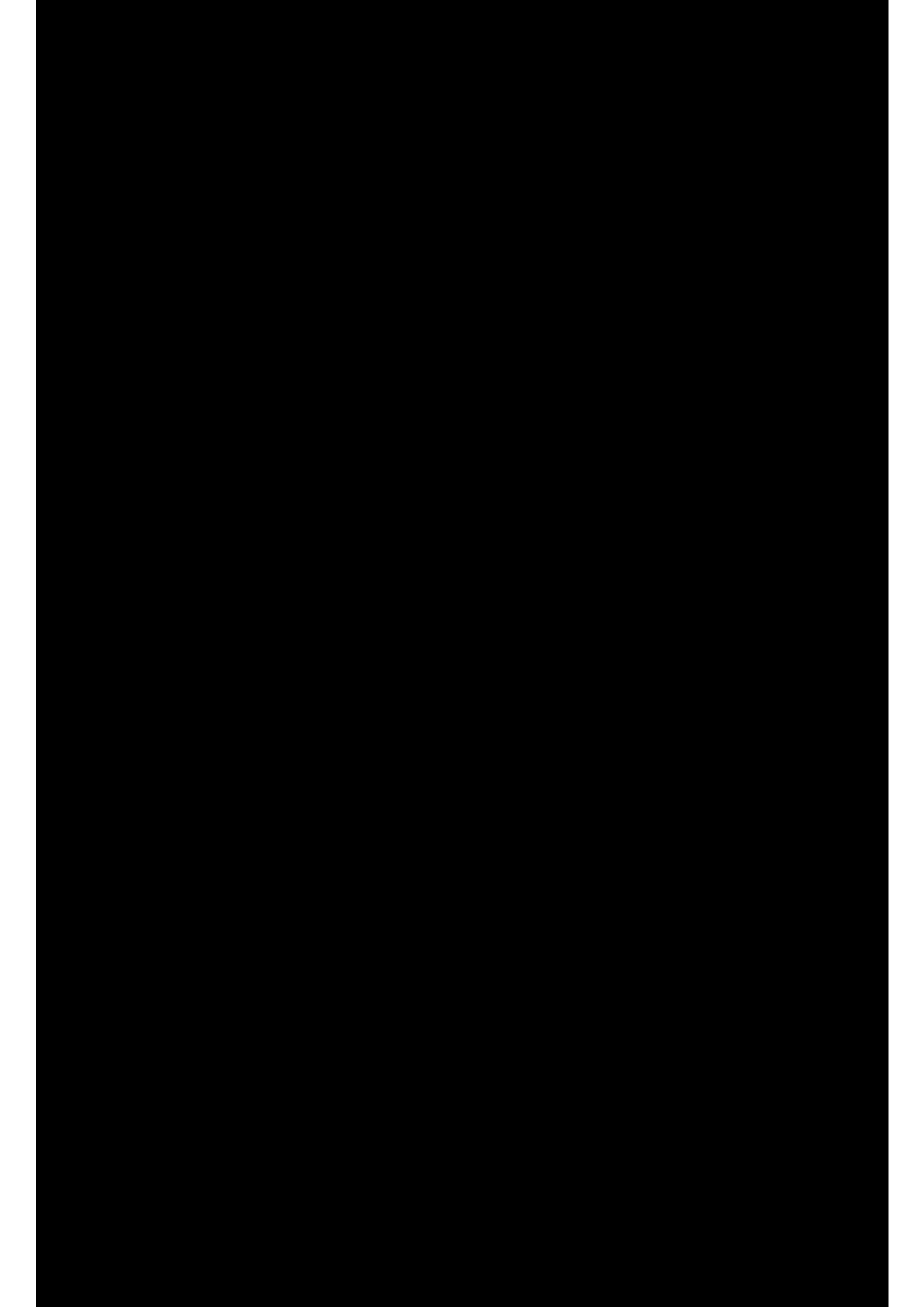




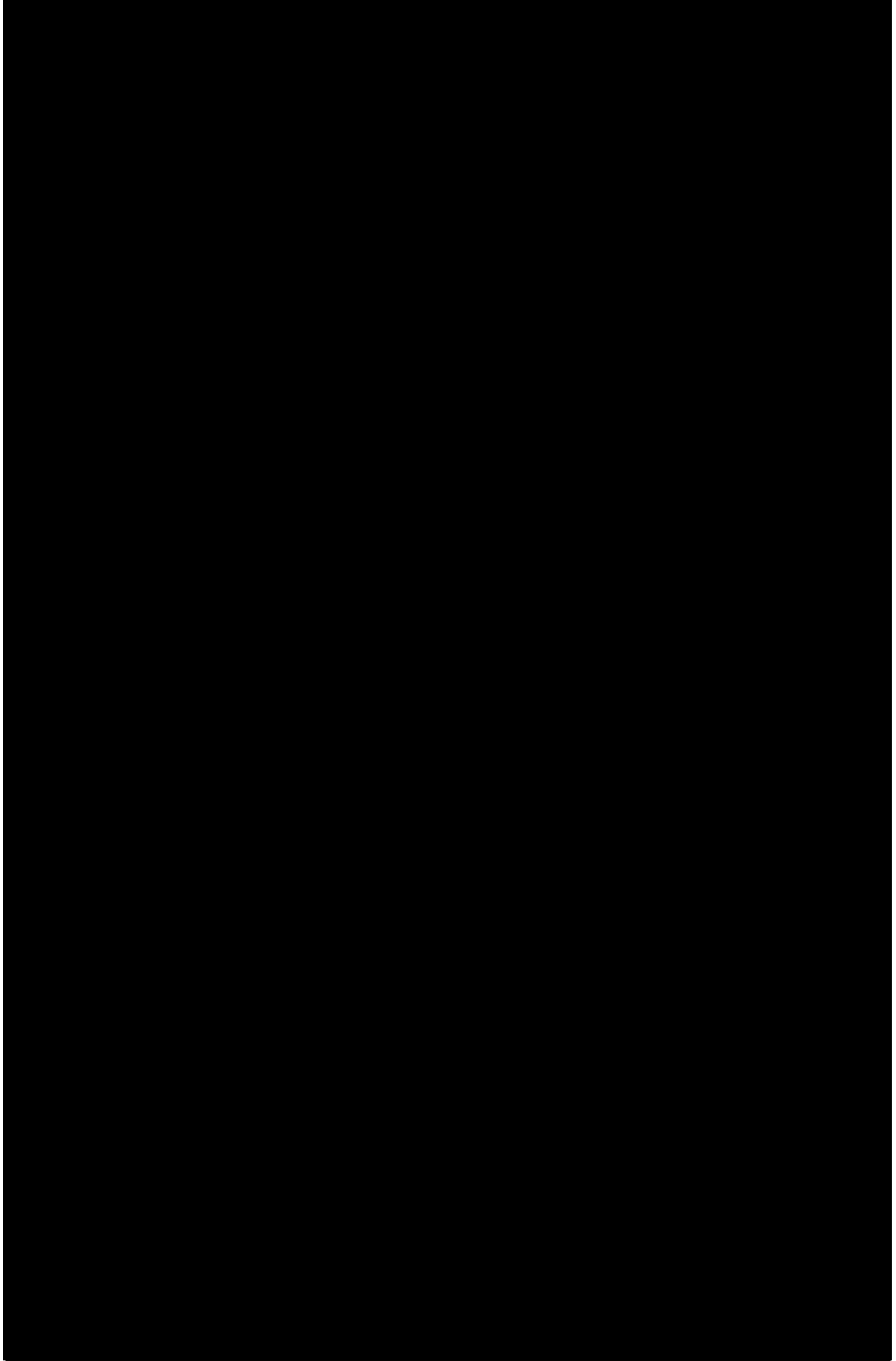




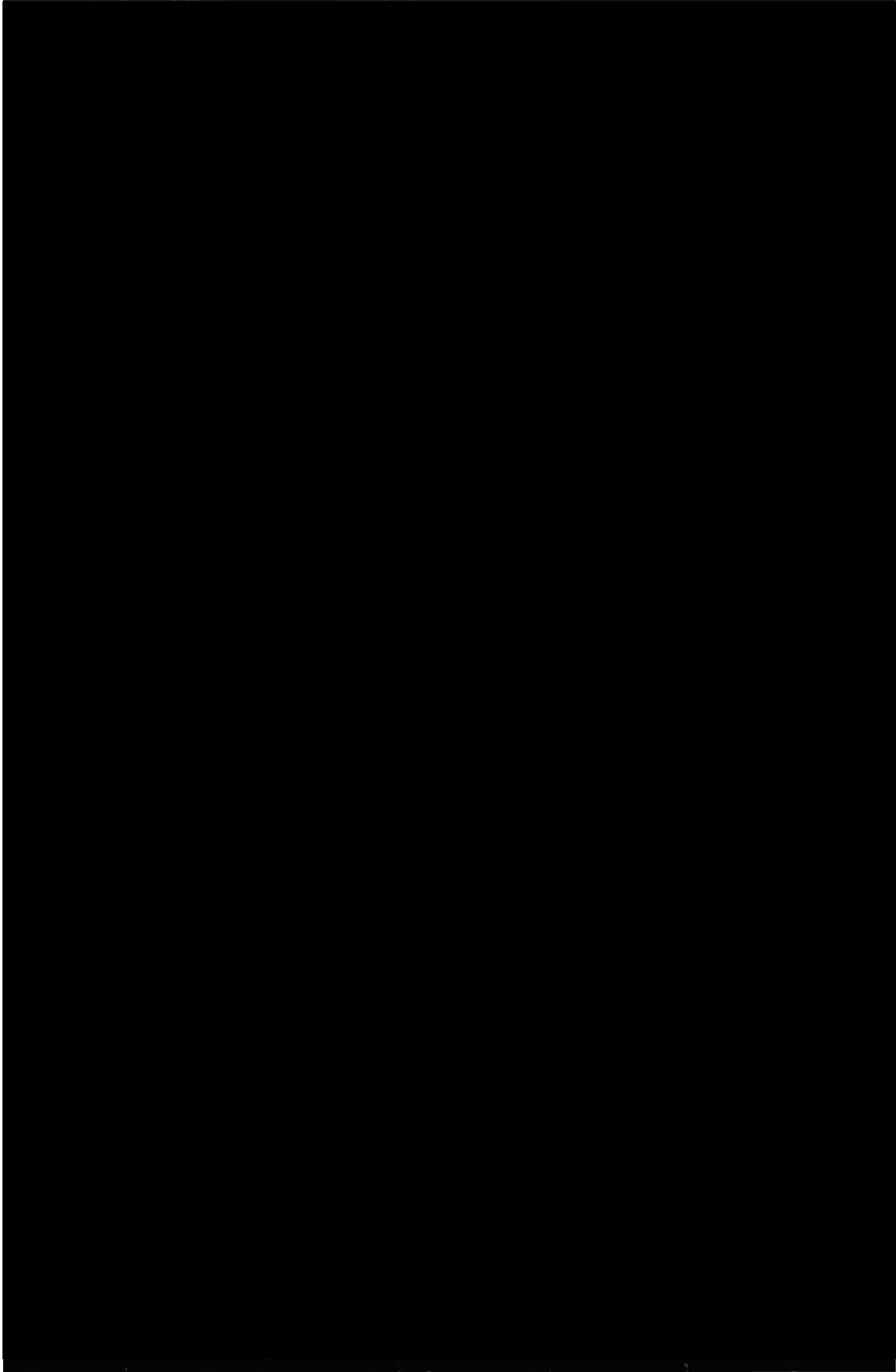


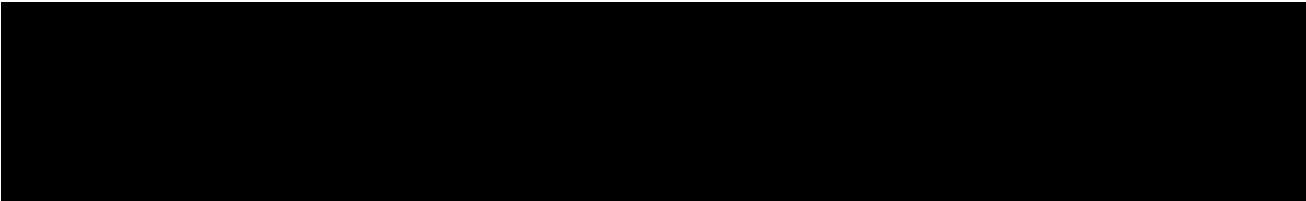


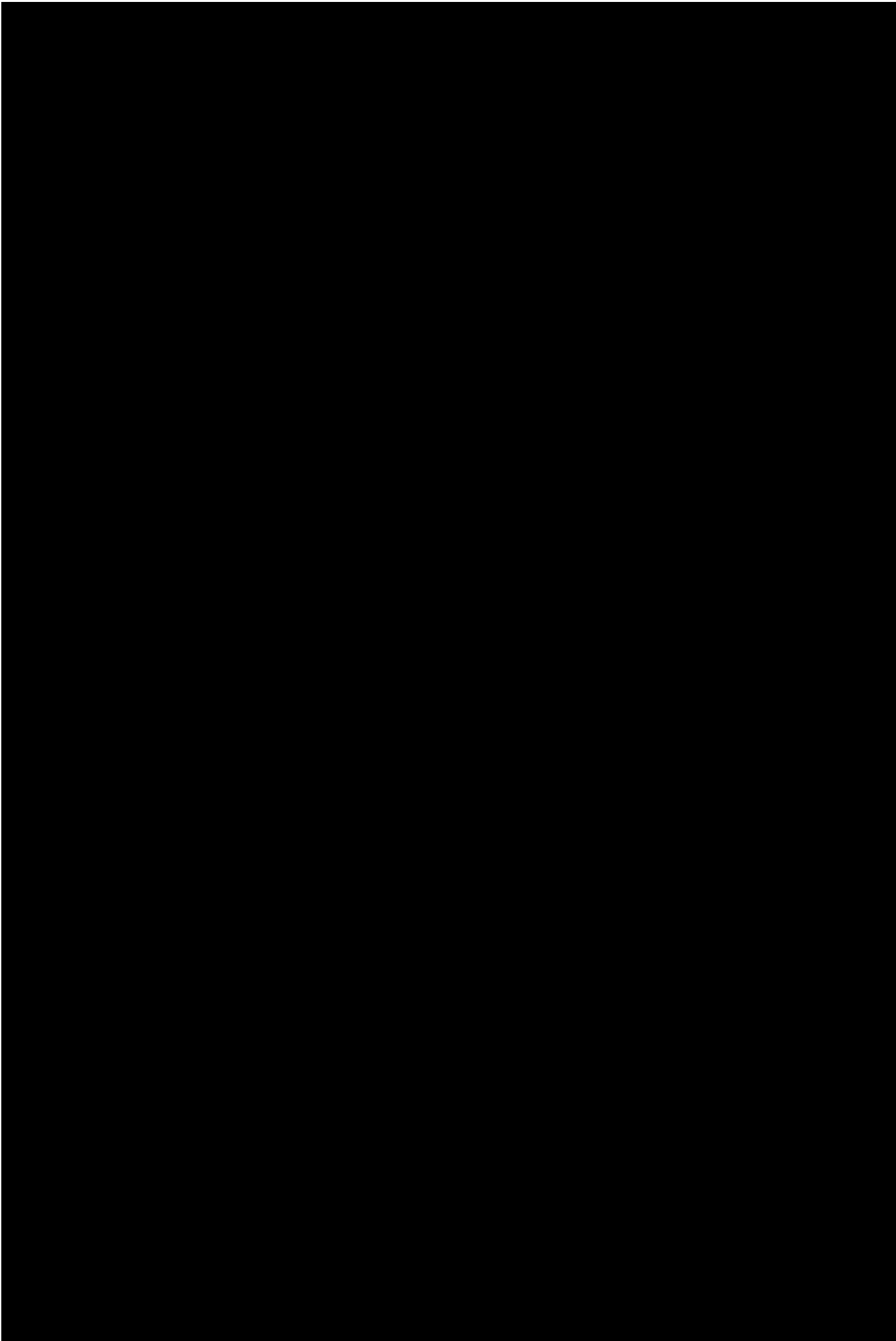




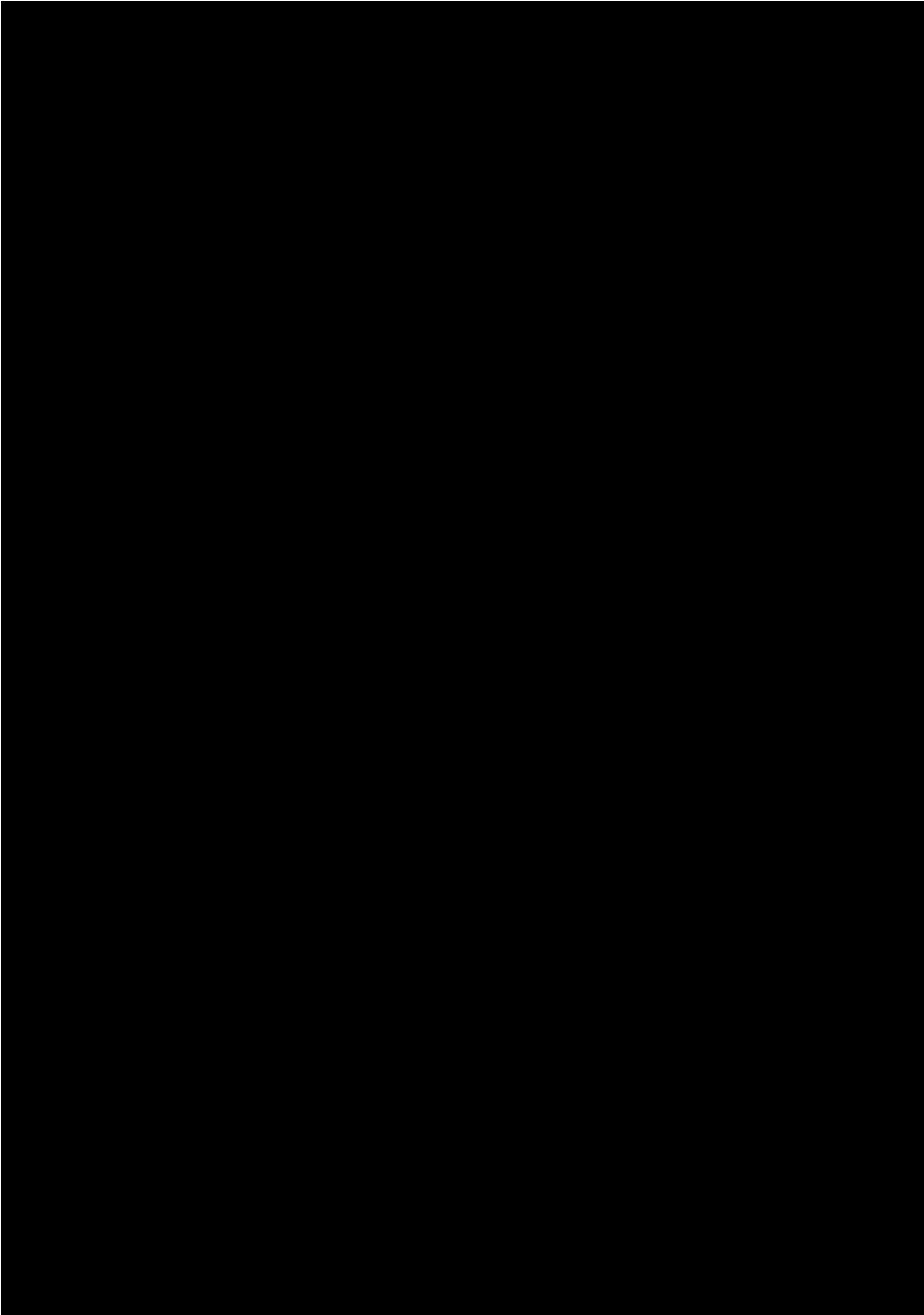


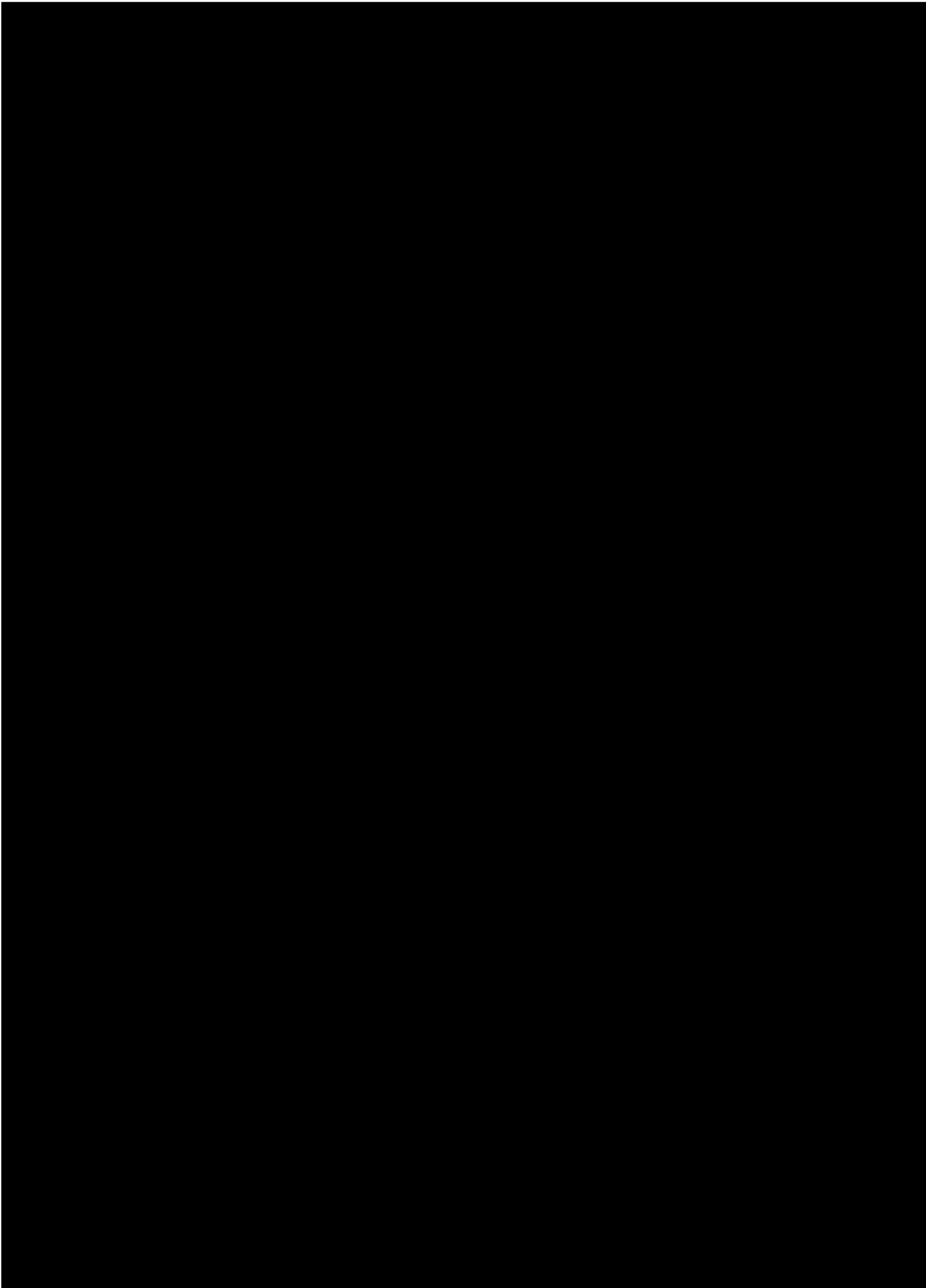




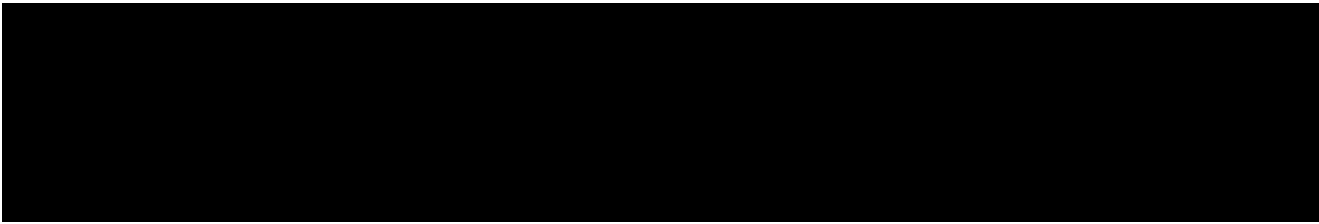




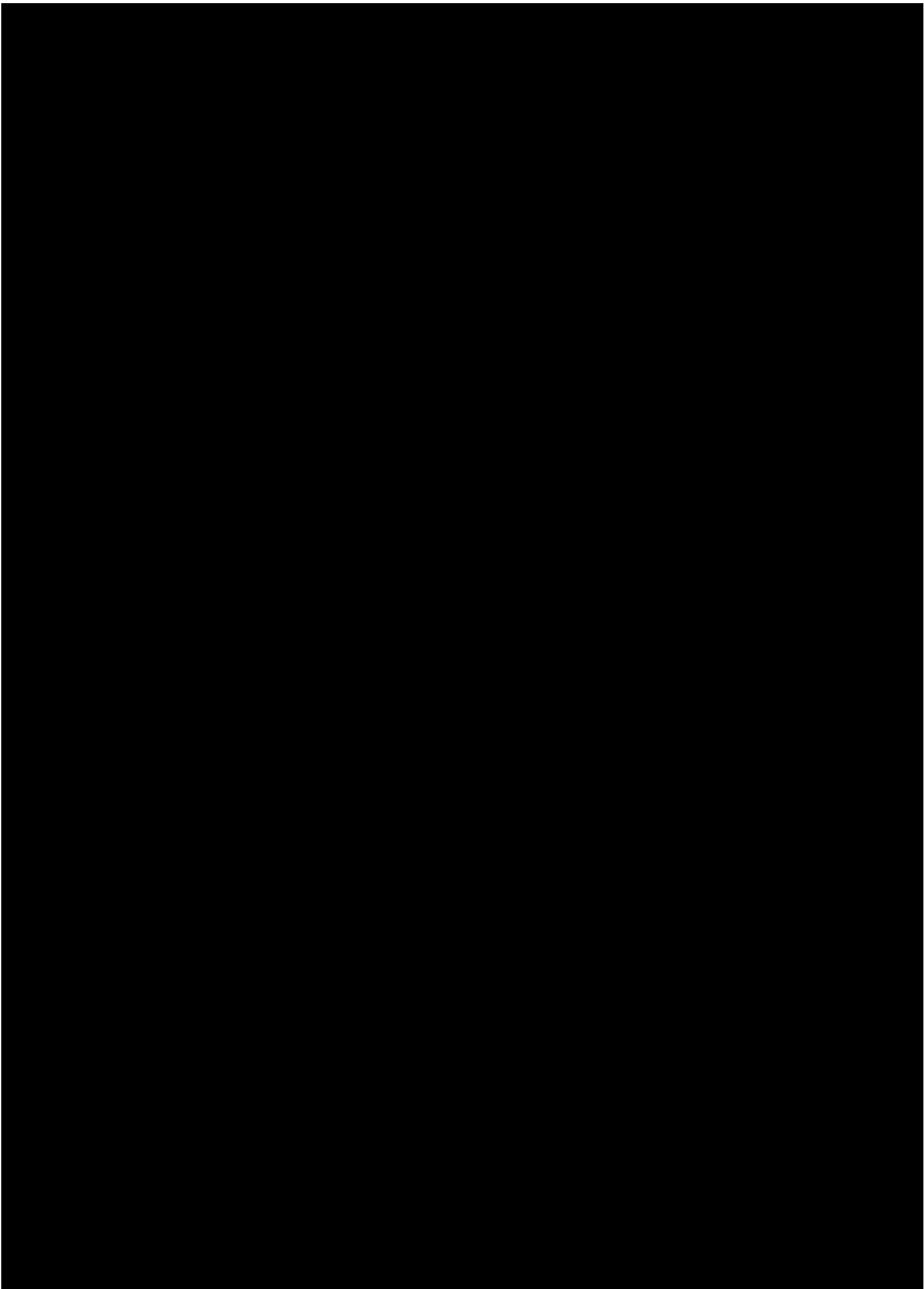


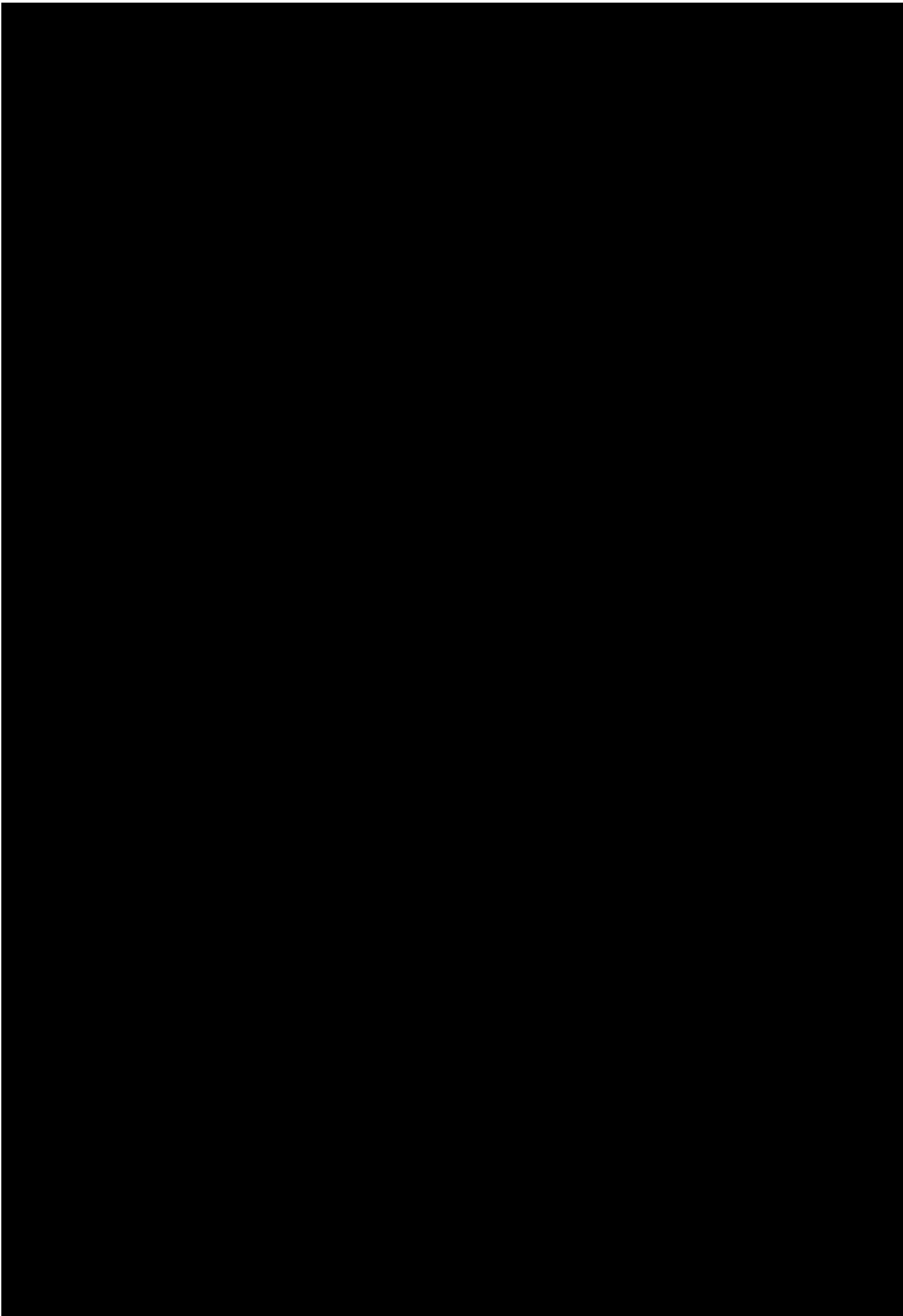


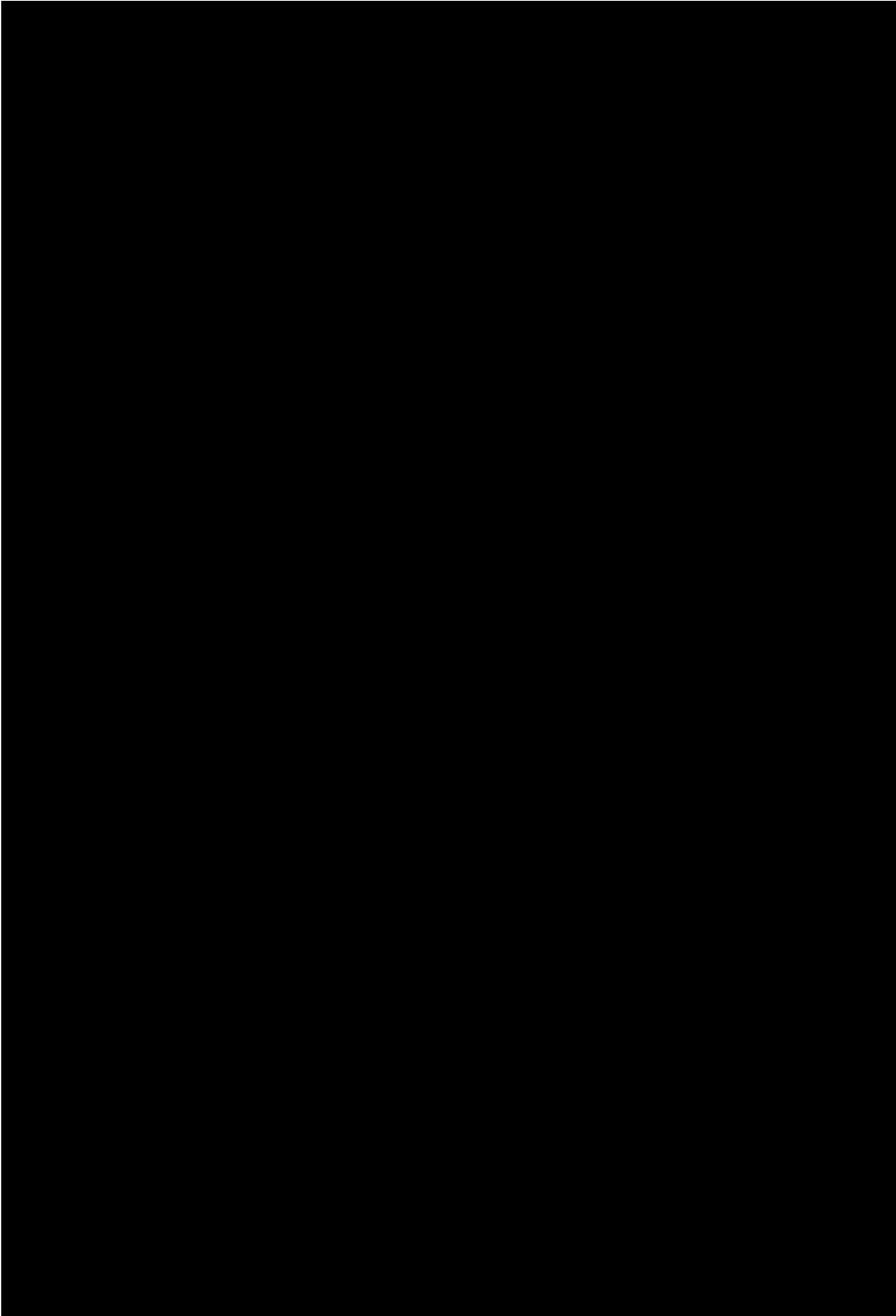




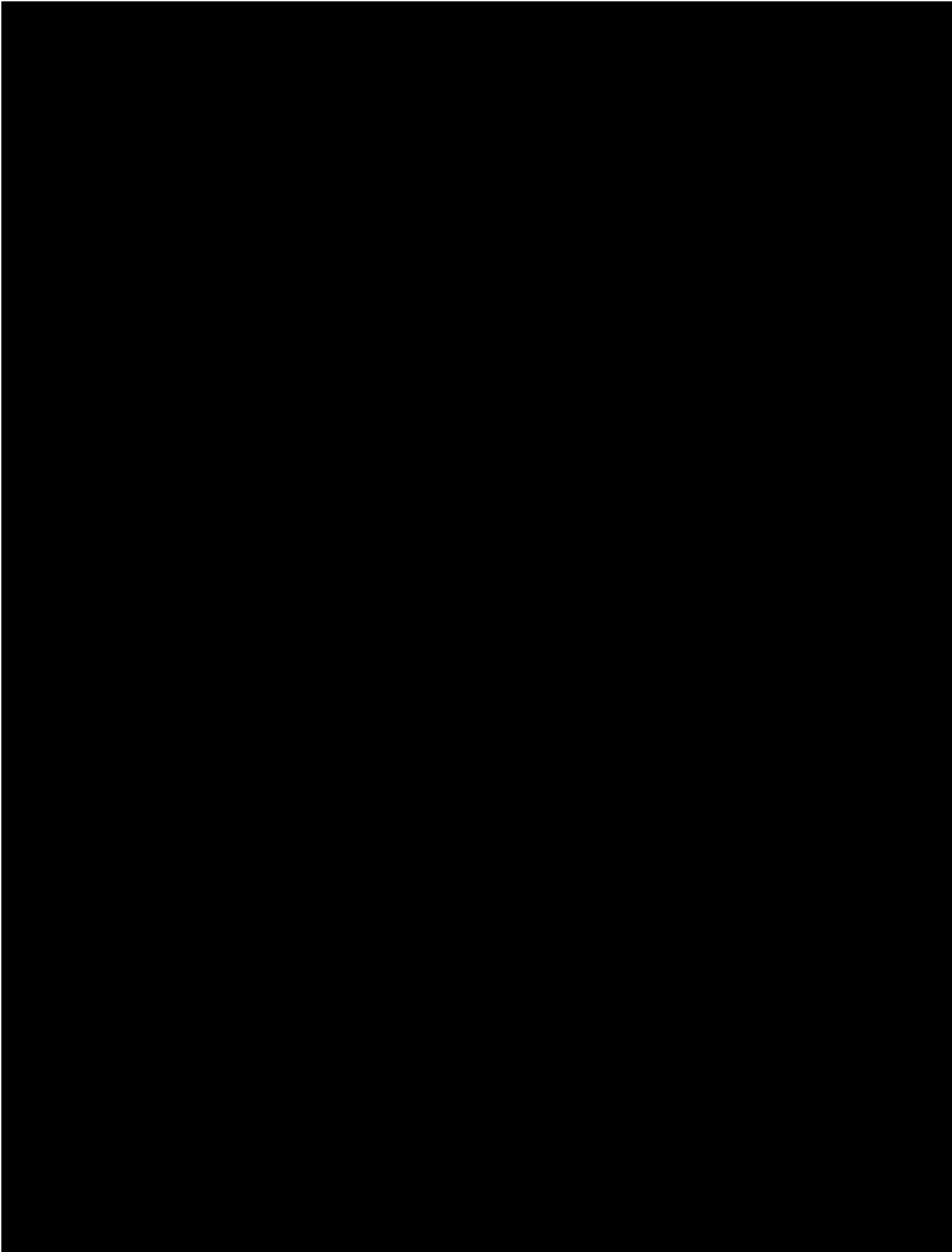












Annex D: Classification Review Board Decision and Reasons (*Gender Queer*) and Relevant Content from *Gender Queer*



# Australian Government

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## Classification Review Board

**Date:** 05 July 2023

**Applicant:** Bernard Gaynor

**Business:** To review the Classification Board's decision to classify the publication *Gender Queer*, **Unrestricted (M – Not recommended for readers under 15 years)**.

## Decision and reasons for decision

### 1. Decision

The Classification Review Board (the Review Board) classified the publication *Gender Queer* Unrestricted with the consumer advice '(M – Not recommended for readers under 15 years)'.

