



SUBMISSION TO SENATE ECONOMICS REFERENCES COMMITTEE

INQUIRY: Personal choice and community impacts

AUGUST 2015

1. INTRODUCTION TO AUSTRALIAN COUNCIL ON CHILDREN AND THE MEDIA

The **ACCM** is the peak not-for-profit national community organisation supporting families, industry and decision makers in building and maintaining a media environment that fosters the health, safety and wellbeing of Australian children.

ACCM has a national Board representing the states and territories of Australia, and a membership of individuals and organisations including Early Childhood Australia, the Australian Council of State Schools Organisations, the Association of Heads of Independent Schools of Australia, the Australian Primary Principals Association, the Australian Education Union, the Parenting Research Centre, the NSW Parents Council, the South Australian Primary Principals Association, and the Council of Mothers' Unions in Australia.

ACCM's core activities include the collection and review of research and information about the impact of media on children's development, and advocacy for the needs and interests of children in relation to the media.

This submission has been prepared on behalf of the Board of the ACCM by Prof Elizabeth Handsley (President) and Ms Barbara Biggins OAM (Hon CEO).

2. COMMENT ON TERMS OF REFERENCE

ACCM will refer to the following of the terms of reference:

the economic and social impact of legislation, policies or Commonwealth guidelines, with particular reference to:

- e. the classification of publications, films and computer games; and
- f. any other measures introduced to restrict personal choice 'for the individual's own good'.

ACCM would like to challenge at the outset the apparent assumption in the Terms of Reference that classification of films, publications and computer games is done 'for the individual's own good'. Those quotation marks appear in the terms of reference, yet it is not clear what is being quoted. The words certainly do not appear in any Australian legislation or guidelines on content classification. Therefore the Inquiry may be addressing a straw person.

This Inquiry will not be able to avoid touching on some very deep philosophical debates about the nature of humanity and society. Questioning the appropriateness of government intervention for people's 'own good' is based on a view that, we submit, tends to overlook the social nature of our species; our interconnectedness; and the pain we feel when others are hurt - even if they hurt themselves. Our impulses to care for others should not be squashed or marginalised, rather they should be celebrated and rewarded. Not only that, as a practical matter we need to cooperate with - that is, to be interdependent with - each other for safety, security and a range of kinds of support that enable individuals to survive and flourish. In this sense there is not always a clear line between one individual's 'own good' and that of another, or of the community generally.

This is particularly so when it comes to parents and children. As a child-focussed organisation, ACCM is a great believer in the aphorism that 'it takes a village to raise a child'. Concerns about children's wellbeing as media users are often relegated to 'parental responsibility' but we know, from observation and personal experience, that parents need and deserve support from the community around them. While many parents seek such support, some parents are not there, some are unaware, some are battling challenges of their own, and others don't care. It is in the community's interests to ensure that children are able to develop into healthy, happy and responsible citizens. We see media regulation as one means of achieving all these goals.

The Committee is no doubt aware of the organising principles of the National Classification System (NCS):

- (a) *adults should be able to read, hear and see 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.*

Paragraph (a) clearly reflects the precise opposite of 'restricting personal choice "for the individual's own good"'.

Paragraph (b) reflects a motivation to protect children, ostensibly for their own good. However, extending such protection to children in a range of situations (not just media use) is a well-accepted and time-honoured feature of our systems of law and government. Indeed, it is required under the *United Nations Convention on the Rights of the Child*, to which Australia is a signatory, as 'the child, by reason of his [sic] physical and mental immaturity, needs special safeguards and care'¹ and article 3 provides that 'the best interests of the child shall be a primary consideration'. This is precisely the position our legal system has taken for decades under the *Family Law Act*, for example. So far as we know there is no serious dissent from the proposition that the position is an appropriate one to take.

