Mrs Hocking said:

... in the last six months I have not had the same number of complaints that I had earlier on X.

but added:

I think it could be because people realise that the Senate Committee is looking at the matter and that something is likely to come out of that, so they are not quite so anxious to make representations as they were previously. (Evidence, p. 2672)

17.22 Referring to inquiries that the Assembly's Education and Community Affairs Committee had undertaken, Mr Doyle also said:

The fact is that we have not found it to be a problem. The Australian Capital Territory includes a quarter of a million people who have access to X rated material. The fact that there is no objective assessment that can be made that the ruination of society has happened is fair enough indication that the ordinance has worked as it was suggested it would work. (Evidence, p. 2670)

17.23 As was explained in Chapter 7, what is allowed in the X classification for the ACT is material listed under the category X Extra-Restricted in the Film Censorship Board's guidelines, that is:

Material which includes explicit depictions of sexual acts involving adults, but does not include any depictions suggesting coercion or non-consent of any kind.

17.24 The evidence in relation to harm from this type of material was discussed in our Chapter 14. In the absence of demonstrable evidence of harm (as distinct from affront) arising from exposure of adults to sexually explicit material containing no violence, we believe that the material as defined in the current X category is acceptable and that adults should be able to view material of this type if they so choose. We recommend that a new category NVE (non-violent erotica) be instituted which describes the type of material to be found in the category - that material as defined under the current classification of X. One of the problems has been that X is considered to be beyond R. This has led to the assumption by many people, including witnesses, that X contained material which should be more restricted than R. The NVE category is not a category beyond R but is a restricted category like R and will contain depictions of explicit sex without any suggestion of violence or non-consent.

(b) UNIFORMITY

17.25 An argument against continuing to allow an X category in the ACT Ordinance that has been presented to the Committee is that, except for the Northern Territory, no other jurisdiction in Australia currently allows it.

17.26 In July 1983 Commonwealth and State Ministers with censorship responsibilities agreed in principle to set up a uniform system of classification for video material throughout Australia. The ACT Ordinance was designed not only to control video material at the point of sale in the ACT but also to act as a model for the States to follow in setting up their own legislation. While all States have now passed legislation which accepts the Commonwealth classification categories as its basis and which allows for the use of the Commonwealth Film Censorship Board as its classifying agency, uniformity cannot be said to have been achieved (see Chapters 5 and 6).

17.27 The Northern Territory is strongly in favour of X. As Mr Donald Dale, MLA, Northern Territory, representing the Attorney-General of the Northern Territory told the Committee:

The Territory's approach is still that banning X would merely drive it underground. ... There will always be a market for X, we believe, and the material is particularly popular in the Northern Territory. One of the reasons, of
course, is that we have a large number of single males and also we have a number of mining towns and places like that where this type of entertainment is well and truly looked for. (Evidence, p. 391)

South Australia has indicated that it will again consider a classification beyond R following the report of the Committee; Victoria would be happy with the modified X category that has existed since November 1984 if it should be labelled other than X in the ACT Ordinance. There is no indication from the remaining States as to any different future arrangement. Uniformity is therefore unlikely to be achieved in the near future.

17.28 We do not accept that uniformity is important in itself. What matters is that the laws which are in existence throughout the country should not make it difficult for any jurisdiction to achieve its own goals. In fact the existence of varying laws may enable legislators to test their beliefs with regard to the absence of or likelihood of harmful effects.

(c) MAIL ORDER

17.29 An outcome of the fact that the States have not legislated for X-rated videos to be sold or hired although it is permitted under the ACT Classification of Publications Ordinance is that a mail order industry has developed in the ACT for the purpose of supplying material to individual customers in the States. Evidence was given to the Committee that 'up to 13 firms based in the A.C.T. ... are currently involved in duplicating and/or distributing video material interstate.' (Australian Federal Police Evidence, p. 2971)

17.30 Private possession is not a matter that has been held to be of proper concern to governments in Australia (except in Queensland where private possession of material refused under the ACT Ordinance is an offence, or in Western Australia where possession of Refused material is an offence and where the former Minister responsible for censorship matters has stated that X-rated material is included). We acknowledge that there may be an undesirable side effect associated with the existence of a mail order industry of this kind.

17.31 It was brought to the Committee’s attention that it was not hard for minors to gain access to restricted material through mail order since the signed order itself has to be taken as sufficient indication that the person concerned is over 18. (Evidence, p. 2994) In New South Wales and Western Australia it is an offence for a minor who has attained the age of fifteen years to purchase a videotape classified as R or above and in Queensland it is an offence for anyone aged fourteen to eighteen to do so. These laws however are unlikely to be effective in the case of mail order goods as detection and prosecution would probably require a complaint to be lodged by someone associated with the offence.

17.32 It was also suggested by Mr Bob Bottom that the situation in Canberra is one that is attractive to organised crime and may already have attracted the interest of specific criminals from the United States (Evidence, pp. 3024-5) although hard evidence for this is lacking. Mr Bottom’s evidence has not been substantiated by the Federal Police Bureau of Criminal Intelligence’s ongoing operation of looking at the people involved in the video trade within the ACT which is updated from day to day. (Evidence, p. 3182)

17.33 At the present time there appears to be little impediment to the operation of a mail order trade in the ACT or the sending of X-rated video tapes to persons claiming to be over the age of 18 who request them. Postal Services regulations 53 and 53A provide that no article may be sent by post which contains ‘matter not solicited by the person to whom it is sent, being matter of an indecent, obscene or offensive nature’. However anything that is solicited now lies outside the scope of
the regulations. It is not a breach of the regulations and there is no qualification in the regulations that confines the solicitation to adults. (Evidence, p. 1994) Moreover the Minister for Communications wrote to the Committee that:

... Australia Post plays only a minor role in cases dealt with under Regulations 53 and 53A, and considers that it should not be involved in policing laws of an essentially non-postal nature. Its conclusion, and mine also, is that the responsibility for such matters should be placed with the Commonwealth law enforcement agency - the Australian Federal Police - rather than with Australia Post. (Evidence, p. 1975)

17.34 The Australian Federal Police reported that mail order is very difficult to police:

The only ones involved in such a transaction, of course, are the distributor, in most cases Australia Post and/or reputed courier services and the person who has ordered the tape. If a complaint does not arise from any one of those it is highly unlikely that the matter will be brought to police attention. (Evidence, p. 2976)

17.35 Whether section 92 of the Constitution (freedom of trade between the States) would preclude a law preventing the transmission of X-rated videos by mail order from the ACT into States where their sale or hire is illegal, although possession is not, has been given consideration.

17.36 Some argue that section 122 of the Constitution (the Territories power) would allow a law prohibiting the sale in the ACT by mail order of X-rated videos, either generally or where the address for delivery was in a State or the Northern Territory. Section 92 of the Constitution would have no application to such a law. That section provides that trade, commerce and intercourse between the States shall be absolutely free. It is not relevant to laws relating to trade, etc., between a Territory and a State and between Territories.

17.37 Others argue that the case of Pilkington v. Frank Hammond Pty. Ltd. (1974) 131 C.L.R. 124 casts considerable doubt on the correctness of that interpretation. In Pilkington it was argued that section 92 did not apply to carriage of goods from Tasmania to Victoria because their ultimate destination was London and the carriage was therefore carriage in the course of overseas rather than inter-State trade.

17.38 The majority of the High Court held that, even though it was overseas trade, passage through Melbourne also made it inter-State trade.

17.39 Dixon C.J. stated in Lamshead v. Lake (1958) 99 C.L.R. 132, p. 143 - 'Again, section 92 itself, while on its very terms it does not protect trade between a State and a territory, may well protect trade, commerce and intercourse between two States during its passage through a territory'.

17.40 Therefore Pilkington could well be relied on to found an argument that the commencement within the Australian Capital Territory of a movement of goods destined for a State other than New South Wales is part of, or is inseparably connected with, inter-State trade in the goods constituted by the movement of the goods from New South Wales to the other State.

17.41 In summary one senior counsel advised that 'I think it quite possible that the transmission of goods from the ACT to the States other than New South Wales would be held to be protected by section 92. If this be the case, it follows that any controls on such transmissions would therefore have to be examined to consider their compatibility with section 92's declared freedom'.
17.42 In the case of trade originating in the Northern Territory, section 49 in the Northern Territory (Self Government) Act 1978 is applicable. That section protects trade between the Northern Territory and the States.

(d) PROTECTION OF ADULTS

17.43 The general thrust of the ACT Ordinance is to provide protection for adults from material which may be offensive to them through self-regulation aided by segregation of sexually explicit material and by labelling in categories that denote general content. As was discussed in Chapter 7 the guidelines that determine the specific content in some classification categories have changed as the perception of possible effects of certain kinds of video material has altered. The currently operative guidelines do not appear to be well known to the general public.

17.44 Some submissions across the full range of perspectives were received by the Committee which expressed concern over the amount of violence that is portrayed in classifications below X (violence is prohibited in X), in particular in R and to a lesser extent, M. A few people were also offended by the language contained in some video material.

17.45 We believe that it is most important for potential consumers to be informed about the content of each particular video tape. If free choice is to work properly then the content of classification and labelling on which it is based must be well known and understood by consumers and as much information as possible should be included in labels on video containers.

17.46 When the Film Censorship Board publishes its decisions in the Commonwealth Gazette, all non-G films and videos are accompanied by a shorthand code which indicates the reasons for the judgments the Board makes. An explanatory key to the code is also published as follows:

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Explicitness/Intensity</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infrequent</td>
<td>Low</td>
<td>Medium</td>
</tr>
<tr>
<td>Infrequent</td>
<td>Frequent</td>
<td>i</td>
</tr>
<tr>
<td>V (Violence)</td>
<td>i</td>
<td>f</td>
</tr>
<tr>
<td>L (Language)</td>
<td>i</td>
<td>f</td>
</tr>
<tr>
<td>O (Other)</td>
<td>i</td>
<td>f</td>
</tr>
</tbody>
</table>

17.47 Examples of notifications in each category together with the full explanation of the reasons for the classification are:

**Miracles** classified PG because of
O (sexual allusions)
L (f-l-j) [Bad] language that is frequent, of low intensity/explicitness and justified;
V (i-l-g) Violence that is infrequent, of low intensity/explicitness and gratuitous.

**Young Blood** classified M because of
O (i-m-g) Violence that is infrequent, of medium intensity/explicitness and gratuitous;
L (i-m-g) [Bad] language that is infrequent, of medium intensity/explicitness and gratuitous;
S (i-m-g) Sex that is infrequent, of medium intensity/explicitness and gratuitous.

**The Fly** classified R because of
O (horror)
V (i-m-j) Violence that is infrequent, of medium intensity/explicitness and justified;
S (i-m-g) Sex that is infrequent, of medium intensity/explicitness and gratuitous.

**Intimate Lessons** classified X because of
S (f-h-g) Sex that is frequent, highly intense/explicit and gratuitous;
O (mild sexual fetish)
The ACT Ordinance is worded in a way that increases the opportunities for adults to protect themselves. Section 25(2) acknowledges that R films as well as X films may depict 'matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a manner that is likely to cause offence to a reasonable adult person'. The classification legislation in Northern Territory, Victoria and South Australia also does this, but the legislation in New South Wales, Western Australia, Tasmania and Queensland defines R only as not suitable for children (in Queensland, the Queensland Films Board of Review subsequently prohibits R films which they judge 'objectionable' under their Films Review Act).

Only the Northern Territory and Western Australia require R films to be separated out from those of lower classifications and displayed in a separate restricted area. We believe that it would be in keeping with the spirit of Clause 25 of the ACT Ordinance to require that R videos be displayed in a separate room from G, PG and M material, or where the retailer chooses there be no display but sale/hire from catalogues available to those over 18.

(e) PROTECTION OF MINORS

According to the law in every State and Territory in Australia, neither R- nor X-rated videos (even where the latter are an accepted classification) may be sold, hired or delivered to a minor.

Evidence of children being supplied with restricted material in video shops was presented to the Committee by a number of groups and individuals (Australian Parents' Council Evidence, pp. 530 and 543; Mrs Beverly Cains Evidence, p. 11; Submission No. 459, Baptist Union of Tasmania) Most of this evidence was of an anecdotal nature. A number of submissions referred to one particular incident in Canberra where a fourteen year old girl obtained two X-rated videos and two R-rated ones at the request of her mother. (Australian Family Association Evidence, p. 1327; Australian Family Association (Queensland Division) Evidence, p. 1243) According to the Australian Federal Police, who did not proceed with a prosecution following the mother's complaint, the girl was 180 cm tall, well-developed for her age, acted casually, and when asked her age replied that she had just turned eighteen. (SSCVM Evidence, pp. 420-1)

We are conscious that it is often impossible for staff of video outlets to tell whether a person who claims to be over 18 years of age is in fact so. It has proved a problem in other areas of law enforcement such as underage drinking in hotels and does not lend itself to easy management where the legal responsibility rests with the vendor.

Evidence of harm resulting from exposure of minors to adult material remains equivocal. There is no doubt, however, from the submissions the Committee received on this issue that the possible access of minors to X and R-rated material in video shops is a matter of concern to many people, as is the fact that parents do not have control over what children might see in other people's homes. These concerns are discussed in chapter 15. It will suffice here to point out that should some amendment to the ACT law be found desirable, models are available in state legislation. In New South Wales and Western Australia the classification legislation declares it an offence for a person 15-18 years of age to buy or hire R films and those refused classification. The same is the case for 14-18 year olds in Queensland. Under the South Australian Act it is an offence for anyone other than a parent or guardian to exhibit images from an R film to a minor and in Western Australia it is an offence for anyone other than a parent or guardian to 'give' an R-rated film to a minor. It is also an offence in South Australia to exhibit images from a refused film to any other person (a prescribed film being one that has been refused classification or had its...
classification revoked under the ACT Classification of Publications Ordinance 1983 as a corresponding law under section 14(5) of the Classification of Publications Act Amendment Act 1985).

(f) TRAILERS

17.54 A number of submissions called for the exclusion of trailers advertising material of higher classifications from all video-tapes sold or hired. As the Girl Guides Association of New South Wales commented:

It is occurring that families are unwittingly being exposed to objectionable trailer material on otherwise suitable films. People should be protected from this unsolicited intrusion into their homes of objectionable offending material. (Submission No. 553, p. 3)

17.55 Unlike legislation in some States, the ACT Classification of Publications Ordinance currently makes no specific reference to trailers attached to videotapes which advertise other titles. According to the definition of 'film' in the Ordinance, the whole videotape should be regarded as a total entity and should therefore be given the classification of the highest material that is on it. In practice the Film Censorship Board who view this as cumbersome, point out to the distributors that they may choose to remove any trailer of a higher classification which is attached to a feature. However video features are often classified before they have trailers attached, and it therefore could be possible for tapes to appear in sale or hire outlets with higher trailers attached. Although this strictly speaking contravenes the law and renders the distributor liable, it is not a satisfactory situation.

