

Dear Members of the Committee,

Thank you for the opportunity I have been given to express my thoughts about this proposed bill.

I am a small business owner, with experience in online contents and interactions among adults. I've also got a background in film and television, including (but not limited to) attending classifications courses, as a requisite requested by my former employers.

I am indeed very concerned about aspects of this draft. I believe that some of them shouldn't have room in a liberal Western democracy like ours, and I regard them as government overreach into the lives and liberties of discerning adults.

**I start by referring to Section 7 (1) (c):**

*"An ordinary reasonable person in the position of the 1 Australian adult would regard the material as being, in all the 2 circumstances, menacing, harassing or **offensive**".*

I am flabbergasted by seeing that the same Government that a few years ago, quite sensibly yet unsuccessfully, tried to remove the verb "to offend" from Section 18C of the Racial Discrimination Act 1975, now plans to introduce it into this bill. This could have atrocious consequences, many of them unforeseen, given the subjective nature of someone taking offence as a result of something expressed by someone else.

Popular wisdom says: "Offence can never be given only taken". What offends you, does not offend me, and vice versa. So, it is not a matter a finding an ordinary reasonable person or a group of them, who could rule on what may cause an Australian adult offence or not. It will always be subjective; it will depend on personality and context, often cultural or socio-economic contexts. But ultimately, it will always depend on the individual and whether he or she decides to take offence or not, which often is not something known by whoever causes offence. So, there will be as many different scenarios as there are Australian adults in this country. Trying to regulate this follows a rather Orwellian path that we really shouldn't go through.

During most of our offline, face-to-face interactions among adults, the mere act of causing offence is generally not a crime, so why is the government planning to make it so for our online interactions?

It just doesn't make any sense to me, particularly since in the online world, we are even more able to avoid or block another person, in a way that maybe we couldn't do offline.

Having the term "offensive" in this bill could end up being used as a weapon against free speech, satire (political or otherwise), personal or professional criticism, and an unforeseen range of things where the sky is the limit.

Last but not least about this point, you simply don't need the term "offensive" in this bill, as you already have many other terms like "menacing", "harassing" and other measures like the one to punish "revenge porn", for example. They are all things that effectively could help preventing actual damage to an adult. I have nothing against those types of measures; however, simple offence is not commensurable to those other concepts that generally imply a more repetitive or systematic action with more tangible effects than someone just being offended.

And that's without counting other measures already in place like anti-defamation laws, anti-incitement laws and so on.

We also do not need such a waste of taxpayers' money to implement a concept as potentially dangerous as this.

**My other big concern lies with aspects of Section 38 and all later sections that refer to:**

*"Complaints about class 1 material or class 2 material"*

All mentions about complaints and definitions of Class 1 and 2 materials feel out of place in a bill that otherwise seems destined to avoid harm intended from one adult to another.

Consumption of porn or other adult material, for as long as it only involves consenting adults, should be left to discerning adults. If you don't like porn, don't watch it. Block it; report it to the site where the

material has been published, if the material goes against the site's guidelines, or stop using the site altogether.

As for minors accessing that type of material, it should be up to parents or legal guardians, not up to anyone else, to prevent that. Parents have the best tools at their reach to block entire websites, or any kind of content. They can opt-in ISPs plans to keep their online experience free of graphic or adult material.

And if you were to say that children are tech-savvy enough to circumvent that, so they will to circumvent laws such as these proposed here too.

The adult industry in Australia mainly consists of small businesses (sometimes even single mothers). It is already hard for them as it is, with all the hurdles created by the Covid-19 restrictions. Many of those businesses are discriminated on a daily basis by banks and financial institutions. Frequently, they are denied credit card merchant facilities, and even business accounts in some cases. As you know, when it comes to banks, they are so few that it's not a simple matter of telling people to shop around.

So, that would rule out a system of age verification via credit card, for example. And in the best of cases, no online business of that nature wishes to have the personal or credit card details of their users, as potentially that could attract hackers, and create the perfect situation for blackmails (as we've already seen happening overseas).

The UK government abandoned a plan for a "digital barrier" to access porn websites, because it became evident that any implementation would be counterproductive. Please refer to this article by [allabout.law.uk.co https://www.allaboutlaw.co.uk/commercial-awareness/commercial-insights/sex-and-censorship-dissecting-the-uk-s-now-abandoned-porn-ban-](https://www.allaboutlaw.co.uk/commercial-awareness/commercial-insights/sex-and-censorship-dissecting-the-uk-s-now-abandoned-porn-ban-) for a brief summary of the arguments for and against the abandoned proposal).

While it's understandable that the government may want to prevent the undesirable exposure to adult content on giant mainstream Social Media sites, like Twitter for example, they are disregarding the negative impact on many smaller, much more specialised operations, that would be much more hindered by these laws. Yet they are much less of a menace to minors than a site like Twitter (where all forms of

porn and adult content is readily available with a cross-over into the mainstream across many ages).

Powerful Big Tech sites will often be able to circumvent whatever laws you impose on them, while hard working Australians would have to endure the burden of red tape and harsh regulations. Forcing them in many cases to close or move their businesses overseas. This is a lose-lose situation, as Australia loses that source of tax revenue when this happens, and we all lose much more than that as a country that should be vibrant, innovative and – as the lyrics of our national anthem now reads - be “one and free”.

I implore the government to remove any references to Class 1 and Class 2 materials of this bill, or at least to please consider some sort of threshold based on traffic and/or estimated turnover. That way the bill would mainly target big tech social media sites with mainstream attraction, and allow small Australian businesses and individuals to prosper in their respective niches. This is not unheard of, as the Privacy Act 1988, for example, quite sensibly does not apply to most small business with an annual turnover of \$3 million or less. A similar threshold could be established for the reach of this bill or for sections of this bill.

Australian small businesses and individuals have already suffered far too much as a consequence of unprecedented and disproportionate measures imposed on us (mainly by the different State Governments) as a response to the Covid-19 pandemics; we certainly do not need more government overreach.

I thank you once again for your time and consideration.

Yours truly