

Consultation on a Bill for a new Online Safety Act [REDACTED]

14 February 2021
[REDACTED]

Privacy: This submission can be published online in full, however my name or contact details cannot be. Thank you.

Summary

I am writing to express my concerns about the new Online Safety Act, due to the impact that this will have on the ability of Australians to access sexual or sexualised content, and the impact on the Australian adult industry.

These industries do not pose a threat, yet, in my opinion, they are disturbingly targeted by, and put at risk by, this new legislation.

In my opinion, this legislation is censorship under the guise of public safety. It introduces an element of a 'reasonable adult' which takes the emphasis away from removal of content due to harm or a threat (which is what I believe the Act is trying to achieve), and replaces that with morality, decency, and propriety, which is an entirely different matter.

Legislation to remove a 'threat' is one thing, and should be applauded if it actually does achieve the aim of preventing, for example, cyber-bullying. Moral censoring and censorship is entirely another - this does not ameliorate a threat; it only provides inappropriate censorship.

My concern is that this Act is going down that road, and will cause great harm to the adult and fetish industries, whilst not achieving the core objectives of the Act.

My Background

To provide some background of my own personal circumstances, so that you can understand what perspective I am writing from, I am a proud member of the LGBTIQ+ community, and I am also a proud member of the Australian fetish community.

By day, I am a public servant in a role that helps protect the community, and life is pretty ordinary, although professionally fulfilling.

However, in my own time, I love going to fetish events; I love seeing my friends in this community; I write magazine articles about safety and my experiences in the fetish scene; and I enjoy going to adult shops and looking at online content.

What I do, and the way that I live my life, is not everyone's cup of tea ... but, I can assure you, it is an amazing, rich life, filled with the greatest happiness and sense of acceptance that I have ever known.

In Australia, I am free to live a life that fulfills me, as long as I obey the law. Such freedoms are simply the pipe dream of many countries where LGBTIQ+, sex and fetish content are, at best, frowned upon and, at worst, criminalised.

The only reason that I was able to find my community, and start living a life that is so wonderful, is because of online content. I met my wonderful LGBTIQ+ partner online. I have found safe events online, where I have met a wonderful community. I attend online workshops and watch videos and read how-to-guides, all of which include imagery that, again, may not be everyone's cup of tea, but is safe and educational.

The key words that operate in my life, and indeed within the entire fetish community, are **Safe, Sane and Consensual**. Everything that I do, everything that I post, everything that I read and watch online, must be safe, sane, and consensual. Further, the principle of **Risk Aware Consensual Kink** apply. This community is safe, aware of any harms that could occur, and we are self-cleansing, meaning that any undesirable people are blacklisted.

I have learnt so much about minority races, transgender people, intersex people, other queer people, from my community. I have learnt open-mindedness that is over and above that which is evinced in the wider community.

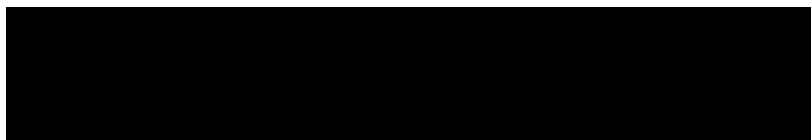
Nothing in my life, or within my community, has anything to do with pedophilia, or terrorism, or cyber bullying, or any of the harms listed as being within the ambit of this Act.

We do, however, enjoy pictures of 'private sexual material' such as breasts and anuses, and other material that may, depending on your personal tastes and preferences, be against the 'the standards of morality, decency and propriety generally accepted by reasonable adults' ... is able to be removed online within 24 hours.

I shudder to think what judgment a 'reasonable adult' would cast on the fetish and adult community, and the damage that would be done if content was taken down. The fetish and sex industries simply can't operate without such content - and, in my opinion, they should they have to.

Making a complaint can result in content must be taken down within 24 hours - the impost that this would place on services would be great. What goes down, may well stay down. It's impossible to operate within a 24 hour turnaround.

It is also unnecessary. Online platforms have their own censoring, often to the point of excess. This Act will add one more layer to an already incredibly regulated industry.



The definitions of 'private sexual material' and 'intimate imagery' within the Act are far too broad, and captures normal imagery that is a part of a very special community. How can fetish events run if they cannot show imagery? How can they advertise on fetish sites? How can workshops run? Online classes? How can people purchase adult products? How can the sex industry operate? The answer is clear in my mind - they can't.

And what on Earth is material that contravenes 'the standards of morality, decency and propriety generally accepted by reasonable adults'? If you ask my parents, they will have one answer, and if you ask me, I will have another. This does not mean that either of us are wrong - we just have different standards.

You have to ask yourself - what gives one group the right to be the arbiter of what the other group can see, especially when the standards that matter - adherence to the law, ensuring safety and consensually - are shared by both groups? What matters is that things are safe, sane and consensual, and are conducted whilst being aware of risk - it does not matter whether there are images of breasts etc available online.

Indeed, I do not believe it is acceptable for the government to 'weigh in' on what is acceptable or not. If conduct is within the law, then it should be allowed. Removing a large set of images that some 'reasonable adult' has deemed inappropriate, is essentially a tacit criminalising of the fetish and sex industries.

And the frightening thing is, it is occurring buried in an Act that is going out during Covid, where the attention is well and truly turned elsewhere.

Speaking of Covid - do you have any idea how lifesaving imagery has been in order for our community to remain connected during Covid? It is extremely important.

If Australian images are so censored, this will not stop the problems that the Act is seeking to ameliorate. Images will still be prevalent, however entire industries will be damaged. For example, if the Act goes ahead in its current form, this will simply mean that people will access the sites that are available - overseas sites. This will further decimate the Australian adult industry.

Having imagery online also normalises the sex industry and fetish communities, which is actually very positive. When something is normalised, it becomes safe. It is not underground, it is a community where people can freely share and gain knowledge. This similar to my coming out as LGBTIQ+ being assisted when government started wearing rainbow lanyards. No visibility makes something concerning and smutty. Visibility means that one can make their own decisions, and find out what is safe, as an adult should do.

Conclusion

In conclusion, I propose that the Image Based Abuse Scheme and the Online Content Scheme require significant rework, and should not form part of this Act.

By all means, put in place restrictions to stop terrorism, stop sharing of videos of terrorist acts, stop cyber-bullying, put in steps to protect children and stop pedophilia.

Put in specific, proportionate, measured, appropriate measures that target these particular harms. Do so using evidence-based research from around the world, that has been tested over a period of time.

But do however assume that censoring images that show body parts will somehow solve the problems that the Act is seeking to be put in place to solve.

It won't.

And do not put in place broad, punitive legislation that censors the Australian fetish and sex industries when there is no requirement for it.

It's not warranted, it's not appropriate, and it does not protect the interests of Australia or Australians.

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