17.56 New South Wales, Queensland and Western Australia specify classifications of films the trailers for which should not be attached to features of a particular classification and the Tasmanian Act requires a sticker to be attached to films classified under the ACT Classification of Publications Ordinance warning consumers that there may be trailers of higher classification attached.

17.57 The ACT House of Assembly on 14 February 1985 recommended to the Senate Select Committee on Video Material that:

... the Classification of Publications Ordinance 1983 be amended to make it an offence for trailer material of a higher classification to be included on any video material; and the distributors of video material be responsible for ensuring that all video cassettes only contain trailer material that is either the same or a lower classification.

17.58 A difficulty that the House of Assembly foresaw at that time was that, because major distributors are based outside the ACT they would not need to comply with ACT legislation. However, as can be seen from the table summing up the major features of State and Territory legislation (see Appendix 12), distributors already have to comply with restrictions on higher trailer material imposed in at least three States, two of which demand a complete ban on any higher classifications. What the ACT House of Assembly saw as a problem should no longer be so and we support its recommendation.

(g) MARKINGS

17.59 The existence of difficulties in relation to markings was raised in evidence from a number of sources. The Australian Federal Police reported an incident in mid-September 1985 in an adult shop in Canberra where 'almost all of the video tapes on display were bearing more than one type of classification and that the majority also had attached labels applicable to
The Manageress was newly appointed and displayed a lack of knowledge of the requirements of the Ordinance. In a situation where videos are available for sale or hire in a large number of outlets ranging from specialised shops dealing in videos only to petrol stations, chemists, clubs and milk bars some of which employ temporary or casual staff, it is difficult to ensure that staff will always be aware of what is required of them in selling video material. The solution must lie both in the provision of information to the retailers and in adequate policing to remind proprietors of their responsibilities.

17.60 Different States and Territories have many different requirements with regard to markings in their legislation. Moreover the various requirements make it impossible for the ACT Ordinance to be amended in favour of uniformity. We believe that any recommendations for changes in required markings on video cassettes in the ACT Classification of Publications Ordinance should focus on effective ways of delivering adequate information to consumers in order that they may make an educated choice of material to hire or buy. We recommend that the States decide on similar requirements.

17.61 A requirement that the tape itself be marked as well in every classification has something to commend it. One problem in particular would be solved by adopting this practice; it would reduce the risk that tapes that are left out of their boxes either at home or in video shops might be replaced accidentally in boxes of another classification, thus preventing them from being recognised for what they are. At present there is a risk that tapes of this kind might be seen by groups of people or individuals for whom their content would be unwelcome.

(h) POLICING

17.62 Adequate policing of the conditions of sale and hire of video material is important in a situation where management is focussed on point-of-sale controls.

17.63 Detection of breaches rests with the police in all States and Territories with the possible exception of Western Australia where ‘persons authorized in writing by the Minister’ may inspect premises.

17.64 The Australian Federal Police reported that between January 1985 and September 1986 police in Canberra received eleven or twelve complaints involving alleged breaches of the Classification of Publications Ordinance. Complaints which were able to be substantiated included two cases of wrong marking or failure to bear a classification sticker relating to G and PG films, a complaint about health risks associated with viewing booths in an adult shop, haphazard labelling of adult movies by a new manageress of an adult shop, and problems associated with mail order. Investigations in relation to the sale by a mail order house, which has since closed down, of a video which had been refused classification, were being undertaken at that time. (Evidence, pp. 2968-70)

17.65 Since September 1986 three further matters have come under investigation. In October 1987 the Attorney-General’s Department initiated an inquiry which currently is the subject of a “brief of evidence” against a mail order house in Canberra for advertising and selling videotapes that had been refused classification under the ACT Classification of Publications Ordinance. The Attorney-General’s Department also referred to the Australian Federal Police a letter of complaint from a 15 year old in Queensland that a Canberra mail order firm had sent him an X-rated video. It was discovered on investigation that the minor concerned had signed the usual order form and had supplied his
own cheque. Finally a complaint was received from a member of the public concerning a video cassette in a hire outlet which was marked PG when it should have been marked M. None of these matters have yet been brought to prosecution.

17.66 Detective-Sergeant Lawler, Criminal Investigation Branch of the Australian Federal Police, in a submission to the Committee on 16 September 1986, reported that:

Random inspections have been made of approximately 60 video outlets in the past 18 months and I have not witnessed or had reported to me, apart from the one incident of distributing a video that had been "Refused Classification" and previously referred to, any evidence of blatant disregard of the provisions of the ordinance. (Evidence, p. 2971)

17.67 There were, however, still:

... occasions when inspections of video hire outlets disclose that not every tape in stock is appropriately labelled. (Evidence, p. 2971)

17.68 The Committee was told that other aspects of police work receive a higher priority than does direct policing of the control of video material (SSCVM Evidence, p. 428; Evidence, p. 2983) and that only two officers are attached to the gaming and vice squad which undertakes the policing of Commonwealth video material legislation in the ACT. (Evidence, pp. 2977-8)

17.69 The AFP recommended 'that all video traders be licensed and distributing points be registered'. (Evidence, p. 2972) This would help police to locate outlets in a situation where:

... we seem to have the full spectrum in operation. We have those which you would describe as being large-scale and organised; endeavouring obviously to comply with the law.

17.70 The Adult Video Industry Association has also supported licensing of importers and retailers of adult video material, i.e. material that would be rated R or X. (Evidence, p. 860 and p. 865) It is to be noted that this would mean a significant increase in bureaucracy and would also have the effect of protecting licensees from competition. The nature of most complaints substantiated by police in the ACT suggest that mounting and maintaining an educational campaign aimed at both the public and video proprietors should be sufficient to meet current needs.

THE FILM CENSORSHIP BOARD AND THE FILMS BOARD OF REVIEW

17.71 The role of these bodies and comments on them received in submissions were discussed in Chapter 7.

17.72 As far as the Film Censorship Board is concerned, what appears to be at issue in this inquiry is its capacity adequately to make the judgments necessary to give administrative substance to legislation governing the importation and classification of video material.

17.73 Submissions received by the Committee showed that people assess the adequacy of the Film Censorship Board according to whether they approve of the Board's guidelines and its interpretation of them.

17.74 The guidelines for the classification of videotapes for sale/hire were drawn up in consultation with Commonwealth and State Ministers with censorship responsibilities and have been accepted as viable for the purposes of a general Australia-wide classification system. They have altered as national perceptions
have appeared to change. State Governments which choose to allow for the exercise and imposition of different judgments or impose limitations on what is to be prohibited from sale, hire or possession within State borders have done so through their own legislation.

17.75 While disagreeing with some of the decisions of both the Film Censorship Board and the Films Board of Review, some submissions questioned whether the Boards are representative of the wider community or are sensitive to community attitudes. Many suggestions were made on ways to improve their shortcomings (see Chapter 7).

17.76 Members of the Film Censorship Board are appointed for terms that expire at different times. While appointments are able to be renewed in order to ensure a necessary continuity, rotation of members is also possible which allows for reflection of community interests. On the Board in February 1988 there were former teachers, script-writers, people involved in film and videotape work in educational, editorial production and research capacities and a tool-maker. Three of these were women including a relief member and five were men. The current Chief Censor took up his appointment on 1 February 1988 for a five year term. The Acting Deputy Chief Censor’s appointment expires on 30 June 1988 with the ordinary members terms expiring over a period from June 1988 to December 1990. It is not known how many Board members have children.

17.77 The Films Board of Review has six members. The previous Chairman’s term expired in December 1987 and he was a professor of psychology with research interests in the effects of exposure to film violence on children. The new Chairman is Director of the Office of the Minister for the Arts, he was a film critic and literary editor. The Deputy Chairman is an art teacher and a woman; members include a journalist and film critic, retired public servant associated for twenty years with literature censorship, a priest and a family lawyer. They all serve part-time. It is always ensured that at least one woman member is present when a film is being viewed and discussed.

17.78 We recognise that particular qualifications such as recent experience with teenagers could be emphasised more publicly in the selection of Board members. However, we are satisfied that the structures of both the Film Censorship Board and the Films Board of Review are sufficient in principle to enable them to meet their responsibilities satisfactorily.

17.79 In Chapter 16 the difficulty of determining general public attitudes on video material was pointed out. Clearly what is required is a body which is able to evaluate the information that is available and exercise a responsibility to extrapolate a ‘general’ view for working purposes. We believe that the Film Censorship Board, currently operating under public guidelines that render it accountable for its decisions, is the appropriate body for the task.

17.80 One matter concerning the Film Censorship Board which needs to be addressed urgently is the problem of reclassifying material which was previously classified under different guidelines from those which operate currently. There is no mechanism under the Customs (Cinematograph Films) Regulations to allow the Film Censorship Board to review previous classification decisions. When there are changes in guidelines as there were throughout 1984 when the violence in the M and R categories was more strictly limited and sexual depictions suggesting coercion or non-consent of any kind were completely banned from X, this becomes a limiting factor. We recommend that the Customs (Cinematograph Films) Regulations be amended to allow for the review by the Film Censorship Board of all previously classified videos so they can be brought into line with current guidelines. We believe that under such arrangements distributors should be responsible for ensuring that retailers are provided with
notification and relevant stickers and these classifications should be published in the Commonwealth of Australia gazette with all relevant details and information.

17.81 We also recommend that members of the public should be made aware of the avenues for lodging an appeal with the Films Board of Review via the relevant State or Commonwealth Ministers (see paragraph 7.31).

SUMMARY

17.82 We are satisfied that the level of protection the legislation currently affords is generally adequate, since there is a lack of hard evidence to suggest that the material it allows is harmful to the normal adult population. We acknowledge, however, as does the wording of the ACT Classification of Publications Ordinance 1983 in relation to R-rated material, that there is a need to afford protection to those who are affronted by certain kinds of material.

17.83 While we judge the law to be generally appropriate in prohibiting certain types of material from entering the country and then allowing control largely through the exercise of consumer choice, there are areas where the ACT Classification of Publications Ordinance could be amended further to reduce the risk of people being exposed to material they may consider offensive. Those areas are greater provision of information to the consumer and education of the industry. The area in which we acknowledge that further offences may be added to the legislation is that which deals with minors outside the sphere of parental control. We recommend that the clause 'images from an R or X shall not be exhibited to a minor (otherwise than by a parent or guardian, or a person acting with the authority of a parent or guardian, of the minor)' be inserted in the Ordinance as conditions imposed on R and X videos.

17.84 Interpretation of current community standards lies very much at the heart of Commonwealth legislation controlling video material. We are satisfied that the Commonwealth Film Censorship Board appointed under the Customs (Cinematograph Films) Regulations with its accountable guidelines and statutory role in relation to the ACT Classification of Publications Ordinance 1983 remains the appropriate body to perform this task.
SECTION V

CONCLUSIONS AND RECOMMENDATIONS
CHAPTER 18

CONCLUSIONS AND RECOMMENDATIONS

INTRODUCTION

18.1 We present our conclusions and recommendations following consideration of the issues raised in the submissions received and the evidence presented.

18.2 In relation to the Committee’s Terms of Reference we have come to the following conclusions and make the following recommendations:

CONCLUSIONS

Terms of Reference

(a) the effectiveness of such legislation to adequately control the importation, production, reproduction, sale and hire of violent, pornographic or otherwise obscene material;

As discussed in the report there are significant problems with the phrase ‘violent, pornographic or otherwise obscene material’. There are various degrees of violence, differing views on what pornography is and differences on what constitutes otherwise obscene material. We do not believe that it is physically possible totally to control the importation, production or reproduction of non-classifiable material.

Provided the classified material includes the vast majority of videos sought by Australian consumers then it should be possible to
control the sale and hire of non-classifiable material. If however the material banned were to include material in the X category then it would become attractive for criminal elements to start a black market.

(b) whether the present classification system, as applied by the Film Censorship Board, is adequate as a basis for import and point of sale controls;

We consider the present classification system to be adequate as a basis for coding and registering material and categorising for point-of-sale controls. The current classification system recognises that there is material which is not suitable for those under 18 years and which can be offensive to some sections of the adult community, hence its restricted classification- R or X.

Some depictions of explicit sexual behaviour such as anal intercourse, or some fetishes may be extremely objectionable to a large proportion of the population. This should be dealt with by the classification system being much more specific thus warning potential viewers of a film’s content. We recommend that film and video viewers be given details of the Film Censorship Board’s reasons for classifications above G.

There are four reasons for an above G classification: S(sex), V(violence), L(language) and O(other, e.g. adult concepts). In each case the degree of frequency (infrequent/frequent), explicitness/intensity (low, medium, high) and purpose (justified or gratuitous) is given. These specific reasons must be clearly displayed on all publicity material for the film or video including video slicks, trailers, posters, television advertisements and shown at the beginning of the video and film.

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Explicitness/Intensity</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infrequent</td>
<td>Freq.</td>
<td>Low</td>
</tr>
<tr>
<td>S (Sex)</td>
<td>l</td>
<td>f</td>
</tr>
<tr>
<td>V (Violence)</td>
<td>l</td>
<td>f</td>
</tr>
<tr>
<td>L (Language)</td>
<td>l</td>
<td>f</td>
</tr>
<tr>
<td>O (Other)</td>
<td>l</td>
<td>f</td>
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While the Committee members share an abhorrence of violence, we feel that any attempt to formulate new guideline terminology that would have the effect of deleting excessively violent films may in fact result in the unintended deletion of films of merit. The current guideline terminology used by the Film Censorship Board to determine the definition of different degrees of violence - gratuitous, discreet and exploitative - is not without interpretative difficulty, but any recommendation to alter the terminology may prove to be no more effective in practice. The
Film Censorship Board can achieve a reduction of the level of violence by a tighter interpretation of the relevant guidelines.

The Committee feels that X should not be described as 'above R'. We recommend the establishment of a new category, to be called NVE (non-violent erotica) which contains explicit sex between consenting adults without any suggestion of violence or coercion. This category is to be restricted to those over 18 and in our view is to be placed alongside R.