The decision was made by a majority of the Review Board members. These reasons reflect the reasons of the majority, which is the decision that prevails pursuant to s 79(1) of the *Classification (Publications, Computer game and Computer Games) Act 1995* (Cth) (the Classification Act).

### 2. Legislative provisions

The Classification Act governs the classification of publications and the review of classification decisions.

#### The Review Board

Part 5 of the Classification Act outlines the provisions relevant to the Review Board and its procedures.

Section 42 of the Classification Act sets out the persons who may apply for review of a decision:

- a) the Minister
- b) the applicant for classification of the publication, or the likely classification of the publication under section 33
- c) the publisher of the publication, or
- d) a person aggrieved by the decision.

Section 43 sets out the conditions regarding the manner and form of applications for review, including time limits. Under section 44, the Review Board must deal with an application for review in the same way that the Classification Board deals with an application for classification of a publication.

#### Classification of publications under the Classification Act

Section 9, subject to section 9A, provides that publications are to be classified in accordance with the National Classification Code (the Code) and the classification guidelines. Section 9A states that a publication that advocates the doing of a terrorist act must be classified RC.

Section 11 of the Classification Act requires that the matters to be taken into account in making a decision on the classification of a publication include the:

- a) standards of morality, decency and propriety generally accepted by reasonable adults, and
- b) literary, artistic or educational merit (if any) of the publication, and
- c) general character of the publication, including whether it is of a medical, legal or scientific character, and
- d) persons or class of persons to or amongst whom it is published or is intended or likely to be published.

## The National Classification Code

Relevantly, the Publications Table of the National Classification Code (the Code) provides that:

Publications (except RC publications, Category 2 restricted publications, and Category 1 restricted publications) **are to be classified Unrestricted**, and the Code also sets out various principles to which classification decisions should give effect, as far as possible:

- a) adults should be able to read, hear, see and play what they want
- b) minors should be protected from material likely to harm or disturb them
- c) everyone should be protected from exposure to unsolicited material that they find offensive
- d) the need to take account of community concerns about:
  - (i) depictions that condone or incite violence, particularly sexual violence and,
  - (ii) the portrayal of persons in a demeaning manner.

## The Guidelines

Three essential principles underlie the use of the *Guidelines for the Classification of Publications 2005* (the Guidelines), determined under section 12 of the Classification Act, the:

- importance of context
- assessment of impact, and
- the six classifiable elements—themes, violence, sex, language, drug use and nudity.

## 3. Procedure

Three members of the Review Board met on 29 May 2023, in response to the receipt of an application from Mr Bernard Gaynor on 5 May 2023, to conduct the classification review of the publication, *Gender Queer*, which had previously been classified **Unrestricted** with consumer advice of **'M – Not recommended for readers under 15 years'** by the Classification Board. The Review Board determined that the application was a valid application.

The Review Board was provided a written submission from the Applicant.

The Review Board read the publication.

The Review Board was provided written submissions from interested parties.

The Review Board heard an oral submission from the Applicant.

The Review Board heard an oral submission from a representative of the Australian Library and Information Association.

The Review Board then considered the matter.