Paragraph (c) appears to be motivated by a desire to protect adults, but read carefully it is clearly about protecting adults' *freedom to choose* the kind of material to which they are exposed; therefore it does not purport to judge what is in individuals' best

¹ Preamble, quoting from the *Declaration of the Rights of the Child*.

interest but rather aims to support individuals' own judgment - or 'personal choice' - about that. Importantly, the classification system provides advice to enable adults to make *informed* choices.

That leaves paragraph (d), which might be seen indirectly as providing for the protection of adults 'for their own good'. However, it is significant that any such protection is based on 'community concerns' and not on a governmental judgment about what is in people's best interests. ACCM has some reservations about the use of 'community concerns' in this context and would prefer to see reliance on valid and reliable evidence about what is harmful. But that is not to say that decisions influenced by paragraph (d) impose a view of what is in individuals' best interests. In any case it can hardly be doubted that the community does have concerns about the matters mentioned, and we doubt that there would be much support within the community for removing all restrictions on access to the kinds of material that paragraph (d) captures.

If we accept, for the reasons mentioned above, that the Inquiry's Terms of Reference have application only to the 'own good' of adults, it is important to note that the NCS prevents us from seeing, hearing or playing only a very narrow range of material. The description of prohibited material can be found in the Guidelines for the 'Refused Classification' category of content, namely:

CRIME OR VIOLENCE

Detailed instruction or promotion in matters of crime or violence.

The promotion or provision of instruction in paedophile activity.

Descriptions or depictions of child sexual abuse or any other exploitative or offensive descriptions or depictions involving a person who is, or appears to be, a child under 18 years.

Gratuitous, exploitative or offensive depictions of:

- (i) violence with a very high degree of impact or which are excessively frequent, prolonged or detailed;*
- (ii) cruelty or real violence which are very detailed or which have a high impact;*
- (iii) sexual violence.*

SEX

Depictions of practices such as bestiality.

Gratuitous, exploitative or offensive depictions of:

- (i) activity accompanied by fetishes or practices which are offensive or abhorrent;*
- (ii) incest fantasies or other fantasies which are offensive or abhorrent.*

DRUG USE

Detailed instruction in the use of proscribed drugs.

Material promoting or encouraging proscribed drug use.

We submit that it is very difficult, in a civilised society, to support the proposition that even adults should have free access to such material given the strong social disapprobation of the matters depicted. In addition we suggest that many if not all of the matters listed are not restricted for the 'own good' of the viewers or players, but for more complex, social reasons.

Having a classification system such as ours can be justified on two overlapping premises. First, media content has an important role to play in shaping people's thoughts, attitudes and behaviour. Second, the life and experiences of any member of society can be influenced by the thoughts, attitudes and behaviour of other people at

any time, and sometimes in unexpected ways against which we are unable to protect ourselves. In those situations, government regulation has the important function of helping to support all of us to get on better with each other. In other words, when access to material is restricted, or banned, it is not for the 'own good' of individuals who might otherwise consume it, but for the good of all those with whom they come into contact.

It is true that the NCS could be more closely attuned to reliable evidence about the kinds of material that shape thoughts, attitudes and behaviour in ways that are potentially detrimental to the community. However, this is not a reason to change the fundamental structure of the system, much less to dismantle it. Rather, it is a reason to review the classifiable elements and the guidelines. ACCM would be pleased to contribute to such a process.

As an organisation aiming to support others to create and maintain an appropriate media environment for young children, ACCM is more concerned with the operation of the NCS at the lower end, and in particular how distinctions are drawn between the G, PG and M categories. We have been advocating for some time an overhaul of these categories to make them more age-specific and the criteria better aligned with the evidence about child development.

However, we remain strong supporters in principle of the role of government, legislation and regulation in setting standards for children's media experiences and especially in providing information to parents and carers to help them to choose material for their children - as is all that the three categories mentioned above do, being only advisory. We trust that the Inquiry will bear steadily in mind the limited amount of actual coercion in the NCS, at least as to restricting the material that individuals can legally see or play; and the strong role that the system plays in informing personal choice. It is a valuable source of consumer advice.

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