(c) whether video retailers are observing the conditions of sale or hire attached to classified material, particularly in relation to children under 18 years;

There was little evidence to show that video retailers were not observing the conditions of sale or hire. The question of proof of age is a fairly difficult problem for the video retailer and this problem is also encountered by retailers of tobacco and alcohol. The enforcement of the age conditions is one which rests with the local police.

(d) whether 'R' rated videos should be permitted to be displayed for sale or hire in the same area and side by side with 'G', 'PG' and 'M' rated videos and, if not, what restrictions should be imposed on the display of 'R' rated material;

We believe that R and NVE-rated videos should be displayed in a separate area or, where the retailer chooses, there be no display, but sale or hire from catalogues available to those above 18 years.

(e) whether Regulation 4A of the Customs (Prohibited Imports) Regulations is adequate in identifying categories of prohibited material, and operating effectively in preventing the importation of videotapes/discs falling within the prohibited categories;

Regulation 4A is adequate in identifying categories of prohibited material. However, no law can be 100% effective in controlling what it was set up to do. We do not believe that importation can be totally prevented, whatever the design of the legislation.

(f) examine the extent to which videotapes/discs containing pornographic and violent material are available to the community in general;

Videotapes/discs which have been refused classification are not available to the community in general. Where there are differences in the legality of NVE (or current X) between States and Territories there will be trading - mainly by mail order. The legal (constitutional) position as to banning such trade is not clear and remains untested.

Most of the States do not ban the private possession of X-rated material, only its distribution (sale/hire).

(g) whether children under the age of 18 years are gaining access to videotapes/discs containing violent, pornographic or otherwise obscene material;
Children under the age of 18 years have some access to R and X videos, particularly R. The amount of access is difficult to quantify and probably exaggerated; the evidence received was mainly of a hearsay nature. As with smoking and alcohol the very existence of a ban encourages adolescents to seek out the material.

(h) whether the ACT Classification of Publications Ordinance 1983 should be amended to make it an offence for persons purchasing or hiring videotapes/disks classified above 'R' to allow, suffer or negligently permit children to view such material;

As we recommend that current X material be put in a new category NVE alongside R, we do not see a need to distinguish between 'R' and 'above R'. Consequently we address ourselves to the categories at the R level.

We believe that the ACT (and the States and Northern Territory) should examine the effect of section 14a(2)(b) of the South Australian Classification of Publications Act, 1974 as amended under section 6 of the Classification of Publications Act Amendment Act, 1985 which deals with children being shown R-rated videos without the permission of their parents or guardians and recommend that they apply this to all restricted material - R and NVE. The question of government's intervening where the parents or guardians of the children are involved is a complex one. We recognise that parents have the ultimate responsibility for those in their care.

(i) whether the sale, hire, distribution or exhibition of films and videotapes/disks that would, under existing laws, be accorded a classification above 'R' should be made unlawful;

There is currently no classification above R for films (see Term of Reference j)

We believe that the sale/hire of video material currently classified under the December 1984 guidelines as X should remain lawful in the ACT, as stated in Term of Reference (b). We recommend that the material as defined in the current X classification be put into a category called NVE (non-violent erotica). There should be the same classification range for films as for videos.

(j) whether cinemas should be permitted to screen for public exhibition material classified above 'R', subject to prohibition from entry of persons under the age of 18 years;

There is no good reason for preventing cinemas screening X-rated (NVE-rated) films. It has been argued that it is much easier to control the age of viewers in the case of cinemas.

(k) whether films which would merit a classification above 'R' are being produced in Australia and if so whether Australian men and women are adequately protected by existing law from pressure to act in such films;
We had no evidence of commercial production of such films in Australia. We assume that the main pressure on actors and actresses would be economic and legislation is unlikely to be relevant.

(1) the likely effects upon people, especially children, of exposure to violent, pornographic or otherwise obscene material.

This is the most difficult term of reference.

We are not satisfied with the adequacy of the social research evidence.

Adverse effects upon adults and children of exposure to material containing various degrees of violence, 'pornography' or obscenity have not been clearly demonstrated.

Claims have been made that in some cases it may lead to aggressive behaviour causing physical harm to others and in others it may lead to desensitisation and psychological harm. We are not satisfied that causality has been established.

With regard to detailed and gratuitous depictions of acts of considerable violence or cruelty, explicit depictions of sexual violence, child pornography and bestiality we feel that there is a possible risk of harm or at least sufficient revulsion in the community to justify the refusal of classification.

The argument by some advocates for increased censorship on the grounds of the protection of moral attitudes, especially sexual standards of behaviour is rejected. The defence of 'community standards' is a matter for rational debate and education and not for protection by censorship, even if such protection were considered effective.

RECOMMENDATIONS

Recommendation I

We recommend that a new category NVE (non-violent erotica) be instituted.

Recommendation II

We recommend the new category contain that material as defined in the current classification of X.

Recommendation III

We recommend that the specific reasons for classifying a non-G film be displayed on the front cover of video slicks as part of the prescribed markings (see Term of Reference (b)). The specific reasons must also be shown on all posters, advertising material and trailers. Films must also exhibit the specific reasons as a preface to the film.
Recommendation IV

We recommend that the prescribed classification markings G, PG, M, NVE and R also bear a description of age suitability. We recommend the following description appear along with the classification symbol on the tape, container and all advertising material:

- G (suitable for all ages)
- PG (parental guidance recommended for persons under 15)
- M (not recommended for viewing by persons under 15)
- NVE (non-violent erotica - not to be sold or hired or delivered to a person under 18 years)
- R (restricted - not to be sold or hired or delivered to a person under 18 years)

Recommendation V

We noted the difficulty in finding the classification symbol on many video containers. We recommend that the symbol including the description be placed in the top right hand corner of the container and distributors be responsible for the application of the correct classification symbol to the tape, the container and advertising material.

Recommendation VI

We recommend that the video cassette bear a classification marking as well as the container.

Recommendation VII

We recommend that under the Ordinance a video outlet be required to display a notice giving an explanation of each classification category (see Recommendation III) and the explanatory key for the reasons.

Recommendation VIII

We recommend that there be a comprehensive educational campaign, funded largely by the industry, explaining the detailed description of the content of films and videos (see Recommendation III). It should also draw the attention of the public to the avenues of access to the Films Board of Review through State Ministers or through the Commonwealth Attorney-General.

Recommendation IX

We recommend that a videotape not have a trailer of higher classification than the feature and that it be made an offence for the distributor to place on a videotape a trailer with a higher classification.

Recommendation X

We recommend that it be an offence to show a minor an R-rated or NVE-rated film without the consent of a parent or guardian.

Recommendation XI

We recommend that all R-rated material along with NVE-rated material be displayed in a restricted room at retail outlets or be made available to those over 18 in catalogues at the counter. We also recommend that all promotional material for the above categories be similarly restricted.

Recommendation XII

We recommend that hardtop cinemas be permitted to screen for public exhibition material classified NVE, subject to prohibition of entry of persons under 18 years.
Recommendation XIII

We recommend the Customs (Cinematograph Films) Regulation be amended to give the Film Censorship Board the power to review its own decisions following changes in the guidelines or community attitudes.

Recommendation XIV

We believe that the Films Board of Review should be maintained as a review body.

Recommendation XV

We recommend that members of the Film Censorship Board and Films Board or Review should be appointed for a maximum period of six years consisting of 2 three year terms. There should be some continuity of membership.

Recommendation XVI

We believe that the Film Censorship Board should have a research capacity to assist it in the maintenance of an awareness of 'community standards'.

Recommendation XVII

We recommend the regular publication of lists of Film Censorship Board classifications assigned to videos for sale/hire. To date there has only been one consolidated list of classifications assigned by the Film Censorship Board to videos for sale/hire, published in May 1986. We believe this is unsatisfactory.

Recommendation XVIII

We recommend that section 13 of the Customs (Cinematograph Films) Regulations be amended to correspond with the criteria in Section 25 of the ACT Classification of Publications Ordinance.

Recommendation XIX

We recommend that all video outlets including mail order outlets be registered under the Ordinance, and it be made an offence to trade without a certificate of registration.

Recommendation XX

As a condition of registration we recommend that the proprietors demonstrate a knowledge of their legal requirements under the Ordinance. Non-compliance with the legal requirements shall result in withdrawal of registration.

Recommendation XXI

We recommend the removal of the necessity for the Attorney-General’s written consent to prosecute under the Ordinance.

Recommendation XXII

We believe that the requirement under the Ordinance for charges to be laid within 14 days of police seizure of goods is unrealistic. We recommend a longer period to enable the Film Censorship Board to determine the classification of the material.
Recommendation XXIII

We recommend that the Film Censorship Board and the Films Board of Review adopt a tighter interpretation of the guidelines in order to achieve a reduction in the level of violence in all relevant categories.

R.E. KLUGMAN
Chairman
Parliament House, Canberra
28 April, 1988

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Appendix 1

COMMONWEALTH OF AUSTRALIA: LEGISLATIVE POWERS OF THE PARLIAMENT AND ACTS PERTINENT TO THESE POWERS

Commonwealth of Australia Constitution Act

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

(i.) Trade and commerce with other countries, and among the States:

Customs Act 1901

PART IV - THE IMPORTATION OF GOODS

Division 1 - Prohibited Imports

Prohibition of the importation of goods

50.(1) The Governor-General may, by regulation, prohibit the importation of goods into Australia.

(2) The power conferred by the last preceding sub-section may be exercised-

(a) by prohibiting the importation of goods absolutely;

(b) by prohibiting the importation of goods from a specified place; or

(c) by prohibiting the importation of goods unless specified conditions or restrictions are complied with.

(3) Without limiting the generality of paragraph (2)(c), the regulations-

(a) may provide that the importation of the goods is prohibited unless a licence, permission, consent or approval to import the goods or a class of goods in which the goods are included has been granted as prescribed by the regulations; and

(b) may make provision for and in relation to-
(i) the assignment of licences or permissions so granted or of licences or permissions included in a prescribed class of licences or permissions so granted;

(ii) the granting of a licence or permission to import goods subject to compliance with conditions or requirements, either before or after the importation of the goods, by the holder of the licence or permission at the time the goods are imported;

(iii) the surrender of a licence or permission to import goods and, in particular, without limiting the generality of the foregoing, the surrender of a licence or permission to import goods in exchange for the granting to the holder of the surrendered licence or permission of another licence or permission or other licences or permissions to import goods; and

(iv) the revocation of a licence or permission that is granted subject to a condition or requirement to be complied with by a person for a failure by the person to comply with the condition or requirement, whether or not the person is charged with an offence against sub-section (4) in respect of the failure.

(3A) Without limiting the generality of sub-paragraph (3)(b)(ii), a condition referred to in that sub-paragraph may be a condition that, before the expiration of a period specified in the permission or that period as extended with the approval of the Collector, that person, or, if that person is a natural person who dies before the expiration of that period or that period as extended, as the case may be, the legal personal representative of that person, shall export, or cause the exportation of, the goods from Australia.

(4) Where a licence or permission granted, after the commencement of this sub-section, under the regulations is subject to a condition or requirement to be complied with by a person, the person shall comply with the condition or requirement and, if he fails to do so, he is guilty of an offence punishable upon conviction-

(a) if the licence or permission relates to goods that are not narcotic goods - by a fine not exceeding $10,000; or

(b) if the licence or permission relates to goods that are narcotic goods - as provided by section 235.
Appendix 2

COMMONWEALTH OF AUSTRALIA: LEGISLATIVE POWERS OF THE PARLIAMENT AND ACTS PERTINENT TO THE AUSTRALIAN CAPITAL TERRITORY

Commonwealth of Australia Constitution Act

122. The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

Seat of Government (Administration) Act 1910

PART V - ORDINANCES

12.(1) The Governor-General may make Ordinances for the peace, order and good government of the Territory.

(2) Every such Ordinance shall-
(a) be notified in the Gazette;
(b) take effect-
(i) from the date of notification;
(ii) where another date (whether before or after the date of notification) is specified in the Ordinance, from the date specified; or
(iii) where the Ordinance so provides, from such date as is fixed by the Minister by notice in the Gazette; and

(c) be laid before each House of the Parliament within fifteen sitting days of that House after the day on which the Ordinance is made.

(2A) A notice in the Gazette of any such Ordinance having been made, and of the place or places where copies of the Ordinance can be purchased, shall be sufficient compliance with the
(2B) Where a notice of an Ordinance having been made is published in accordance with sub-section (2A), copies of the Ordinance shall, at the time of publication of the notice or as soon as practicable thereafter, be made available for purchase at the place, or at each of the places, specified in the notice.

(2C) Where, on the date of publication of a notice referred to in sub-section (2B), there are no copies of the Ordinance to which the notice relates available for purchase at the place, or Minister of State for Administrative Services shall cause to be laid before each House of the Parliament, within 15 sitting days Ordinance were not so available and the reason why they were not so available.

(2D) Failure to comply with a requirement of sub-section (2B) or (2C) shall not be taken to constitute a failure to comply with paragraph (2)(a) or sub-section (2A).

(3) If an Ordinance is not laid before each House of the Parliament in accordance with paragraph (c) of sub-section (2) of this section, it shall be void and of no effect.

(4) If either House of the Parliament, in pursuance of a motion of which notice has been given within fifteen sitting days after an Ordinance has been laid before that House, passes a resolution disallowing the Ordinance or a part of the Ordinance, the Ordinance or part so disallowed shall thereupon cease to have effect.

(5) If, at the expiration of fifteen sitting days after notice of a motion to disallow an Ordinance or part of an Ordinance has been given in a House of the Parliament, the motion given within fifteen sitting days after the Ordinance has been laid before that House-

(a) the notice has not been withdrawn and the motion has not been called on; or

(b) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of, the Ordinance or part so disallowed shall thereupon be deemed to have been disallowed.

(5A) If, before the expiration of fifteen sitting days after notice of a motion to disallow an Ordinance or part of an Ordinance has been given in a House of the Parliament-

(a) that House is dissolved or, being the House of Representatives, expires, or the Parliament is prorogued; and

(b) at the time of the dissolution, expiry or prorogation, as the case may be -

(i) the notice has not been withdrawn and the motion has not been called on; or

(ii) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the Ordinance shall, for the purposes of the last two preceding sub-sections, be deemed to have been laid before that House on the first sitting day of that House after the dissolution, expiry or prorogation, as the case may be.

(6) Where an Ordinance or a part of an Ordinance is disallowed, or is deemed to have been disallowed, under this section, the disallowance has the same effect as a repeal of the Ordinance or the part of the Ordinance, as the case may be, except that, if a provision of the Ordinance or of the part of the Ordinance amended or repealed a law in force immediately before that provision came into operation, the disallowance revives the provision from and including the date of the disallowance as if the disallowed provision had not been made.