## 4. Evidence and other material taken into account

In reaching its decision, the Review Board considered the following:

- (i) Mr Bernard Gaynor's application for review
- (ii) Mr Bernard Gaynor's written and oral submissions
- (iii) The written and oral submissions from The Australian Library and Information Association (ALIA)
- (iv) The written submissions from members of the public
- (v) The publication, *Gender Queer* by Maia Kobabe
- (vi) The relevant provisions in the Classification Act, the Code and the Guidelines, and
- (vii) The Classification Board's report.

## 5. Synopsis

*Gender Queer* is an autobiographical non-fiction graphic memoir, written by Maia Kobabe, that explores the author's path to identifying as nonbinary and asexual. This 240-page edition was published in 2020 by Oni-Lion Forge Publishing Group.

## 6. Findings on material questions of fact

The Review Board found that the cover of the publication was suitable for public display for the following reasons:

The front cover is low in impact; therefore, it is suitable for public display. The cover features the title, *Gender Queer: A Memoir*, the author's name, and a mirrored image of figures standing in water. The upper figure has short hair and is wearing a t-shirt and pants or shorts that have been rolled up above the knees. The lower figure has long hair reaching below the shoulders and is wearing shorts. A circular marker notes that the publication has been recognised as a 'Stonewall Honor Book' by the American Library Association.

The rear cover is low in impact; therefore, is suitable for public display. The cover features a blurb that describes the focus of the publication with the following statement: "In *Gender Queer*, Maia Kobabe has crafted an intensely cathartic autobiography about eir path to identifying as nonbinary and asexual, and coming out to eir family and society. By addressing questions about gender identity – what it means and how to think about it – the story also doubles as a much-needed, useful and touching guide."

The Review Board found that the publication contains aspects or depictions of importance under various classifiable elements:

- (a) Themes—the publication details the author's journey toward identifying as nonbinary and asexual. The exploration of these themes is clearly signalled to a prospective reader by the use of the words 'gender' and 'queer' on the front cover, rear cover, and spine; the illustration on the front cover; and the blurb on the rear cover.

The impact of this element is no higher than moderate and can be accommodated at the Unrestricted level.

- (b) Violence—not present in the publication.
- (c) Sex—there is a pervasive narrative element of sex throughout the publication that is consistently mitigated by multiple contributing factors:

Descriptions and depictions of sex are justifiably interlinked with the publication's central premise of a memoir recounting how the author struggled to make sense of gender identity and sexuality.

Descriptions and depictions of sex are highly stylised and contain little or no realistic detail.

Descriptions and depictions of, and references to, sexual activity involving consenting adults is not exploitative, or gratuitous.

The presence of sex and nudity in the publication is justified in context, specifically that of being a non-fiction memoir describing the author's lived experience.

Sex and nudity are justifiably interlinked with the publication's core themes of gender identity and asexuality. These themes are clearly signalled to a prospective reader by the use of the words 'gender' and 'queer' on the front cover, the illustration on the front cover, and the blurb on the rear cover.

The impact of this element is no higher than moderate and can be accommodated at the Unrestricted level.

- (d) Language—the publication contains infrequent strong coarse language, some of which is used with sexual connotations that are justified by context.

The impact of this element is no higher than moderate and can be accommodated at the Unrestricted level.

- (e) Drug Use—not present in the publication.

- (f) Nudity—the publication contains infrequent, highly stylised depictions of male and female nudity, including full-frontal nudity. These depictions are lacking in detail and justified in context.

The impact of this element is no higher than moderate and can be accommodated at the Unrestricted level.

## 7. Reasons for the decision

### *Summary*

The publication is an autobiographical memoir, as indicated by the front and rear covers, and the statement on the title page that reads, 'This is a work of non-fiction'. The publication contains recollections of the author's lived experiences presented using the visual style of a graphic novel.

The Review Board found that the publication contains highly stylised depictions of classifiable elements that are consistently justified by context and appropriate for its intended audience. The Review Board recognises that the intended audience for this publication are readers interested in the author, and/or interested in the publication's central themes of gender identity and asexuality.

The Review Board found that the publication contains highly stylised depictions of nudity and sex that, when considered within the broader context of the publication, are no higher than moderate in impact, and are not exploitative, offensive, gratuitous, or very detailed.

Given the context of the publication, the character of the publication, its recognised literary and educational merit, and the likely intended audience of the publication, a majority of the Review Board considers the treatment of the classifiable elements to be no higher than moderate in impact, and not

depicted in such a way that they offend against the standards of morality, decency, and propriety generally accepted by reasonable adults to the extent that this publication should be legally restricted.

#### *The application by Mr Gaynor*

Mr Gaynor summarised his submissions in his application as follows (at [4]):

- a) The Board wrongly applied the Act, Code and Guidelines to the findings that it did make about the contents and effects of *Gender Queer* and that the correct test required the Board to refuse classification to this publication;
- b) the Board further made errors in relation to its findings about the content and effects of *Gender Queer* that were not open to it based on the evidence before it and/or failed to consider necessary elements of *Gender Queer* under the under the Act, Code and Guidelines which provided additional reasons for this publication to be refused classification or to warrant restricted classification;

At the outset, the Review Board notes that its role is not to determine whether the Classification Board made an error or applied the wrong test. As noted above, under section 44 of the Act, the Review Board must deal with an application for review in the same way that the Classification Board deals with an application for classification of a publication.

#### *The submission by ALIA*

A representative from ALIA provided written and oral submissions in favour of an Unrestricted classification for *Gender Queer*. ALIA's submission detailed the well-established artistic, literary, and educational merit of the publication, and the praise and recognition it has earned from authorities within Australia and overseas. ALIA listed the myriad nominations and awards attributed to the publication, as well as the high acclaim and praise it has received from well-respected literary organisations, journals, schools, and educators. ALIA referred to the positive character and tone of the publication and how it sensitively treats complex themes and subjects, such as menstruation anxiety and masturbation. ALIA submitted that the publication contains infrequent sexual references that are not presented in a way that is exploitative, offensive, gratuitous, nor detailed, rather are used to explore themes such as gender identity and self-expression. The Review Board acknowledges ALIA's submission that *Gender Queer* has an important role in our community as an LGBTQIA+ text, especially for people who may have experienced, or are experiencing a similar journey to the author.

The Review Board notes ALIA's submission that a growing backlash exists against the LGBTQIA+ community, and that attempts to restrict or remove *Gender Queer* and other LGBTQIA+ materials forms part of that agenda. The Review Board also acknowledges ALIA's concerns that removing or restricting *Gender Queer* and other LGBTQIA+ from library shelves denies access to affirming materials for vulnerable members of our community who are non-binary, transgender, and/or asexual, many of whom are subject to prejudice and are at risk of self-harm and suicide.

#### *Written submissions from interested members of the public*

The Review Board received a large number of emails in response to this review. Overwhelmingly, those in favour of restricting or refusing classification for *Gender Queer* contained statements that the Review Board considered to be broadly anti-LGBTQIA+. The Review Board gave little weight to these submissions as they contained little or no evidence that the writers had read *Gender Queer*, or that they understood the content within the context of the publication. The submissions did not demonstrate engagement with the publication.

Most of the written submissions in favour of an Unrestricted classification contained clear and detailed evidence that the writers had read the book and understood the impact of the classifiable elements. The Review Board gave more weight to these submissions as they appeared to have been written by members of the intended audience of *Gender Queer* who had read and considered the content within the context of the publication.

#### *The Classification Board's Decision Report*

The Classification Board provided a comprehensive summary of reasons for classifying *Gender Queer* Unrestricted, paying particular attention to the treatment of themes, sex, and nudity, which the Review Board also determined to be the most classifiable elements of *Gender Queer*. The Review Board notes the Classification Board's reasoning and findings that some content within *Gender Queer* may offend some sections of the adult community, but that the treatment of themes, sex, and nudity does not impart an impact so strong as to warrant legal restriction to adults.

The Review Board considered Mr Gaynor's application and his submissions as to the appropriate classification of the publication. The Review Board also considered the submissions from ALIA, the members of the public, and the Classification Board's decision report. The Review Board concluded that the publication is to be classified as Unrestricted with the consumer advice '(M – Not recommended for readers under 15 years)'.

#### **Nudity**

The Applicant submitted that nudity is depicted frequently within the publication and some of these depictions are high in impact because of their emphasis, tone, and context. Mr Gaynor submitted that the publication contained frequent depictions of nudity that are likely to be offensive to most people, and the intensity and impact of these depictions are aggravated by, among other things, accompanying text and other imagery.

In particular, Mr Gaynor referred to various depictions of nudity at pages 13, 20-22, 29, 31, 35, 36, 124, 127-128, 212 and 213. Mr Gaynor made submissions regarding the impact of depictions involving adult themes, including depictions involving menstrual blood, bathrooms, and a pap smear.

The Review Board notes Mr Gaynor's submission that the depictions of nudity are likely to be offensive to most people and are unsuitable for a minor to see or read. The Review Board read the publication and considered the depictions of nudity throughout the publication. As outlined above, the Review Board found that the impact of this element is no higher than moderate and can be accommodated at the M level, as depictions of nudity are highly stylised and justified in context. The Review Board found that the depictions of nudity are not likely to cause offence to a reasonable adult. Consistent with the Guidelines, the Review Board considered that the publication does not warrant restriction to adults and should be classified 'Unrestricted' with relevant consumer advice.

Consistent with the Guidelines, the depictions referred to by Mr Gaynor on pages 13, 20-22, 29, 31, 35, 36, 127-128, 212, and 213 should not be classified as nudity because they do not contain any breast or genital detail. The full-frontal female nudity on page 124 is in the context of undressing for a medical examination and the feelings of discomfort associated with that experience. It is the Review Board's opinion that the impact of this image is no higher than moderate and can be accommodated at the M level.

#### **Sexual activity**

The Applicant submitted that sexual activity is depicted frequently and the depictions and descriptions of sexual activity are likely to be offensive to reasonable adults.

As outlined above, the Review Board found that there is a pervasive narrative element of sex, but that it is consistently mitigated by various factors discussed under Part 6 above. Descriptions and depictions of sexual activity are not exploitative, gratuitous, or very detailed. As per the impact section of the Guidelines, depictions are highly stylised and are less impactful than realistic depictions (such as photographs).

The Applicant made submissions about particular instances of sexual activity in the publication, including relating to the author's account of masturbation, sexting, and sexual activity with 'Candidate Z'.

In relation to the aspects of the publication relating to masturbation, Mr Gaynor submitted that these depictions and accompanying descriptions are high in impact and intensity and are likely to cause offence to a reasonable adult. Mr Gaynor submitted that, in context, certain depictions of masturbation and fantasising on page 61 of the publication depict the author under the age of 18. The depictions on page 61 are alleged to "involve depictions of a minor engaged in sexual activity and are high in impact, detailed and not discrete, and should not be classified as Unrestricted and instead warrant a refusal of classification under the Act, Code and Guidelines".