(7) If an Ordinance or a part of an Ordinance is disallowed, or is deemed to have been disallowed, under this section, and an Ordinance containing a provision being the same in substance as a provision so disallowed, or deemed to have been disallowed, is made within six months after the date of the disallowance, that provision is void and of no effect, unless-

(a) in the case of an Ordinance, or a part of an Ordinance, disallowed by resolution - the resolution has been rescinded by the House of the Parliament by which it was passed; or

(b) in the case of an Ordinance, or a part of an Ordinance, deemed to have been disallowed - the House of the Parliament in which notice of the motion to disallow the Ordinance or part was given has approved, by resolution, the making of a provision the same in substance as the provision deemed to have been disallowed.

(8) All regulations made under an Ordinance shall be laid before each House of the Parliament within fifteen sitting days of that House after the day on which the regulations are made and, if they are not so laid before each House of the Parliament, shall be void and of no effect.
(9) Sub-sections (4) to (7), inclusive, of this section apply to and in relation to regulations laid before a House of the Parliament as if the references in those sub-sections to an Ordinance were references to regulations.

(10) In this section—

"Ordinance" means an Ordinance made under this Act;

"regulations" includes rules and by-laws.

Appendix 3

COMMONWEALTH LEGISLATION

Customs (Prohibited Imports) Regulations

Importation of objectionable goods

4A. (1) In this regulation, unless the contrary intention appears—

"film" includes a cinematograph film, a slide, video tape and video disc and any other form of recording from which a visual image can be produced;

"publication" means any book, paper, magazine, film or other written or pictorial matter.

(1A) This regulation applies to the following goods, that is to say—

(a) publications, other than films that are registered under the Customs (Cinematograph Films) Regulations, that—

(i) depict in pictorial form a child (whether engaged in sexual activity or otherwise) who is, or who is apparently, under the age of 16 years in a manner that is likely to cause offence to a reasonable adult person;

(ii) depict in pictorial form bestiality in a manner likely to cause offence to a reasonable adult person;

(iii) contain detailed and gratuitous depictions in pictorial form of acts of considerable violence or cruelty, or explicit and gratuitous depictions in pictorial form of sexual violence against non-consenting persons;

(iv) promote or incite terrorism; or

(v) promote or incite the misuse of a drug specified in the Fourth Schedule.

(b) any other goods that—
(i) depict, express or are otherwise concerned with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a manner that is likely to cause offence to a reasonable adult person to the extent that they should not be imported; or

(ii) depict a child (whether engaged in sexual activity or otherwise) who is, or who is apparently under the age of 16 years in a manner that is likely to cause offence to a reasonable adult person.

(2) The importation of goods to which this regulation applies is prohibited unless a permission, in writing, to import the goods has been granted by the Attorney-General or a person authorized by the Attorney-General for the purposes of this sub-regulation.

(2A) The Attorney-General may, by instrument in writing, appoint a person to be an authorized person for the purposes of sub-regulation (2).

(3) A permission under this regulation shall be subject to such conditions imposing requirements or prohibitions on the person to whom the permission is granted with respect to the custody, use, reproduction, disposal, destruction or exportation of the goods, or with respect to accounting for the goods, as the Attorney-General or a person authorized by the Attorney-General for the purposes of sub-regulation (2) thinks necessary to ensure that the goods are not used otherwise than for the purpose for which he grants the permission.

### CUSTOMS (CINEMATOGRAPH FILMS) REGULATIONS

Incorporating all amendments by legislation made to 31 October 1980

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Parts I

CUSTOMS (CINEMATOGRAPH FILMS) REGULATIONS

PART I—PRELIMINARY

1. These Regulations may be cited as the Customs (Cinematograph Films) Regulations.

2. The Customs (Cinematograph Films) Regulations (comprising Repeal Statutory Rules 1932, No. 24; Statutory Rules 1945, No. 125; Statutory Rules 1949, No. 17; and Statutory Rules 1956, No. 47) are repealed.

3. These Regulations are divided into Parts as follows:

Part I—Preliminary (Regulations 1-8)

Part II—The Importation of Films and Advertising Matter (Regulations 9-27)

Part III—Review of Decisions of the Censorship Board (Regulations 35-39C)

Part IV—Miscellaneous (Regulations 40-41). In these Regulations, unless the contrary intention appears—

4. (1) "Censor" means the Chief Censor, the Deputy Chief Censor or a member of the Board or a Deputy Censor;

   "advertising matter" means posters, photographs, sketches, programmes and other matter intended for use in connexion with the exhibition of a film;

   "film" means a cinematograph film or a video tape, and includes a positive or negative of a cinematograph film;
"member of the Board" includes the Chief Censor and the Deputy Chief Censor;

"the Act" means the Customs Act 1901-1954;

"the Board" means the Censorship Board constituted by regulation 5 of these Regulations;

"the Board of Review" means the Cinematograph Films Board of Review established by regulation 35 of these Regulations;

"the Chief Censor" means the member of the Board appointed to be the Chief Censor under these Regulations;

"the Deputy Chief Censor" means the member of the Board appointed to be the Deputy Chief Censor under these Regulations.

(2) A reference in these Regulations to a form by number shall be deemed to be a reference to the form so numbered in the Schedule to these Regulations.

5. (1) For the purposes of these Regulations, there shall be a Censorship Board.

(2) The Board shall consist of the Chief Censor, the Deputy Chief Censor and seven members.

(3) The members of the Board shall be appointed by the Governor-General.

(4) The members of the Board shall hold office for such period, not exceeding six years, as the Governor-General determines, but are eligible for re-appointment.

(5) A member of the Board (not being an officer or employee of the Australian Public Service) shall be appointed on such terms and conditions relating to remuneration and allowances, as the Governor-General determines.

(6) The Governor-General shall not make a determination under sub-regulation (5) in relation to any matter in respect of which a determination is for the time being in force under the Remuneration Tribunals Act 1973.

(7) A member of the Board may be removed from office by the Governor-General for misbehaviour or incapacity.

6. The Governor-General may appoint a person to act as the Chief Censor, the Deputy Chief Censor or a member of the Board during any period, or during all periods, when—

(a) there is a vacancy in the office of Chief Censor or Deputy Chief Censor or of a member of the Board, as the case may be, or

(b) the Chief Censor, the Deputy Chief Censor or a member of the Board, as the case may be, is, for any reason, unable to carry out the duties of his office, and a person so appointed has the powers, and shall perform the duties, of the Chief Censor, Deputy Chief Censor or member of the Board, as the case may be.

7. (1) The Attorney-General may, on the recommendation of the Comptroller, appoint a person to be a Deputy Censor for the purposes of these Regulations.

(2) A Deputy Censor appointed in pursuance of the last preceding sub-regulation shall hold office during the pleasure of the Attorney-General.

8. (1) The Governor-General may appoint a person to act as the Chief Censor, the Deputy Chief Censor or a member of the Board during any period, or during all periods, when—

(a) there is a vacancy in the office of Chief Censor or Deputy Chief Censor or of a member of the Board, as the case may be, or

(b) the Chief Censor, the Deputy Chief Censor or a member of the Board, as the case may be, is, for any reason, unable to carry out the duties of his office, and a person so appointed has the powers, and shall perform the duties, of the Chief Censor, Deputy Chief Censor or member of the Board, as the case may be.

7A. (1) The Chief Censor may, by writing under his hand, delegate to the Deputy Chief Censor any of his powers, duties and functions under these Regulations (except this power of delegation).

(2) A power, duty or function so delegated may be exercised or performed by the Deputy Chief Censor in accordance with the instrument of delegation.

(3) A delegation under this regulation is revocable at will and does not prevent the exercise of a power or the performance of a duty or function by the Chief Censor.

(4) A delegation under this regulation continues in operation during a vacancy in the office of the Chief Censor or during any period in which the Chief Censor is unable to carry out the duties of his office, unless and until it is revoked by the person exercising the powers of the Chief Censor under regulation 6 of these Regulations.

8. (1) The powers and functions conferred on the Board under these Regulations may be exercised or performed by any two or more members of the Board and may be so exercised or performed notwithstanding that any other two members of the Board are at the same time exercising or performing the powers or functions of the Board.
(2) Where the members of the Censorship Board dealing with a matter under these Regulations are divided in opinion—
(a) the decision of the majority shall prevail; or
(b) if the members are equally divided in opinion, the determination of the matter shall be adjourned until an additional member of the Censorship Board is present.

PART II—THE IMPORTATION OF FILMS AND ADVERTISING MATTER

9. (1) The importation of a film or advertising matter is prohibited unless a licence to import the film or advertising matter has been granted under these Regulations by the Chief Censor or an officer on behalf of the Chief Censor and the licence is in force.

(2) A licence to import a film or advertising matter shall be in a form determined by the Chief Censor.

10. The grant of a licence under these Regulations is subject to the conditions and requirements specified in these Regulations and to such conditions and requirements as are specified in the licence.

11. A film shall not be delivered from the control of the Customs until it has been registered in accordance with this Part.

12. Advertising matter shall not be delivered from the control of the Customs until it has been passed in accordance with this Part.

13. (1) Subject to the next succeeding sub-regulation, a film shall not be registered and advertising matter shall not be passed, under this Part if, in the opinion of the Board—
(a) the film or advertising matter is blasphemous, indecent or obscene;
(b) the film or advertising matter is likely to be injurious to morality, or to encourage or incite to crime;
(c) the film or advertising matter is likely to be offensive to the people of a friendly nation or to the people of a part of the Queen’s dominions; or
(d) the film or advertising matter depicts any matter the exhibition of which is undesirable in the public interest.

(2) Where application is made to the Board of Review under regulation 39 of these Regulations to review a decision of the Censorship Board in relation to a film or advertising matter, the film shall not be registered, or the advertising matter shall not be passed, under this Part if the Board of Review confirms, on the ground that the film or advertising matter is of a kind referred to in paragraph (a), (b), (c) or (d) of the last preceding sub-regulation, the decision of the Censorship Board not to register the film or pass the advertising matter, as the case may be.

14. (1) An application for the registration of a film shall be made by the importer, shall be in accordance with Form 1 and shall be lodged with a Censor.

(2) The importer shall forward to the Censor with whom the application is lodged a synopsis of the story depicted by the film.

15. (1) A film shall not be registered until the film has been screened in accordance with this Part.

(2) Advertising matter shall not be passed until it has been examined in accordance with this Part.

16. (1) The Chief Censor may direct that the screening of a film take place before—
(a) the Board;
(b) a member of the Board; or
(c) a Deputy Censor.

17. (1) If the member of the Board or Deputy Censor before whom a film is screened is of opinion that the film is of a kind referred to in paragraph (a), (b), (c) or (d) of regulation 13 of these Regulations, the member or the Deputy Censor shall refer the application for registration to the Chief Censor, but if not of that opinion, shall approve the registration of the film.
18. Where a film is screened before the Board in pursuance of regulation 16 of these Regulations or the last preceding regulation, and the Board is of opinion that the film is a film of a kind referred to in paragraph (a), (b), (c) or (d) of regulation 13 of these Regulations, the Board shall refuse the application for registration, but, if the Board is of that opinion, it shall approve the registration of the film.

19. The registration of a film may be granted—

(a) either without conditions or subject to such conditions as the Board, the member of the Board or the Deputy Censor, as the case may be, thinks fit; and

(b) subject to the importer giving security to the satisfaction of the Collector in an amount determined by the Collector for the observance of the conditions subject to which the registration has been granted and the following conditions:

(i) that the film shall not, unless the consent in writing of the Board has first been obtained, be exhibited in Australia by the importer or any other person in a form other than the form in which the film has been registered;

(ii) that the film shall not, unless the consent in writing of the Board has first been obtained, be exhibited under a title other than the title under which it has been registered;

(iii) that advertising matter used in connexion with the film by the importer or any other person shall not refer, directly or indirectly, to any scene, episode or wording not included in the film in the form in which it has been registered; and

(iv) that advertising matter used in connexion with the film shall not contain any matter which is indecent, obscene or injurious to public morality.

20. Where the registration of a film is approved under this Part, the Chief Censor shall cause the film to be registered and—

(a) shall, if the registration is granted subject to conditions, cause a certificate of registration in accordance with Form 2 to be given to the importer; and

(b) may, in any other case, cause such a certificate to be given to the importer.

21. Where an application for the registration of a film is refused, the Chief Censor shall cause a notice in accordance with Form 3 to be given to the importer.

22. (1) Where—

(a) the Board has refused to grant the registration of a film; or

(b) the Board of Review has, on an application made under regulation 39 of these Regulations, refused to direct the Censorship Board to register the film,

the importer may make application for permission to reconstruct the film.

(2) An application for permission to reconstruct a film shall be made within fourteen days, or within such further time as the Chief Censor in special circumstances allows, after the date of the notice of the refusal of the application for registration or the date of the decision of the Board of Review and shall be accompanied by a plan setting out in detail the grounds upon which the importer claims that reconstruction should be permitted and the proposed alterations, deletions or additions to the film.

(3) The Chief Censor may approve or disapprove of a plan for the reconstruction of a film or so alter or amend the plan as he thinks fit.

(4) The Board may, on application by the importer, approve of the registration of the film if reconstructed in accordance with the plan as approved, or as altered or amended, by the Chief Censor.

(5) The Chief Censor may, for the purpose of enabling the film to be so reconstructed, grant permission for the film to be removed to a specified place upon the importer giving security to the satisfaction of the Collector in an amount determined by the Collector for the observance of the following conditions:

(a) that the film shall not be screened before any person other than the importer and four bona fide representatives of the importer;

(b) that the film as reconstructed shall, within fourteen days after its removal from the control of the Customs be returned to the control of the Customs at the place from which it was removed; and

(c) that all matter eliminated from the film in the reconstruction of the film shall be properly tagged, described and forwarded to the Board.

(6) The importer shall, when forwarding the matter eliminated from the film to the Board, forward one positive print of the eliminated matter which shall be filed by the Board and dealt with in such manner as the Comptroller directs.
(7) If a positive film has been printed in Australia from a negative film and part of the film is eliminated in the course of the reconstruction of the film, that part of the negative film which has been eliminated shall be forwarded to the Board and dealt with in such manner as the Comptroller directs.

(7A) The last two preceding sub-regulations do not apply to or in relation to a video tape.

(8) The matter eliminated from the film in the course of the reconstruction of the film shall, unless it is exported within twenty-eight days after it is forwarded to the Board, be destroyed under the supervision of the Customs.

23. (1) A film shall be screened as and when required by a Censor.

(2) The screening shall be carried out at the risk of the importer.

(4) At a screening of a film, the importer, not more than four bona fide representatives of the importer and persons approved by the Chief Censor are entitled to be present.

24. (1) The Chief Censor may grant approval to an importer who has made application for the registration of a film to remove the film to a specified place in a sealed container or package for the purpose of waxing the film, inspecting the film, repairing the film, making alterations to, or deletions from, the film, or, if the film is a negative film, of printing a positive film from the film subject to the importer depositing with the Collector the amount of duty payable on the film and giving security to the satisfaction of the Collector in an amount determined by the Collector for the observance of the following conditions:

(a) that the importer shall not remove the film unless he has given not less than twenty-four hours' notice to the Collector of the address of the place to which the film is to be removed;
(b) that the film shall, within twenty-four hours after its removal, be delivered to that place;
(c) that the film shall be treated, repaired or altered, or, if the film is a negative film, shall be printed, under the supervision of an officer within forty-eight hours, or such further time as the Collector allows, after the film is delivered to the place;
(d) that, if the film is a negative film or a soft positive film, not more than one positive film shall be printed from the negative film or soft positive film;

26. (1) Advertising matter shall not be delivered from the control of the Customs until it has been passed by the Board or a member of the Board.

(2) An importer of advertising matter shall lodge with the Board a copy of the advertising matter.

(3) The Board or a member of the Board may, if it thinks fit, pass, amend or reject the advertising matter.

(4) Permission for delivery of the advertising matter from the control of the Customs may be granted subject to the observance of the following conditions:

(a) that the advertising matter shall not be used in any form other than the form in which it was passed; and
(b) that the advertising matter shall be used without any addition thereto or comment thereon unless the consent in writing of the Board to the addition or comment has been obtained.

27. Where a film is not registered or advertising matter is not passed, under this Part, the importer shall export the film or advertising matter, or destroy it under the supervision of an officer, within twenty-eight days—

(a) after the date on which the Board refuses to register the film or to pass advertising matter;
PART IV—REVIEW OF DECISIONS OF THE CENSORSHIP BOARD

35. (1) For the purpose of this Part, there is hereby established a Cinematograph Films Board of Review.

(2) The Board of Review shall consist of not less than five and not more than six members, who shall be appointed by the Governor-General.

(3) In appointing members of the Board of Review, the Governor-General shall ensure that one of the members is a woman.

(4) A member of the Board of Review holds office for such period, not exceeding six years, as the Governor-General determines, and is eligible for re-appointment.

(5) A member of the Board of Review holds office on such terms and conditions as the Governor-General determines.

(6) A member of the Board of Review (not being an officer of the Public Service of the Commonwealth) is entitled to be paid such fees and travelling allowances as the Governor-General determines.

(7) The Governor-General may remove a member of the Board of Review from office for misbehaviour or physical or mental incapacity.

36. (1) There shall be a Chairman of the Board of Review and a Deputy Chairman of the Board of Review, who shall be appointed by the Governor-General from among the members of the Board of Review (other than acting members of the Board of Review).

(2) A person appointed as Chairman of the Board of Review or as Deputy Chairman of the Board of Review holds office during the pleasure of the Governor-General, but ceases to hold office if he ceases to be a member of the Board of Review.

(3) If the Chairman of the Board of Review or the Deputy Chairman of the Board of Review is unable, by reason of illness, absence or otherwise, to perform the duties of his office, the Governor-General may appoint another member of the Board of Review (not being an acting member of the Board of Review) to be the acting Chairman of the Board of Review, or to be the acting Deputy Chairman of the Board of Review, during that inability.

37. The Governor-General may appoint a person to be an acting member of the Board of Review during any period when—

(a) there is a vacancy in the office of a member of the Board of Review; or

(b) a member of the Board of Review is unable, by reason of illness, absence or otherwise, to perform the duties of his office.

38. (1) The functions of the Board of Review may be exercised by not less than three members of the Board of Review of whom one is the Chairman of the Board of Review or the Deputy Chairman of the Board of Review.

(2) The Chairman of the Board of Review shall determine which members are to constitute the Board of Review in relation to an application under regulation 39 of these Regulations.

(3) The functions of the Board of Review may be exercised by three members of the Board of Review notwithstanding that three other members of the Board of Review are at the same time exercising the functions of the Board of Review.

39. (1) A person aggrieved by a decision of the Censorship Board on a matter arising under these Regulations may apply to the Board of Review to review the decision of the Censorship Board.

(2) An application under the last preceding sub-regulation shall be in accordance with Form 7 and shall be lodged with the Chairman of the Board of Review within fourteen days after the date of the decision of the Censorship Board to which it relates or within such further period as the Chairman of the Board of Review allows.

39A. (1) Where application is made to the Board of Review under the last preceding sub-regulation, the Chairman of the Board of Review shall fix a time and place for the hearing of the review and shall cause not less than twenty-four hours' notice of the time and place so fixed to be given to the applicant.

(2) The Board of Review may require a film or advertising matter to which an application relates to be screened or exhibited before it.

(3) The screening or exhibition shall be at the risk of the applicant.

(4) The applicant has the right to be present at the screening of a film or at the exhibition of advertising matter.
39B. (1) On the hearing of an application under regulation 39 of these Regulations, the Board of Review—
(a) may confirm the decision of the Censorship Board; or
(b) may direct the Censorship Board to grant the permission sought by the applicant either without conditions or subject to such conditions as the Board of Review thinks fit, being conditions that the Censorship Board could have imposed under regulation 19 of these Regulations.

(2) Where the members who constitute the Board of Review for the purpose of reviewing a decision of the Censorship Board are divided in opinion—
(a) the decision of the majority of those members shall be deemed to be the decision of the Board of Review; or
(b) if those members are equally divided in opinion—the application shall be reheard by the Board of Review constituted as the Chairman of the Board of Review determines.

(3) The Censorship Board shall give effect to a decision of the Board of Review.

39C. Subject to regulation 40 of these Regulations, the decision of the Board of Review on a matter is final.

PART V—MISCELLANEOUS

40. (1) The Attorney-General may direct that a matter arising under these Regulations be submitted to him for determination.

(2) Upon the submission of a matter to the Attorney-General, the Attorney-General may give such directions as he thinks fit and the Chief Censor shall take such action as is necessary to give effect to the directions of the Attorney-General.

41. The provisions of these Regulations are in addition to, and do not derogate from, the operation of any other law of the Commonwealth relating to the importation of goods into Australia.
Customs (Cinematograph Films) Regulations

THE SCHEDULE—continued

CERTIFICATE OF REFUSAL TO REGISTER AN IMPORTED FILM

The application for the registration of the film described hereunder has been refused.
Name of film:
Length of film:
Number of reels (not applicable in the case of video tape):
Name of producer:
Name of importer:
Dated this day of , 19
To:

Censor

FORM 1

Regulation 21

FORM 7

Regulation 36

NOTE

1. The Customs (Cinematograph Films) Regulations (in force under the Customs Act 1901) as shown in this reprint comprise Statutory Rules 1956 No. 94 as amended by the other Statutory Rules specified in the following table:

<table>
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<tr>
<th>Year and number</th>
<th>Date of notification in Gazette</th>
<th>Date of commencement</th>
<th>Application, saving or transitional provisions</th>
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<td>1956 No. 94</td>
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<tr>
<td>1985</td>
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Customs (Cinematograph Films) Regulations (Amendment)

1. THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the Customs Act 1901.

Dated 14 April 1983.

By His Excellency's Command,

GARETH EVANS
Attorney-General

N. M. STEPHEN
Governor-General

1. Regulation 3 of the Customs (Cinematograph Films) Regulations is repealed and the following regulation substituted:

Application

"3. Parts II and IV do not apply to or in relation to a film in respect of which a permission under Part III is in force."

2. After Part II of the Customs (Cinematograph Films) Regulations the following Part is inserted:

"PART III—FILMS TO BE SCREENED BY APPROVED ORGANIZATIONS

Interpretation

"28. In this Part, unless the contrary intention appears—

'approved event' means an event conducted by an approved organization, being an event approved by the Attorney-General for the purposes of this Part;"
"approved organization" means an organization approved by the Attorney-General for the purposes of this Part;

"film to which this Part applies" means a film that is intended to be screened by an approved organization at an approved event;

"subscription audience" means a group of persons attending an approved event, being a group of persons each of whom has subscribed to the screening of not less than 3 films to be screened at that event by the approved organization conducting the event.

Importation of certain films prohibited

"32. (1) The Attorney-General may, by instrument in writing, approve organizations and events for the purposes of this Part.

(2) In determining whether to approve an organization or an event, the Attorney-General shall have regard to—

(a) the purposes for which the organization was formed;
(b) the extent to which the event is in keeping with the purposes of the organization;
(c) the extent to which the organization carries on activities of a cultural or artistic nature;
(d) the reputation of the organization with respect to the screening of films;
(e) the conditions imposed by the organization with respect to the admission of persons to the screening of films by the organization.

(3) An approval under this regulation shall be published in the Gazette.

Revocation of approval

"33. The Attorney-General may revoke an approval given under regulation 32 in respect of an organization if—

(a) the organization has failed to comply with a condition subject to which a permission to import a film was granted, being a permission granted in respect of a film to be screened at an event conducted by the organization; or
(b) the Attorney-General determines that, by reason of a change in the matters referred to in sub-regulation 32 (2), it is no longer appropriate that the organization be an approved organization.

Review of decision of Attorney-General

"34. (1) Where the Attorney-General makes a decision—

(a) refusing to approve an organization or event under regulation 32; or
(b) revoking an approval under regulation 33,

he shall, by notice in writing within 30 days after the date of the decision, inform the organization to which the decision relates of the decision.

(2) An application may be made to the Administrative Appeals Tribunal for review of a decision referred to in sub-regulation (1).

(3) A notice referred to in sub-regulation (1) shall include a statement to the effect that, subject to the Administrative Appeals Tribunal Act 1975, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates by or on behalf of a person whose interests are affected by the decision.

(4) A failure to comply with the requirements of sub-regulation (3) in relation to a decision shall not be taken to affect the validity of the decision."
NOTES


Statutory Rules 1983 No. 332

Customs (Cinematograph Films) Regulations' (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the Customs Act 1901.

Dated 21 December 1983.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

GARETH EVANS
Attorney-General
and for and on behalf of the
Minister of State for Industry and Commerce

Commencement

1. These Regulations shall come into operation on 1 February 1984.

Principal Regulations

2. In these Regulations, "Principal Regulations" means the Customs (Cinematograph Films) Regulations.

3. After Regulation 2 of the Principal Regulations the following regulation is inserted:

Application of Regulations

"2A. These Regulations apply to and in relation to a film that is imported for public exhibition."

Interpretation

4. Regulation 4 of the Principal Regulations is amended —

(a) by omitting from the definition of "film" in sub-regulation (1) "or a video tape" and substituting, "a video tape or video disc"; and
(b) by inserting after the definition of "member" in sub-regulation (1) the following definition:

"'public exhibition', in relation to a film, means the exhibition of the film to members of the public in a place, whether enclosed, partly enclosed or unenclosed, and whether admission to the exhibition of the film—

(a) is open to all members of the public or is restricted to persons who are members of a club or who possess any other qualification; and

(b) is or is not procured by the payment of money or on any other condition;".

Censorship Board

5. Regulation 5 of the Principal Regulations is amended by inserting "physical or mental" before "incapacity" in sub-regulation (7).

Delegation by Chief Censor

6. Regulation 7A of the Principal Regulations is amended—

(a) by inserting in sub-regulation (1) "a member of the Board or a Deputy Censor" after "Deputy Chief Censor"; and

(b) by omitting from sub-regulation (2) "Deputy Chief Censor" and substituting "delegate".

Exercise of powers, &c., of Censorship Board

7. Regulation 8 of the Principal Regulations is amended by omitting sub-regulation (2) and substituting the following sub-regulations:

"(2) The Chief Censor is responsible for ensuring the orderly and expeditious discharge of the business of the Censorship Board and may give directions as to—

(a) the arrangement of the business of the Board; and

(b) the constitution of the Board for the purpose of dealing with matters under these Regulations.

"(3) Subject to sub-regulation (4), where the members of the Censorship Board dealing with a matter under these Regulations are divided in opinion, the decision of the majority shall prevail.

"(4) Where the members of the Censorship Board dealing with a matter under these Regulations are equally divided in opinion—

(a) where the Board consists of the Chief Censor and not less than 3 other members—the Chief Censor has a casting vote as well as a deliberative vote; and

(b) in any other case—the determination of the matter shall be adjourned until an additional member of the Board is present;".

Bars to registration or passing

8. Regulation 13 of the Principal Regulations is amended—

(a) by omitting from sub-regulation (1) all the words from and including "Subject to" to and including "the Board—" and substituting the following:

"Subject to sub-regulation (2), a film shall not be registered under this Part if in the opinion of the Board, and advertising matter shall not be passed under this Part if in the opinion of the Board or a member of the Board—";

(b) by adding at the end of paragraph (1) (b) "or";

(c) by omitting paragraph (1) (c); and

(d) by omitting from sub-regulation (2) "paragraph (a), (b), (c) or (d) of the last preceding sub-regulation" and substituting "paragraph (l)(a), (b) or (d)".

Application for registration of a film

9. Regulation 14 of the Principal Regulations is amended by omitting from sub-regulation (1) "Form I" and substituting "a form approved by the Chief Censor".

Screening of films and examination of advertising matter

10. Regulation 15 of the Principal Regulations is amended by omitting sub-regulation (1) and substituting the following sub-regulation:

"(1) The Chief Censor may require a film that is the subject of an application for registration to be screened in accordance with this Part.".

Screening of films

11. Regulation 17 of the Principal Regulations is amended by omitting sub-regulation (1) and substituting the following sub-regulation:

"(1) Where a film is screened before a member of the Board or a Deputy Censor—

(a) if the member or Deputy Censor is of opinion that the film is of a kind referred to in paragraph 13 (1) (a), (b) or (d), the member or Deputy Censor shall refer the application for registration to the Chief Censor; and

(b) in any other case, the member or Deputy Censor shall—

(i) approve the registration of the film; or

(ii) refer the application for registration to the Chief Censor.".

12. After regulation 18 of the Principal Regulations the following regulation is inserted:
Registration of unscreened films

"18A. Where the Chief Censor has not required a film to be screened, the Board shall, if it is of the opinion that the film is not a film of a kind referred to in paragraph 13 (1) (a), (b) or (d), approve the registration of the film."