Pages 62-63 contain references to "vagina slime" and masturbation. Mr Gaynor submits that the implied references to sexual activity are "high in impact and are likely to cause offence to a reasonable adult and be considered an abhorrent or revolting phenomena." The Review Board considered that the references to masturbation, including but not limited to the aspects of pages 61-63 complained of, are lacking in detail and are justified in context. The Review Board took into account Mr Gaynor's submissions, but determined that the impact of this element is no higher than moderate and can be accommodated at the M level.

Pages 166 and 167 contain references to sexting and sexual activity using a strap-on. Mr Gaynor submitted that the depictions and description on pages 166 and 167 are "intense and high in impact and likely to cause offence to a reasonable adult". For the same reasons outlined above and in Part 6 of these reasons, the Review Board found that the impact of this element is no higher than moderate and can be accommodated at the M level.

Mr Gaynor submits that the publication contains references to paedophilia and to violent pornography. The Review Board did not identify any depictions of or references to paedophilia or violent pornography in *Gender Queer*. The publication does contain discrete references to pornography that are justified in context and are no higher than moderate in impact.

Mr Gaynor submits that depictions and descriptions of sex are "likely to be offensive to reasonable adults, especially because the intended audience of this publication is persons under the age of 18". The Review Board is of the opinion that the intended audience of this publication is adults, but that the book has a special crossover appeal to people aged 15 and above who are either members of the LGBTQIA+ community, are allies of the LGBTQIA+ community, or are interested in LGBTQIA+ stories. This supports the Review Board's decision to classify the publication as Unrestricted with the consumer advice '(M – Not recommended for readers under 15 years)'.

The Review Board disagrees with the Applicant's submission that the publication is aimed at children by virtue of it being written in the style of a graphic novel, or that sexual content within a graphic novel constitutes either child pornography or pornography that is targeted at children. The Review Board further disagrees with the Applicant's submission that the Classification Board's decision implies that "depictions of sexual activity involving minors, including sexual abuse of minors by adults, is not only acceptable but a normal and expected element of the behaviour and experiences of persons who are not heterosexual" or that "sexual activity involving minors, including with adults, is now considered

to meet the general standards or [sic] morality, decency and propriety when such behaviour involves persons who are not heterosexual”.

The Review Board determined that the author’s treatment of sex and sexuality throughout *Gender Queer* is consistently positive and framed by a pervasive sense of self-awareness, self-respect, self-love and self-acceptance. The author does not advocate sex or masturbation, rather the author demonstrates how they found sex to be something unpleasant and dissatisfying, and one of the key factors that helped them to understand they were asexual and non-binary.

### **The depiction of the fantasy based on Plato’s *Symposium***

Mr Gaynor submitted that the Classification Board did not classify *Gender Queer* in accordance with the Code and Guidelines in relation to an image on page 135 of the publication, thereby breaching s 9 of the Act. Mr Gaynor submitted that Item 1(b) of section 2 of the Code required the Classification Board to find that the publication should be refused classification.

The panel at the bottom of page 135 depicts the author lying on a couch at approximately age 14, fully clothed, eyes closed, arms resting across their mid-chest area. Above the author is a piece of text that reads, ‘An elaborate fantasy based on Plato’s *Symposium* with an arrow pointing to a framed artwork inside a thought bubble. Inside the thought bubble, we see an image of two nude male figures framed by square symbols. The males could be described as a bearded, older-looking male, and a clean-shaven, younger-looking male. The bearded male is kneeling before the clean-shaven male with one hand resting just beneath the clean-shaven male’s genitals. The image of the males is not titled but the Classification Board, the Review Board, ALIA, and the Applicant have all identified it as a highly stylised depiction of a work of pottery art attributed to the Brygos painter, dated around 4<sup>th</sup> BC Athens.

Mr Gaynor submitted that the Classification Board had found that the depiction was of a child under the age of 18 years engaged in sexual activity with a man, in the context of the author’s discovery of masturbation and “fetish habits and fantasies about paedophilia”. Mr Gaynor included a letter from Dr Lesley-anne Ey, a lecturer in Educational Psychology and Child Protection at the University of South Australia. Dr Ey stated her opinion that the image depicts sexual activity between a full-grown man and a child aged approximately 12 years.

The Review Board considered Mr Gaynor’s submission and noted that the paragraph at the top of page 5 of the Classification Board’s decision report contains an error and poor wording that has led to a misinterpretation by the Applicant. Specifically, the Classification Board states that the image on “page 134” of *Gender Queer* “does not depict a child under 18 years in a way that offends against the standards of morality, decency and propriety generally accepted by reasonable adults...” The Review Board understands that the Classification Board is referring to the panel image at the bottom of page 135 of *Gender Queer*, and not to an image on page 134. The Review Board determined that this is a typo made in error.

The Review Board notes Mr Gaynor’s submission that the Classification Board’s findings in the paragraph at the top of page 5 of the decision report serve as an admission that the Classification Board has identified ‘a child under 18 years’ in the Greek artwork, and that the Classification Board, therefore, should have classified *Gender Queer* as ‘refused classification’. The Review Board considered the Classification Board’s statement and determined it not to be an admission that the Greek artwork contains a depiction of a minor, but that the Classification Board is referencing the section of the Classification Guidelines for Publications that sets out the criteria for classifying a publication ‘refused classification’. The Review Board’s understanding of the Classification Board’s statement is that the Classification Board determined that the image on page 135 of *Gender Queer* does not depict a child under 18 years, nor does it depict a child, nor anyone, in a way that offends against the standards of



morality, decency and propriety generally accepted by reasonable adults. In any event, as set out below, the Review Board determined that the image *does not* depict a child under 18 years, *nor* does it depict a child, *nor anyone*, in a way that offends against the standards of morality, decency and propriety generally accepted by reasonable adults.

As noted by the Classification Board, the Greek artwork is “a highly stylised drawing of a work of ancient Greek art”. The image is depicted within the same square symbols that surround the original work. The inclusion by the illustrator of the square symbols around the males is a strong indicator that the image is a stylised depiction of the flat, inanimate pottery art, and sets the artwork within its historical context. The Review Board considers that the artwork is an artist’s impression of the bona fide artwork that contains less detail and realism than the original work, and is less realistic, sexual, intimate, and evocative than the original work. The image is tertiary to the primary image of the author on the couch and the secondary reference to Plato’s *Symposium*, so is less active than the original artwork, which serves as the primary image on the ceramic.

The Review Board notes that the Applicant has speculated in his submission the ages of the males within the panel image; however, the Review Board is of the opinion that while the precise ages of the males in both the original artwork and the panel image are unclear, the Review Board is satisfied that the males are not children. The Review Board could not find any indicators in the publication that conclusively or definitely suggest whether either of the males in the panel image are minors. The Review Board also notes that the publication contains many examples of adults who appear to be depicted as minors, including numerous depictions of the author’s mother.

The Applicant submits that the panel image on page 135 depicts the author fantasising about paedophilia. The Review Board determined that the Greek artwork inside the panel image on page 135 is a depiction of an older-looking male and a younger-looking male, and not a depiction of paedophilia, child exploitation, child pornography, or any other interaction between an adult and a minor. The Review Board notes the Classification Board’s findings that the image likely depicts a sexual encounter between an ancient Greek scholar and his student. The Review Board rejects the Applicant’s submission that ‘student’ means ‘child’.

The Review Board disagrees with the Applicant’s submission that the image is entirely gratuitous and has no contextual relevance to the publication because *Gender Queer* does not deal with any aspect of ancient Greek culture or art. The Review Board considered the context of the Greek artwork as a visual reference to help the reader understand the author’s reference to Plato’s *Symposium*, which is the subject of the author’s fantasy in the panel image. The author does not describe the nature or the context of the fantasy or the roles that the Greek artwork and Plato’s text serve within that fantasy. The Review Board determined that, for the reader to understand the panel image at the bottom of page 135, the reader is not expected to have read Plato’s *Symposium* (an ancient Greek work of fiction containing a series of monologues about love) or know that the Greek artwork is attributed to the Brygos painter. The Review Board determined that the use of the panel, and the depictions and descriptions within the panel, is artistic for the purposes of information and expression, and is consistent with the positive tone and character of the publication. The Review Board has considered the Applicant’s submission that the Greek artwork is sexualised because it appears in the context of masturbation. The Review Board determined that this element is mitigated by the surrounding panels and text that, along with the panel image at the bottom of page 135, describe how the author came to identify as asexual. As noted by the Classification Board, and by Mr Gaynor, the text surrounding the subject panel image reads, “I discovered it [masturbation] at around the same age, followed by the further realization that my ability to become aroused was governed by a strict law of diminishing returns. The more I had to interact with my genitals the less likely I was to reach a point of satisfaction. The best fantasy was one that didn’t require any physical touch at all”. The Review Board determined

that the panel image and surrounding pages describe the author's anathema to masturbation and sex, which is consistent with the author's autobiographical realisation that e is asexual and non-binary.

The Review Board agrees with the Applicant's submission that the image would be likely considered criminal if the males were real people depicted contemporaneously, and the males were an adult and a minor, and the males were found to be involved in a sexual activity. The Review Board shares the Applicant's view that depictions of children engaged in sexual activity are beyond the norms of morality or decency accepted by society, as well as the Applicant's concern for victims of child abuse. The Review Board agrees with submissions by the Applicant, ALIA, members of the public, and the Classification Board that state that minors should be protected from material that is likely to harm or disturb them.

The Review Board found that the depiction on page 135 would not cause offence to a reasonable adult because the panel does not contain a detailed or realistic description or depiction of sexual activity, and it is not offensive, gratuitous, exploitative, or explicit. As the Classification Board notes in their Decision Report, the Greek artwork is highly stylised and justified in its historical context and the narrative context of the publication.

### Themes

The Review Board agrees with the Applicant's submission that "*Gender Queer* deals with adult themes relating to sex, sexuality, sexual orientation, gender, and gender confusion from the perspective of a person who strongly believes that the traditional approaches to sex, gender and morality are flawed" and that "these are clearly themes and a perspective which can, should be and are widely canvassed in all manner of publications". The Review Board has considered the elements of sexuality, sexual orientation, gender, and gender dysphoria against the classifiable elements of sex, nudity, and themes in *Gender Queer*, and considered how the content and treatment of this element contributes to the impact. The Review Board agrees with the Classification Board's finding that the treatment of themes, sex, and nudity does not impart an impact so strong as to warrant legal restriction to adults. However, some of the events and recollections by the author may not be suitable for younger readers.

As outlined above, the Review Board found that the element of themes is inextricably interlinked with the elements of sex and nudity, all of which are consistently mitigated by various factors discussed under Part 6 above.