Certificate of registration

13. Regulation 20 of the Principal Regulations is amended by omitting "Form 2" and substituting "a form approved by the Chief Censor".

Notice of refusal of registration

14. Regulation 21 of the Principal Regulations is amended by omitting "a notice in accordance with Form 3" and substituting "notice of the refusal, setting out the grounds of the refusal.".

Hearing of review

15. Regulation 39A of the Principal Regulations is amended by omitting from sub-regulation (1) "the last preceding sub-regulation" and substituting "regulation 39 or in pursuance of a law of the Australian Capital Territory".

Decision on review

16. Regulation 39B of the Principal Regulations is amended by inserting "under these Regulations or under a law of the Australian Capital Territory" after "Censorship Board" in sub-regulation (2).

17. After regulation 39C of the Principal Regulations the following regulation is inserted in Part V:

Additional functions of Censorship Board, Censor and Board of Review

"39D. (1) In addition to the powers and functions conferred on the Censorship Board, a Censor and the Board of Review by these Regulations, the Censorship Board, a Censor and the Board of Review may, in relation to the censorship and classification of films, exercise such powers, and perform such functions—

(a) as are conferred on the Censorship Board, a Censor or the Board of Review, respectively—

(i) by any arrangement made, or agreement entered into, whether before or after the commencement of this regulation, under a law of a State; or

(ii) by a law of the Australian Capital Territory; and

(b) under a law of a Territory other than the Australian Capital Territory as the Attorney-General directs.

"(2) A reference in regulation 7A, 8 and 38 to the powers, duties or functions of the Censorship Board, a Censor or the Board of Review, as the case may be, shall be read as including a reference to powers, duties or functions conferred in pursuance of regulation 39D."

Schedule

18. The Schedule to the Principal Regulations is amended by omitting Forms 1, 2 and 3.

Further amendments

19. The Principal Regulations are further amended as set out in the Schedule.
### SCHEDULE

#### FORMAL AMENDMENTS

<table>
<thead>
<tr>
<th>Provision</th>
<th>Amendment</th>
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<tr>
<td>Regulation 2</td>
<td>Omit &quot;of these Regulations&quot;.</td>
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<tr>
<td>Regulation 3</td>
<td>Omit &quot;of these Regulations&quot;.</td>
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<tr>
<td>Sub-regulation 4 (1) (definition of &quot;the Act&quot;)</td>
<td>Omit &quot;of these Regulations&quot;.</td>
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<td>Sub-regulation 4 (1) (definition of &quot;the Board&quot;)</td>
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<tr>
<td>Sub-regulation 5 (2)</td>
<td>Omit &quot;seven&quot;, substitute &quot;7&quot;.</td>
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<td>Sub-regulation 7 (2)</td>
<td>Omit &quot;the last preceding sub-regulation&quot;, substitute &quot;sub-regulation (1)&quot;.</td>
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<td>Sub-regulation 8 (1)</td>
<td>Omit &quot;two&quot; (twice occurring), substitute &quot;2&quot;.</td>
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<td>Sub-regulation 11 (2)</td>
<td>Omit &quot;of these Regulations&quot;.</td>
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<tr>
<td>Sub-regulation 13 (2)</td>
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<td>Sub-regulation 13 (3)</td>
<td>Omit regulation 16 of these Regulations or the last preceding regulation, substitute &quot;sub-regulation 16 or 17&quot;.</td>
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<td>Sub-regulation 22 (2)</td>
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<td>Omit &quot;forty-four&quot;, substitute &quot;14&quot;.</td>
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<td>Sub-regulation 22 (7) (a)</td>
<td>Omit &quot;the last two preceding sub-regulations&quot;, substitute &quot;sub-regulations (6) and (7)&quot;.</td>
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<td>Sub-regulation 22 (8)</td>
<td>Omit &quot;twenty-eight&quot;, substitute &quot;28&quot;.</td>
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<td>Sub-regulation 23 (4)</td>
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<td>Paragraph 24 (1) (c)</td>
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<td>Regulation 27</td>
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<td>Sub-regulation 35 (2)</td>
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<tr>
<td>Sub-regulation 35 (4)</td>
<td>Omit &quot;six&quot;, substitute &quot;6&quot;.</td>
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<tr>
<td>Sub-regulation 38 (1)</td>
<td>Omit &quot;three&quot;, substitute &quot;3&quot;.</td>
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<tr>
<td>Sub-regulation 38 (2)</td>
<td>Omit &quot;of these Regulations&quot;.</td>
</tr>
<tr>
<td>Sub-regulation 38 (3)</td>
<td>Omit &quot;three&quot; (twice occurring), substitute &quot;3&quot;.</td>
</tr>
<tr>
<td>Sub-regulation 39 (2)</td>
<td>Omit &quot;the last preceding sub-regulation&quot;, substitute &quot;sub-regulation (1)&quot;.</td>
</tr>
<tr>
<td>Sub-regulation 39c (1)</td>
<td>Omit &quot;of these Regulations&quot; (twice occurring).</td>
</tr>
<tr>
<td>Sub-regulation 39c</td>
<td>Omit &quot;of these Regulations&quot;.</td>
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</tbody>
</table>
I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulation under the Customs Act 1901.

Dated 31 May 1984.

By His Excellency's Command,

GARETH EVANS
Attorney-General

NOTES


Statutory Rules 1985 No. 105

Customs (Cinematograph Films) Regulations (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulation under the Customs Act 1901:

Dated 5 June 1985.

By His Excellency’s Command,

LIONEL BOWEN
Attorney-General

N. M. STEPHEN
Governor-General

Permission to import films

Regulation 31 of the Customs (Cinematograph Films) Regulations is amended by omitting from paragraph (2) (b) “twice” and substituting “3 times”.

NOTES


Explanatory Statement

Subject: Customs (Cinematograph Films) Regulations (Amendment)
Issued under the authority of the Attorney-General

The purpose of the proposed amendment is to allow films at approved festival events to be screened not more than three times rather than twice as provided for at present.

This will enable Film Festivals within Australia to retain accreditation with the International Federation of Film Producers Association by complying with the Regulations for International Film Festivals.

The proposed regulation amends Regulation 31 of the Customs (Cinematograph Films) Regulations by omitting from paragraph (2)(b) "twice" and substituting "3 times".

Authority: Section 50 of the Customs Act 1901.
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- Amendment of Seat of Government (Administration) Ordinance 1930
- Repeal
- Regulations
“Board” means the Publications Review Board established by this Ordinance;
“Category 1 restricted publication” means a publication classified as a Category 1 restricted publication under this Ordinance;
“Category 2 restricted publication” means a publication classified as a Category 2 restricted publication under this Ordinance;
“Censor” means the Chief Censor, the Deputy Chief Censor, a member of the Censorship Board or a Deputy Censor;
“Censorship Board” means the Censorship Board established under the Films Regulations;
“Chairman” means the Chairman of the Board;
“Chief Censor” means the person appointed to be the Chief Censor under the Films Regulations;
“classification officer” means a person appointed as a classification officer under section 5;
“classified” means classified under this Ordinance;
“Court” means the Court of Petty Sessions;
“Deputy Censor” means a person appointed to be a Deputy Censor under the Films Regulations;
“Deputy Chief Censor” means the person appointed to be the Deputy Chief Censor under the Films Regulations;
“film” includes a cinematograph film, a slide, video tape and video disc and any other form of recording from which a visual image can be produced;
“Films Board of Review” means the Cinematograph Films Board of Review established under the Films Regulations;
“Films Regulations” means the Customs (Cinematograph Films) Regulations made and in force from time to time under the Customs Act 1901;
“member” means member of the Board and includes the Chairman;
“minor” means a person under the age of 18 years;
“objectionable publication” means a publication that—
(a) describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a manner that is likely to cause offence to a reasonable adult person;
(b) depicts in pictorial form a child (whether engaged in sexual activity or otherwise) who is, or who is apparently, under the age of 18 years in a manner that is likely to cause offence to a reasonable adult person; or
(c) promotes, incites or encourages terrorism;
“public place” means any premises, street, road, footpath, public park within the meaning of the Public Parks Ordinance 1928, reserve or other place which the public are entitled to use or which is open to, or used by, the public whether on payment of money or otherwise;
“publication” means any book, paper, magazine, film or other written or pictorial matter that is made available, or is intended to be made available, for exhibition, display, sale, letting on hire or distribution to the public;
“publish” includes sell, offer for sale, let on hire, exhibit, display and distribute;
“restricted publications area” means any premises, or part of any premises, constructed, conducted and managed in accordance with the prescribed requirements;
“sell” means sell by retail or exchange and includes an agreement to sell and an agreement or offer to exchange;
“terrorism” has the same meaning as in the Australian Security Intelligence Organization Act 1979.

(2) A reference in this Ordinance to a determined fee shall be read as a reference to the fee determined under section 60 for the purposes of that provision.

Application
4. Nothing in this Ordinance applies to, or in relation to, a film that—
(a) is registered under the Films Regulations; or
(b) has been produced in Australia by or on behalf of an Australian television station.

PART II—ADMINISTRATION

Classification officers
5. The Attorney-General may, by instrument in writing, appoint such persons as he considers necessary to be classification officers for the purposes of this Ordinance.

Publications Review Board
6. (1) There is established by this Ordinance a Board called the Publications Review Board.

(2) The function of the Board is to review decisions made by classification officers classifying or refusing to classify publications (other than films) under this Ordinance.

Publications Review Board—membership
7. (1) The Board shall consist of not less than 3, or more than 5, members each of whom shall be appointed by the Attorney-General.

(2) At least one member shall be a woman and at least one member shall be a man.
(3) A member shall hold office for such period, not exceeding 3 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

(4) A person who has attained the age of 65 years shall not be appointed or re-appointed as a member of the Publications Review Board and a person shall not be appointed or re-appointed as such a member for a period that extends beyond the date on which he will attain the age of 65 years.

(5) The performance of the function, or the exercise of the powers, of the Board is not affected by reason only of there being a vacancy or vacancies in the membership of the Board.

Chairman of Board
8. The Attorney-General shall appoint one of the members of the Board to be the Chairman of the Board and another of those members to be the Deputy Chairman of the Board.

Chairman of Board—vacation of office
9. Where the person holding office as Chairman of the Board ceases to be a member of the Board, he shall cease to be the Chairman of the Board.

Members of Board—resignation
10. A member of the Board may resign his office by writing signed by him and delivered to the Attorney-General.

Members of Board—termination of appointment
11. (1) The Attorney-General may terminate the appointment of a member of the Board by reason of misbehaviour or physical or mental incapacity.

(2) If a member of the Board—
(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
(b) is absent, except on leave granted by the Attorney-General, from 3 meetings of the Board in any one period of 12 months,
the Attorney-General shall terminate the appointment of the member.

Notification of appointments
12. The Attorney-General shall cause a notice of an appointment made under section 7 or 8 and of the termination of an appointment to be published in the Gazette.

Meetings of Board
13. (1) The Chairman of the Board or, in his absence, the Deputy Chairman of the Board shall convene such meetings of the Board as are necessary for the performance of its function.

(2) The Chairman of the Board or, in his absence, the Deputy Chairman of the Board shall preside at all meetings of the Board at which he is present.

(3) At a meeting of the Board, a quorum is constituted by 3 members.

(4) A question arising at a meeting of the Board shall be determined by a majority of votes of the members present and voting.

(5) The person presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Fees and allowances
14. The Board is a prescribed authority for the purposes of the Remuneration Ordinance 1976.

Protection of members
15. An action of proceeding, civil or criminal, does not lie against a member of the Board for or in respect of any act or thing done in good faith by the member in his capacity as a member.

Disclosure of pecuniary interest
16. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Board and the member shall not—
(a) be present during any deliberation of the Board with respect to that matter; or
(b) take part in any decision of the Board with respect to that matter.

(3) Where a member fails, without reasonable excuse, to comply with the requirements of this section, the Attorney-General shall terminate the appointment of the member.

PART III—CLASSIFICATION OF PUBLICATIONS

Division 1—Publications other than films

Interpretation
17. In this Division, "publication" means a publication other than a film or advertising matter in relation to a film.

Classification officer may classify publications
18. (1) A classification officer may, of his own motion or on application by any person, classify a publication for the purposes of this Ordinance.
(2) An application for the classification of a publication shall be in writing signed by, or on behalf of, the applicant and shall be lodged with a classification officer together with the determined fee.

(3) Where an application is made under this section, a classification officer shall determine the application and notify the applicant in writing of his decision.

(4) Where a classification officer makes a decision classifying or refusing to classify a publication, he shall cause a notice of the decision to be published in the Gazette within 30 days after the date on which the decision was made.

(5) A decision referred to in sub-section (4) shall take effect on the date on which the notice of the decision is published in the Gazette in accordance with that sub-section.

(6) This section does not apply to or in relation to an application in respect of a publication where:

(a) a previous application in respect of the same publication has been made but not determined; or

(b) a classification officer has made a decision classifying or refusing to classify the publication and that decision is being reviewed by the Publications Review Board.

Classification of publication

19. (1) Where a classification officer decides that a publication—

(a) is not an objectionable publication; and

(b) is not unsuitable for perusal by a minor,

he shall classify the publication as an unrestricted publication.

(2) Subject to this section, where a classification officer decides that a publication—

(a) describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a manner that is likely to cause offence to a reasonable adult person; or

(b) is unsuitable for perusal by a minor,

the classification officer shall classify the publication as a Category 1 or a Category 2 restricted publication.

(3) A classification officer shall refuse to classify a publication where he is satisfied that the publication describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a manner that it offends against the standards of morality, decency and propriety generally accepted by reasonable adult persons to the extent that it should not be classified.

(4) A classification officer shall refuse to classify a publication, being a publication—

(a) that depicts in pictorial form a child (whether engaged in sexual activity or otherwise) who is, or who is apparently, under the age of 16 years in a manner that is likely to cause offence to a reasonable adult person; or

(b) that promotes, incites or encourages terrorism.

(5) Where a classification officer classifies a publication that is a single issue of a series of weekly or fortnightly periodic publications, he may declare that the classification applies to all future issues in the series, or to such issues in that series as are specified in the declaration, and the classification shall apply to those issues accordingly.

Review of classification—application

20. (1) Where a classification officer has made a decision classifying, or refusing to classify, a publication—

(a) the person who applied for the classification;

(b) the publisher of the publication; or

(c) the Attorney-General,

may apply to the Board for a review of the decision.

(2) An application under sub-section (1) shall be in writing signed by, or on behalf of, the applicant and shall be lodged with the Chairman of the Board—

(a) where the applicant is a person referred to in paragraph (1) (a)—within 30 days after the date on which he received written notification of the decision to which the application relates;

(b) where the applicant is a person referred to in paragraph (1) (b)—within 30 days after the date of publication of the notice of the decision in the Gazette; and

(c) where the applicant is the Attorney-General—at any time after the date of publication of the notice of the decision in the Gazette.

(3) The determined fee is payable by an applicant, other than the Attorney-General, on lodging an application under this section.

Notice of application

21. Where—

(a) a classification officer has made a decision classifying or refusing to classify a publication on an application made by any person; and

(b) a person other than that person applies to the Board for a review of that decision,

the Board shall cause a notice in writing of the application for review to be given to the person referred to in paragraph (a).
Review of classification

22. (1) Where an application for review of a decision of a classification officer is made to the Board, the Board shall review that decision and may make a decision—

(a) confirming the decision of the classification officer; or
(b) setting aside that decision and classifying or refusing to classify the publication to which that decision relates, as the Board thinks fit.

(2) Subject to this section, where the Board makes a decision under this section, the Chairman of the Board shall, within 14 days after the date on which the decision is made—

(a) notify the applicant in writing of the decision; and
(b) cause a notice setting out the terms of the decision to be published in the Gazette.

(3) The Chairman of the Board shall keep a record of all decisions made by the Board under this section.

(4) A decision made by the Board under this section shall take effect on the day on which a notice of the decision is published in the Gazette in accordance with sub-section (2).

Division 2—Films

Application for classification

23. (1) An application for the classification of a film may be made to the Censorship Board by any person.

(2) An application for the classification of a film shall be in accordance with a form approved by the Chief Censor and shall be lodged with a Censor together with the determined fee, a synopsis of the story depicted by the film and a copy of any advertising matter relating to the film.

Screening of films

24. (1) The Chief Censor may require a film that is the subject of an application for classification to be screened in accordance with this Division.

(2) The Chief Censor may direct that the screening of a film take place before—

(a) the Censorship Board;
(b) a member of that Board; or
(c) a Deputy Censor.

(3) Where the Chief Censor requires a film to be screened, the film shall be screened as and when required by a Censor.

(4) The screening shall be carried out at the risk of the person who applied for classification of the film.

Approval of classification of films by Censorship Board

25. (1) Where the Censorship Board decides that a film—

(a) is not an objectionable publication; and
(b) is not unsuitable for viewing by a minor,

the Board shall approve the classification of the film—

(c) as a "G" film, where it is of the opinion that the film is suitable for general exhibition;
(d) as a "PG" film, where it is of the opinion that the film should only be viewed by a person under the age of 15 years with the guidance of a parent or guardian of that person; or
(e) as an "M" film, where it is of the opinion that the film cannot be recommended for viewing by persons under the age of 15 years.

(2) Subject to this section, where the Censorship Board decides that a film—

(a) depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a manner that is likely to cause offence to a reasonable adult person; or
(b) is unsuitable for viewing by a minor,

the Board shall approve the classification of the film as an "R" film or an "X" film.

(3) The Censorship Board shall refuse to approve the classification of a film where the Board is satisfied that the film depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a manner that it offends against the standards of morality, decency and propriety generally accepted by reasonable adult persons to the extent that it should not be classified.

(4) The Censorship Board shall refuse to approve the classification of a film that—

(a) depicts a child (whether engaged in sexual activity or otherwise) who is, or who is apparently, under the age of 16 years in a manner that is likely to cause offence to a reasonable adult person; or
(b) promotes, incites or encourages terrorism.

Approval of classification of films following screening

26. (1) Where a film is screened before a member of the Board or a Deputy Censor, the member or Deputy Censor shall—

(a) if he is of the opinion that the film is a film of the kind referred to in sub-section 25 (3) or (4), refer the application for classification to the Chief Censor; and
(b) in any other case, approve the classification of the film—

(i) as a "G" film, where he is of the opinion that the film is a film of the kind referred to in paragraph 25 (1) (c);
(ii) as a "PG" film, where he is of the opinion that the film is a film of the kind referred to in paragraph 25 (1) (d);
(iii) as an "M" film, where he is of the opinion that the film is a film of the kind referred to in paragraph 25 (1) (e); or
(iv) as an "R" film or an "X" film, where he is of the opinion that the film is a film of the kind referred to in sub-section 25 (2), or refer the application for classification to the Chief Censor.

(2) Where a member of the Censorship Board or a Deputy Censor refers an application for classification to the Chief Censor under sub-section (1), the Chief Censor shall cause the film to be screened before the Board.

Classification following approval

27. Where the Censorship Board, a member of that Board or a Deputy Censor has approved the classification of a film under this Division, the Chief Censor shall cause the film to be classified accordingly.

Advertising matter

28. (1) Where the Censorship Board, a member of that Board or a Deputy Censor is of the opinion that advertising matter relating to a film that is the subject of an application for classification under this Division—

(a) depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a manner that it offends against the standards of morality, decency and propriety generally accepted by reasonable adult persons to the extent that it should not be approved;
(b) depicts a child (whether engaged in sexual activity or otherwise) who is, or who is apparently, under the age of 16 years in a manner that is likely to cause offence to a reasonable adult person; or
(c) promotes, incites or encourages terrorism,

the Board, member or Deputy Censor shall refuse to approve the advertising matter but otherwise shall approve the advertising matter.

(2) The Censorship Board, a member of that Board or a Deputy Censor may approve advertising matter under sub-section (1) subject to such conditions (if any) in relation to the publication of the advertising matter as the Board, member or Deputy Censor thinks fit.

Notice of decision

29. (1) Where the Censorship Board, a member of that Board or a Deputy Censor makes a decision—

(a) approving, or refusing to approve, the classification of a film; or

(b) approving, or refusing to approve, advertising matter relating to a film,

the Chief Censor shall cause a notice of the decision—

(c) to be given in writing to the person who applied for classification of the film; and
(d) to be published in the Gazette within 30 days after the date on which the decision was made.

(2) A decision referred to in sub-section (1) shall take effect on the date on which the notice of the decision is given to the applicant in accordance with that sub-section.

Review of classification—application

30. (1) Where the Censorship Board, a member of that Board or a Deputy Censor has made a decision approving, or refusing to approve, the classification of a film or approving, or refusing to approve, advertising matter in relation to a film—

(a) the person who applied for the classification;
(b) the publisher of the film; or
(c) the Attorney-General,

may apply to the Films Board of Review for a review of the decision.

(2) An application under sub-section (1) shall be in writing signed by, or on behalf of, the applicant and shall be lodged with the Chairman of the Films Board of Review—

(a) where the applicant is a person referred to in paragraph (1) (a)—within 30 days after the date on which he received written notification of the decision to which the application relates;
(b) where the applicant is a person referred to in paragraph (1) (b)—within 30 days after the date of publication of the notice of the decision in the Gazette; and
(c) where the applicant is the Attorney-General—at any time after the date of publication of the notice of the decision in the Gazette.

(3) The determined fee is payable by an applicant, other than the Attorney-General, on lodging an application under this section.

Notice of application

31. Where—

(a) the Censorship Board, a member of that Board or a Deputy Censor has made a decision approving, or refusing to approve, the classification of a film, or approving, or refusing to approve, advertising matter in relation to a film on an application made by any person; and
(b) a person other than that person applies to the Films Board of Review for a review of that decision,

the Films Board of Review shall cause a notice in writing of the application for review to be given to the person referred to in paragraph (a).
Review of classification

32. (1) Where an application for review of a decision of the Censorship Board, a member of that Board or a Deputy Censor is made to the Films Board of Review, the Board shall review that decision and may make a decision—
   (a) confirming the decision of that Board, member or Deputy Censor; or
   (b) setting aside that decision and classifying, or refusing to classify, the film or approving, or refusing to approve, the advertising matter to which that decision relates, as the Films Board of Review thinks fit.

   (2) Where the Films Board of Review makes a decision under this section, the Chairman of the Board shall, within 14 days after the date on which the decision is made—
      (a) notify the applicant in writing of the decision; and
      (b) cause a notice setting out the terms of the decision to be published in the Gazette.

   (3) The Chairman of the Films Board of Review shall keep a record of all decisions made by the Board under this section.

   (4) A decision made by the Films Board of Review under this section shall take effect on the day on which a notice of the decision is published in the Gazette in accordance with sub-section (2).

Application of Division

33. Nothing in this Division applies to or in relation to an application for classification of a film where—
   (a) a previous application for classification of the same film has been made but not determined; or
   (b) a decision approving, or refusing to approve, the classification of the film is the subject of an application for review by the Films Board of Review and that Board has not determined that application.

Division 3—Miscellaneous

Criteria for classification

34. (1) A prescribed authority shall, in considering whether a publication is an objectionable publication, or is suitable or unsuitable for perusal or viewing by a minor, have regard to the standards of morality, decency and propriety generally accepted by reasonable adult persons.

   (2) A prescribed authority shall, in performing his or its respective functions under this Ordinance, give effect, as far as possible, to the following principles:
      (a) that adult persons are entitled to read and view what they wish; and
      (b) that all persons are entitled to protection from exposure to unsolicited material that they find offensive.

(3) A prescribed authority shall, in deciding whether or not a publication is an objectionable publication, or is suitable or unsuitable for perusal or viewing by a minor, have regard to any literary, artistic or educational merit it may possess and to the general character of the publication, including whether it is of a medical, legal or scientific character.

(4) A prescribed authority shall, in deciding what classification (if any) should be given to a publication, have regard to—
      (a) the persons or class of persons to or amongst whom it is published or is intended or likely to be published; and
      (b) the conditions (if any) subject to which it should be published.

(5) In this section, "prescribed authority" means a classification officer, the Publications Review Board, the Censorship Board, a member of the Censorship Board, a Deputy Censor and the Films Board of Review.

Conditions applying to classified publications

35. (1) The following conditions apply in relation to a publication that is classified as a Category 1 restricted publication:
      (a) the publication shall not be sold, let on hire or delivered to a minor (other than by a parent or guardian of that minor);
      (b) the publication shall not be exhibited or displayed for sale or hire in a public place unless the publication is contained in a sealed package;
      (c) where the sealed package referred to in paragraph (b) is made of transparent material—the publication shall bear the prescribed markings;
      (d) where the sealed package referred to in paragraph (b) is made of opaque material—both the publication and the package shall bear the prescribed markings.

(2) The following conditions apply in relation to a film that is classified as an "R" film:
      (a) the film shall not be sold, let on hire or delivered to a minor (other than by a parent or guardian of that minor);
      (b) the film shall not be exhibited or displayed in a public place unless the container, wrapping and casing in which the film is contained, bear the prescribed markings.

(3) The following conditions apply in relation to a publication that is classified as a Category 2 restricted publication or as an "X" film:
      (a) the publication shall not be sold, let on hire or delivered to a minor (other than by a parent or guardian of that minor);
      (b) the publication shall not be exhibited or displayed, except in a restricted publications area;
      (c) the publication shall not be sold, let on hire or exhibited, displayed or delivered for or on sale or hire unless the publication bears the prescribed markings;
Interpretation

37. In this Division—

"objectionable publication" means an objectionable publication, other than a Category 1 or Category 2 restricted publication, a film classified as an "R" film or an "X" film, or approved advertising matter in relation to a film;

Revocation of classifications

36. (1) Subject to this section, the Publications Review Board may, on application made in accordance with this section or of its own motion, revoke a classification of a publication (other than a film) or a decision refusing to classify a publication (other than a film).

(2) Subject to this section, the Films Board of Review may, on application made in accordance with this section or of its own motion, revoke a classification of a film or a decision refusing to approve the classification of a film.

(3) An application under this section—

(a) shall be in writing signed by, or on behalf of, the applicant; and
(b) shall be lodged with the Chairman of the Board to which the application relates at any time after the expiration of the period of 12 months from the date on which the classification or decision to which the application relates came into effect.

(4) The Publications Review Board or the Films Board of Review shall, within 12 months from the date of the application, give notice of the revocation to be published in the "Gazette."

(5) The Publications Review Board or the Films Board of Review shall not revoke a classification or a decision unless it is satisfied that it is proper to do so, having regard to the provisions in this Part relating to the classification of publications and the conditions applying to classified publications.

(6) Where the Publications Review Board or the Films Board of Review revokes a classification or a decision under this section, that Board shall cause a notice of the revocation to be published in the "Gazette."

PART IV—OFFENCES

Division I—Unclassified publications

Interpretation

37. In this Division—

"objectionable publication" means an objectionable publication, other than a Category 1 or Category 2 restricted publication, a film classified as an "R" film or an "X" film, or approved advertising matter in relation to a film;

Sales, &c., of objectionable publications

38. (1) A person who advertises, or sells, offers for sale, leases on hire or distributes an objectionable publication (other than a prescribed publication) is guilty of an offence punishable, on conviction—

(a) in the case of a body corporate—by a fine not exceeding $5,000; and
(b) in the case of an individual—by a fine not exceeding $1,000 or by imprisonment for a period not exceeding 6 months, or both.

(2) A person who advertises, or sells, offers for sale, leases on hire or distributes a prescribed publication is guilty of an offence, punishable on summary conviction—

(a) in the case of a body corporate—by a fine not exceeding $10,000; and
(b) in the case of an individual—by a fine not exceeding $2,000 or by imprisonment for a period not exceeding 12 months, or both.

Possession of objectionable publications

39. (1) A person who has in his possession an objectionable publication (other than a prescribed publication) for the purpose of selling or otherwise publishing it is guilty of an offence punishable, on conviction—

(a) in the case of a body corporate—by a fine not exceeding $5,000; and
(b) in the case of an individual—by a fine not exceeding $1,000 or by imprisonment for a period not exceeding 6 months, or both.

(2) A person who has in his possession a prescribed publication for the purpose of selling or otherwise publishing it is guilty of an offence punishable, on summary conviction—

(a) in the case of a body corporate—by a fine not exceeding $10,000; and
(b) in the case of an individual—by a fine not exceeding $2,000 or by imprisonment for a period not exceeding 12 months, or both.

Keeping objectionable publications at premises

40. (1) The occupier of any premises who keeps or permits to be kept at those premises an objectionable publication (other than a prescribed publication) for the purpose of selling or otherwise publishing it is guilty of an offence punishable, on conviction—

(a) in the case of a body corporate—by a fine not exceeding $5,000; and
(b) in the case of an individual—by a fine not exceeding $1,000 or by imprisonment for a period not exceeding 6 months, or both.