### Promotion, incitement, or instruction in matters of crime

The Applicant submitted that the publication should be refused classification because it promotes, incites or instructs in matters of crime or violence. In particular, Mr Gaynor contended that two depictions promote crime in the publication:

- a) *The depiction on page 135 shows a naked man with an erection engaged in sexual activity with a boy, cupping the boy's penis with his hand.*
- b) *The depiction on page 61 shows the author masturbating while driving.*

The Review Board notes Mr Gaynor's submission that *Gender Queer* promotes, incites, or instructs in matters of crime, and depicts revolting and abhorrent phenomena. The Review Board disagrees that the depiction on page 135 shows a naked man with an erection engaged in sexual activity with a boy, and the Review Board also disagrees that the author's reference to masturbation while driving promotes, incites, or instructs others to drive dangerously. The Review Board determined that *Gender Queer* does not contain any content that is high impact, gratuitous, or exploitative, or likely to cause outrage or extreme disgust in a reasonable adult. The content does not promote or incite illegal



activity, and is not abusive, violent, sadistic, abhorrent, or cruel. All content in the book is justified in context and appropriate to its intended audience.

Finally, the Review Board notes the widespread recognition, critical reception, and acclaim that *Gender Queer* has received worldwide, including from ALIA, the peak body for libraries in Australia. In addition to being a Stonewall Honour Book and Alex Award recipient, *Gender Queer* is listed as the ALA YALSA Best Books of 2020: Great Graphic Novels for Teens (2020), ALA YALSA Outstanding Books for the College Bound (2020), Chicago Public Schools Great Graphic Novels (2021), Denver Public Schools Top 100 High School Books (2020-21), Howard County Public Schools (MD) Best of the Year – High School (2019), Iowa High School Battle of the Books (2021), Jefferson County (KY) Public Schools Recommended Reading Grades 9-12 (2021), New York Public Library's 50 Best Books for Teens (2019), School Library Journal 17 Immersive Graphic Novels for Teens, Summer Reading 2021, Texas Library Association: Maverick Graphic Novel Reading List, 2020, and was a nominee for the Garden State Teen Book Awards (2021). The American Library Association recommends *Gender Queer* as appropriate reading for ages 14+. Amazon's recommended reading age for is 16+ (USA, Australia, and UK), Common Sense Media recommends the book for ages 16+, Barnes and Noble (USA) recommends the book for ages 15+, and Maia Kobabe recommends the book for ages 16+. In July 2019, the School Library Journal (USA) listed *Gender Queer* as recommended reading for grades 11 and up, before amending its recommendation in December 2019 to grades 9 and up. ALIA has not placed any restriction on *Gender Queer* within Australian public libraries. The Classification Branch has not received any complaints about *Gender Queer* from other peak Australian authorities such as the Australian Border Force.

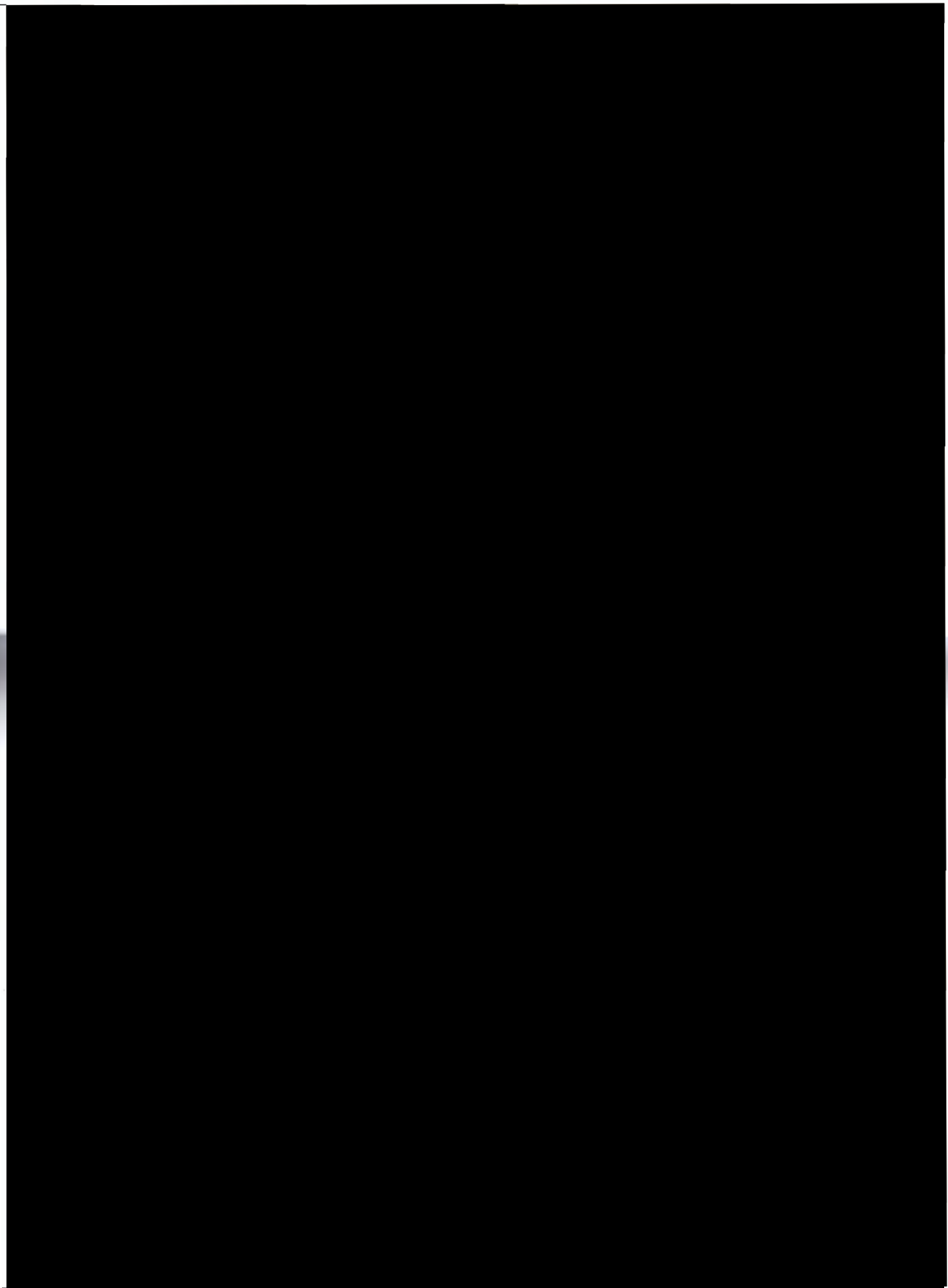
The Review Board notes that *Gender Queer* is not banned or restricted in any other jurisdiction. The Review Board acknowledges ALIA's submission that the publication has been translated into Spanish, Polish, Czech, French, and Italian with Norwegian, Portuguese, German, Dutch, Japanese, and Korean forthcoming.

## 8. Summary

Pursuant to the Guidelines, the impact of the classifiable elements in the publication is no higher than moderate. All of the content in the publication is entirely justified in context and appropriate to its intended audience. The publication has a positive, lighthearted tone; positive character; and many layers of positive messaging. However, the Review Board recognises that some content with this publication may offend some sections of the adult community and may not be suitable for younger readers. It is therefore the Review Board's view that the publication warrants a classification of:

**Unrestricted** with the consumer advice of '**M – Not recommended for readers under 15 years**'. This consumer advice does not constitute a legal restriction.







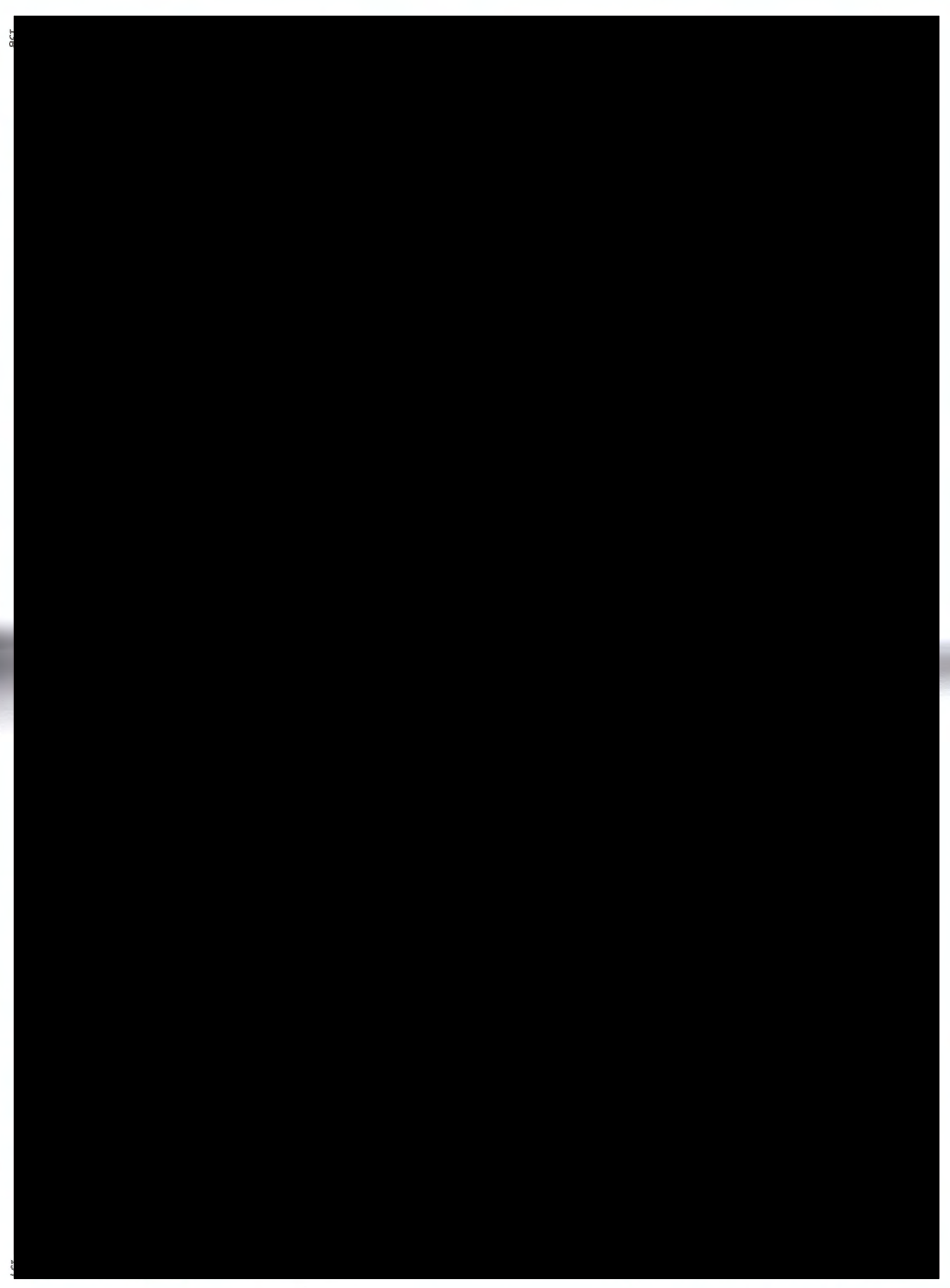
The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every receipt and invoice should be properly filed and indexed for easy retrieval. This is particularly crucial for businesses that deal with a large volume of transactions or those in highly regulated industries.

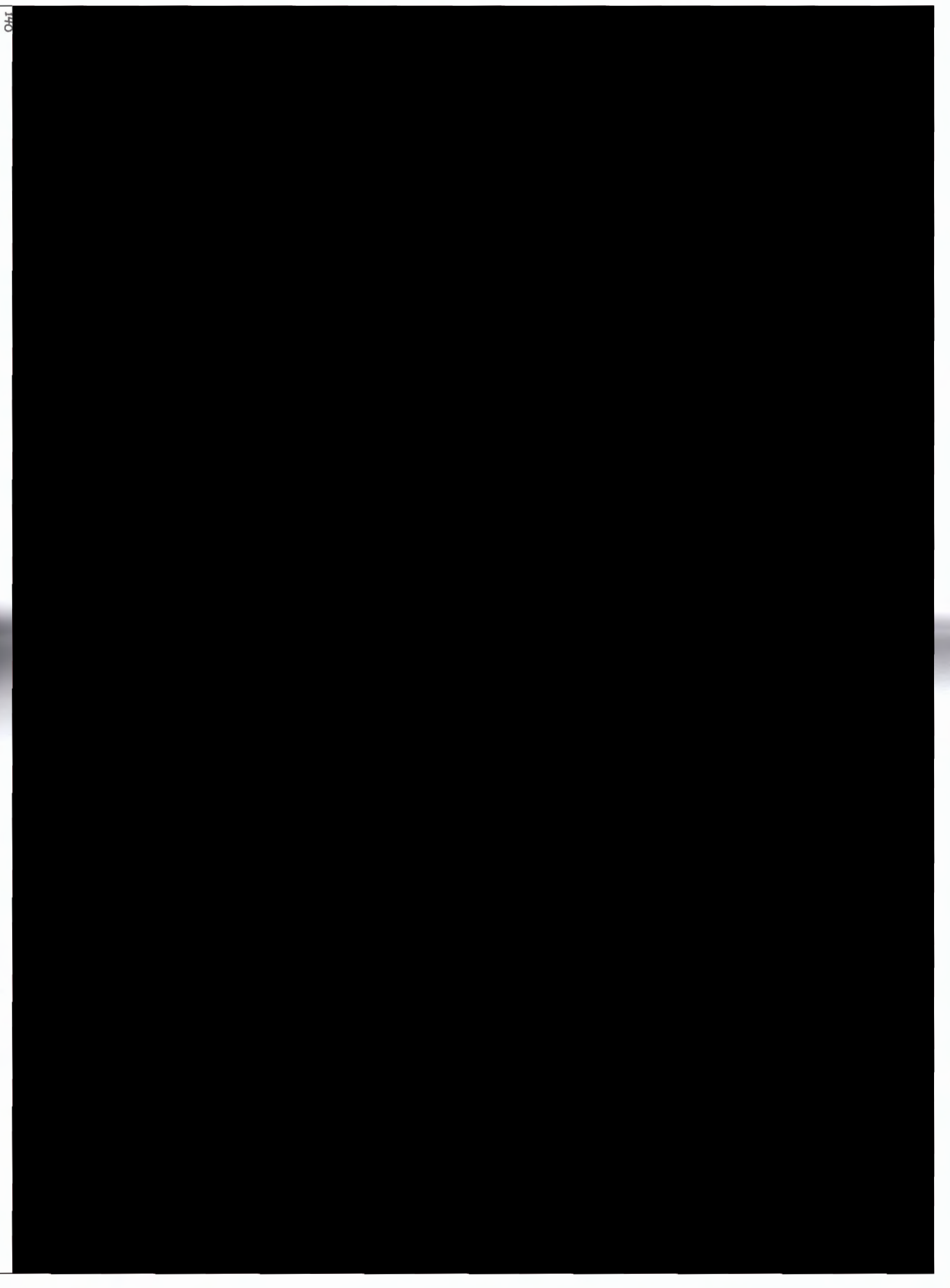
Next, the document outlines the various methods used to collect and analyze financial data. It covers traditional methods like manual bookkeeping as well as modern software solutions that automate data entry and reporting. The importance of regular audits is also highlighted, as they help identify discrepancies and ensure the integrity of the financial records.

The document then delves into the analysis of financial statements, including the balance sheet, income statement, and cash flow statement. It explains how these statements provide a comprehensive view of a company's financial health and performance over time. Key ratios and metrics are discussed, along with their implications for investors and management.

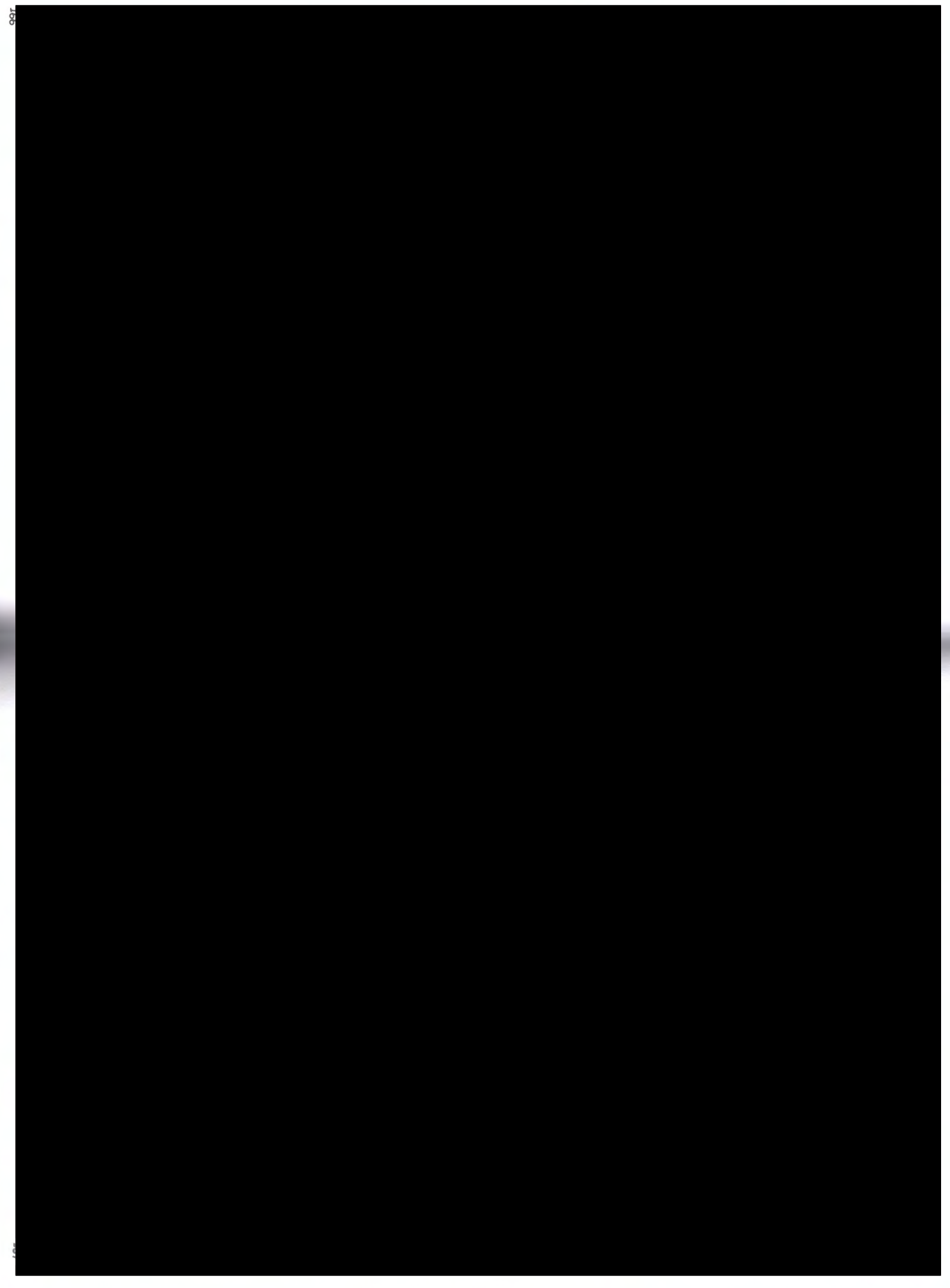
Finally, the document concludes with a discussion on the future of financial reporting. It explores emerging technologies like artificial intelligence and blockchain that are expected to revolutionize the way financial data is collected, analyzed, and reported. The importance of staying up-to-date with these technological advancements is stressed to ensure long-term success in the financial industry.











Annex E: Letter of Dr Lesley-anne Ey dated 3 May 2023



Dr Lesley-anne Ey  
Senior Lecturer and Researcher  
University of South Australia  
GPO Box 2471  
Adelaide SA 5001

03-05-2023

To Whom it May Concern,

I lecture in Educational Psychology and Child Protection in Education Futures at the University of South Australia. My research focus is child sexual exploitation and children's and young people's harmful sexual behaviour.

I was contacted to review an image of concern depicting a highly stylised drawing of a work of ancient Greek art depicting a sexual encounter between an ancient Greek scholar and his student.

It is my opinion that this image depicts a full-grown man and a child aged approximately 12 years. From a child development perspective, boys go through a growth spurt at around 12 years of age; they grow pubic hair, and their penis enlarges, and a height spurt begins approximately six months later. They experience spermarche, and at approximately 14 years they have another height spurt and put on weight, their voice deepens, and facial hair begins to grow. At about 15 years, their penis, testes and pubic hair growth is complete, and they have reached the peak of their strength and adult height. The male child depicted in this picture is clearly half the size of the male adult in physical structure. The child has no, or little pubic hair and his penis size is much smaller than a typical adult size penis suggesting it has not reach full maturation. Boys commonly reach full secondary sexual maturation between the age of 15-17 years.

My concern about this image is that it depicts sexual activity between a child and an adult which is classified child sexual abuse. Images depicting sexual abuse of a child is illegal, immoral and offensive to a reasonable adult. The availability of such image's risks normalising child sexual abuse. Additionally, an image depicting a sexual encounter between an ancient Greek scholar and his student poses a further moral dilemma of a sexual relationship between a teacher and student. This is also against professional codes of practice, even if a student is an adult, due to power differentials and conflict of interest  
<https://www.universitiesaustralia.edu.au/media-item/relationships-between-academic-supervisors-and-their-students-are-never-okay/>

I strongly recommend that this image be removed from literature aimed at adolescents and young people in Australia. Despite that the picture is classified ancient Greek art, moral



standards relative to engaging in sexual activity with children have shifted immensely since the creation of the original work and such activity is now illegal.

I am more than happy to discuss this further if required

Yours sincerely



Dr Lesley-anne Ey