(2) The occupier of any premises who keeps or permits to be kept at those premises a prescribed publication for the purpose of selling or otherwise publishing it is guilty of an offence punishable, on summary conviction—

(a) in the case of a body corporate—by a fine not exceeding $10,000; and
classification of publications

(b) in the case of an individual—by a fine not exceeding $2,000 or by imprisonment for a period not exceeding 12 months, or both.

publishing objectionable publications in a public place

41. (1) A person who exhibits or displays an objectionable publication (other than a prescribed publication) in a public place, or in such a manner that it is visible to persons in or on a public place, is guilty of an offence punishable, on conviction—

(a) in the case of a body corporate—by a fine not exceeding $5,000; and
(b) in the case of an individual—by a fine not exceeding $1,000 or by imprisonment for a period not exceeding 6 months, or both.

(2) A person who exhibits or displays a prescribed publication in a public place, or in such a manner that it is visible to persons in or on a public place, is guilty of an offence punishable, on summary conviction—

(a) in the case of a body corporate—by a fine not exceeding $10,000; and
(b) in the case of an individual—by a fine not exceeding $2,000 or by imprisonment for a period not exceeding 12 months, or both.

depositing objectionable publications in a public place

42. (1) A person who deposits, or causes to be deposited, an objectionable publication (other than a prescribed publication) in or on a public place or, except with the permission of the occupier, in or on private premises is guilty of an offence punishable, on conviction—

(a) in the case of a body corporate—by a fine not exceeding $5,000; and
(b) in the case of an individual—by a fine not exceeding $1,000 or by imprisonment for a period not exceeding 6 months, or both.

(2) A person who deposits, or causes to be deposited, a prescribed publication in or on a public place, or, except with the permission of the occupier, in or on private premises is guilty of an offence punishable, on summary conviction—

(a) in the case of a body corporate—by a fine not exceeding $10,000; and
(b) in the case of an individual—by a fine not exceeding $2,000 or by imprisonment for a period not exceeding 12 months, or both.

making objectionable publications

43. A person who prints or otherwise makes or produces a prescribed publication for the purpose of selling or otherwise publishing it is guilty of an offence punishable, on summary conviction—

(a) in the case of a body corporate—by a fine not exceeding $10,000; and
(b) in the case of an individual—by a fine not exceeding $2,000 or by imprisonment for a period not exceeding 12 months, or both.

court to have regard to certain matters

44. For the purpose of determining whether a publication (other than a publication that has been refused classification or advertising matter in relation to a film, being advertising matter that has been refused approval) is objectionable, the Court shall have regard to the general character of the publication.

exemption of literary, &c., works

45. (1) The Court shall not find a publication to be objectionable if it possesses literary or artistic merit or is of a medical, legal or scientific character unless the Court is satisfied that the conduct of the person alleged to have committed an offence against a provision of this Division in relation to the publication was not justified in the circumstances, having regard, in particular, to the persons or classes of persons into whose hands the publication was intended or was likely to come.

(2) Sub-section (1) does not apply to or in relation to—

(a) a publication that has been refused classification;
(b) advertising matter in relation to a film, being advertising matter that has been refused approval; or
(c) a publication that is of a kind referred to in paragraph (b) or (c) of the definition of "objectionable publication" in sub-section 3 (1).

subsequent classification of publication

46. A person shall not be convicted of an offence against a provision of this Division in relation to an objectionable publication if he establishes that—

(a) since the offence was alleged to have been committed the publication has been classified under this Ordinance; and
(b) the act alleged to constitute the offence did not infringe any conditions (other than the conditions relating to prescribed markings) that would have been applicable to the publication had it been so classified at the time when the act was done.

division 2—classified publications

sale, &c., of classified publications

47. (1) A person who advertises, or sells or otherwise publishes a publication, being—

(a) a Category 1 or a Category 2 restricted publication; or
(b) a film classified as an "R" film or an "X" film,

otherwise than in accordance with the conditions applicable to that publication, is guilty of an offence punishable, on conviction—

(a) in the case of a body corporate—by a fine not exceeding $10,000; and
(b) in the case of an individual—by a fine not exceeding $2,000 or by imprisonment for a period not exceeding 12 months, or both.

(2) A person who advertises, or sells or otherwise publishes a publication, being—

(a) a Category 1 or a Category 2 restricted publication; or
(b) a film classified as an "R" film or an "X" film,
in or on a public place or, except with the permission of the occupier, in or on
private premises, is guilty of an offence punishable, on conviction—
(c) in the case of a body corporate—by a fine not exceeding $5,000; and
(d) in the case of an individual—by a fine not exceeding $1,000 or by
imprisonment for a period not exceeding 6 months, or both.

Division 3—Miscellaneous

Films—offences

48. (1) A person shall not sell, offer for sale, let on hire or distribute a film
that is classified as a "G" film, a "PG" film or an "M" film if the film, or the
container or wrapping in which the film is sold, offered for sale, let on hire or
distributed, bears any mark or other matter that indicates that the film is not so
classified or is differently classified.

(2) A person shall not sell, offer for sale, let on hire or distribute a film
(whether the film is classified or otherwise) in association with any advertising
matter that has been refused approval.

(3) A person shall not publish any approved advertising matter in relation
to a film except in accordance with the conditions (if any) to which the
approval is subject.

(4) A person who contravenes this section is guilty of an offence
punishable, on conviction—
(a) in the case of a body corporate—by a fine not exceeding $2,500; and
(b) in the case of an individual—by a fine not exceeding $500 or by
imprisonment for a period not exceeding 3 months, or both.

Unclassified publications—offences

49. (1) A person shall not sell, offer for sale, let on hire or distribute a
publication that is not a classified publication if the publication, or the
container or wrapping in which the publication is sold, offered for sale, let on hire or
distributed, bears a prescribed marking or any other mark or matter that
indicates that the publication is classified.

(2) A person who contravenes this section is guilty of an offence
punishable, on conviction—
(a) in the case of a body corporate—by a fine not exceeding $2,500; and
(b) in the case of an individual—by a fine not exceeding $500 or by
imprisonment for a period not exceeding 3 months, or both.

Restricted publications area—offences

50. (1) A person who is in charge of, or who has the management or
control of, a restricted publications area shall not permit a minor to enter that
area.

(2) A person who is in charge of a restricted publications area shall cause to
be displayed in a prominent place on or near each entrance to the area and so
that it is clearly visible from outside the area a prescribed notice.

(3) A person who is in charge of, or who has the management or control of,
restricted publications area shall not, in that area, screen, or cause or permit
to be screened, a film that is classified as an "R" film or an "X" film, other than
by means of a slot-machine operated by a coin or token.

(4) A person who contravenes this section is guilty of an offence
punishable, on conviction—
(a) in the case of a body corporate—by a fine not exceeding $2,500; and
(b) in the case of an individual—by a fine not exceeding $500 or by
imprisonment for a period not exceeding 3 months, or both.

(5) A person shall not be convicted of an offence against sub-section (1) if
he adduces evidence that he believed on reasonable grounds that the person in
relation to whom the offence is alleged to have been committed was of or above
the age of 18 years and that evidence is not rebutted by the prosecutor.

PART V—SEARCH, SEIZURE AND FORFEITURE

Interpretation

51. (1) For the purposes of this Part, a thing is connected with a particular
offence if it is—
(a) a thing with respect to which the offence has been committed;
(b) a thing that will afford evidence of the commission of the offence; or
(c) a thing that was used, or is intended to be used, for the purpose of
committing the offence.

(2) A reference in this Part to an offence shall be read as including a
reference to an offence that there are reasonable grounds for believing has been,
or is to be, committed.

Search and seizure

52. (1) A police officer may enter upon land, or upon or into premises or a
vessel or vehicle, and may search for and seize any thing that he believes on
reasonable grounds to be connected with an offence against this Ordinance that
is found on the land, or on or in the premises, vessel or vehicle if, and only if, the
search and seizure is made by the police officer—
(a) in pursuance of a warrant issued under this Part; or
(b) after obtaining the consent of the occupier of the land or premises or of
the person in charge of the vessel or vehicle to the entry.

Search warrants

53. (1) Where an information on oath is laid before a Magistrate alleging
that there are reasonable grounds for suspecting that there may be upon any
52, a police officer shall inform the person that he may refuse to give his
consent.

The warrant shall be deemed to authorize him to seize that thing.

committing, continuing or repeating the offence or in committing the other
thing in order to prevent its concealment, loss or destruction, or its use in

Ordinance, and he believes on reasonable grounds that it is necessary to seize

thing of a kind specified in the warrant, or to be connected with another omission against this

Police officer finds any thing that he believes on reasonable grounds to be

search of that offence.

A Magistrate shall not issue a warrant under sub-section (1) unless—

the informant or some other person has given to the Magistrate, either

Magistrate requires concerning the grounds on which the issue of the

Consent to search

Before obtaining the consent of a person for the purpose of section
52, a police officer shall inform the person that he may refuse to give his
consent.
(6) Upon the hearing of the summons issued under sub-section (3), the Court shall—

(a) if it is satisfied that there was a contravention of a provision of this Ordinance in respect of the publication and that it is desirable that the publication should be forfeited to the Commonwealth—order the publication to be forfeited to the Commonwealth; or

(b) if it is not so satisfied—order that the publication be delivered to the person appearing to the Court to have been entitled to possession of the publication immediately before its seizure.

(7) Where a publication has been lawfully seized by a police officer as an objectionable publication and, at the expiration of 14 days after the seizure—

(a) no person has been charged with an offence against this Ordinance in respect of the publication; and

(b) a summons has not been issued under sub-section (3) in respect of the publication,

the publication shall be returned to the person from whom it was seized or to the occupier of the premises from which it was seized.

(8) Subject to sub-section (9), a publication which is forfeited to the Commonwealth under this section may be destroyed or otherwise dealt with, as directed by the Attorney-General.

(9) Where the Court has ordered a publication to be forfeited to the Commonwealth, the Attorney-General shall not direct the destruction of the publication before the expiration of the time allowed for instituting an appeal against the order, or, if an appeal is lodged within that time, before the determination of the appeal.

PART VI—MISCELLANEOUS

Exemptions

56. (1) The Attorney-General may, by notice in writing published in the Gazette, exempt a person or body specified in the notice from such of the provisions of this Ordinance, and subject to such conditions (if any), as are specified in the notice.

(2) Notwithstanding anything in this Ordinance, it is not an offence for a person—

(a) to publish a Category 1 or a Category 2 restricted publication or a film classified as an "R" film or an "X" film to a prescribed person or body; or

(b) to do any act or thing that falls within the scope of an exemption under sub-section (1) and that is done in accordance with the conditions (if any) to which that exemption is subject.

Authority to prosecute

57. Proceedings for an offence against this Ordinance shall not be instituted except with the written consent of the Attorney-General.

Abolition of common law offences

58. (1) The common law offence of obscene libel is abolished to the extent to which it applies in relation to a publication that—

(a) is classified as an unrestricted publication or as a "G" film, a "PG" film or an "M" film;

(b) is classified as a Category 1 or a Category 2 restricted publication or as an "R" film or an "X" film, and is published in accordance with the conditions applicable to publications of that kind; or

(c) is approved advertising matter and is published in accordance with the conditions (if any) to which the approval is subject.

(2) The common law offence of conspiring to corrupt public morals is abolished to the extent to which it applies in relation to a publication that—

(a) is classified as an unrestricted publication or as a "G" film or a "PG" film;

(b) is classified as a Category 1 or a Category 2 restricted publication, or as an "R" film or an "X" film, and is published in accordance with the conditions applicable to publications of that kind; or

(c) is approved advertising matter and is published in accordance with the conditions (if any) to which the approval is subject.

Service of notices

59. A notice that is required by this Ordinance to be given to a person may be given—

(a) by delivering it to him personally;

(b) by sending it to him by post addressed to him at his last known place of residence or business; or

(c) by leaving it at his last known place of residence or business with a person apparently over the age of 16 years and apparently resident or employed at that place.

Power to determine fees

60. The Attorney-General may, by notice in writing published in the Gazette, determine fees for the purposes of this Ordinance.

Annual report

61. (1) The Publications Review Board shall, as soon as practicable after 31 December in each year, prepare and furnish to the Attorney-General a report of its operations during the year ending on that date.

(2) The Attorney-General shall cause a copy of each report furnished to him under sub-section (1) to be delivered to the Speaker of the Australian
Classification of Publications No. 59, 1983

Capital Territory House of Assembly within 15 days after the date on which the report was so furnished to him.

Amendment of the Seat of Government (Administration) Ordinance 1930

62. The Second Schedule to the Seat of Government (Administration) Ordinance 1930 is amended—
   (a) by omitting from Part 1 "Objectionable Publications Ordinance 1958"; and
   (b) by inserting in Part 1—
       "Classification of Publications Ordinance 1983"
       after—
       "Child Welfare Ordinance 1957, Part III".

Repeal

63. The Objectionable Publications Ordinance 1958 is repealed.

Regulations

64. The Attorney-General may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance and, in particular—
   (a) prescribing penalties for offences against the regulations, being penalties not exceeding $1,000 in the case of a body corporate and not exceeding $200 in the case of an individual; and
   (b) prescribing requirements in relation to the construction, conduct and management of restricted publications areas.

NOTE


AUSTRALIAN CAPITAL TERRITORY

Classification of Publications (Amendment) Ordinance 1984

No. 17 of 1984


Dated 31 May 1984.

By His Excellency's Command,

GARETH EVANS
Attorney-General

An Ordinance to amend the Classification of Publications Ordinance 1983

Short title

1. This Ordinance may be cited as the Classification of Publications (Amendment) Ordinance 1984.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the Classification of Publications Ordinance 1983.²

Screening of films

3. Section 24 of the Principal Ordinance is amended—
   (a) by inserting after sub-section (1) the following sub-section:
       "(1A) Where the Chief Censor requires a film to be screened, the Chief Censor may require the applicant to lodge a copy of the film with the Censorship Board."; and
   (b) by adding at the end thereof the following sub-section:
       "(6) Where a copy of a film is lodged with the Censorship Board pursuant to a requirement of the Chief Censor under sub-section (1A), the Censorship Board may retain that copy for such period as the Chief Censor directs.".
Classification of Publications (Amendment) No. 17, 1984

Conditions applying to classified publications

4. Section 35 of the Principal Ordinance is amended by inserting after sub-section (1) the following sub-section:

"(1A) A video tape or video disc that is classified as a 'G' film, a 'PG' film, or an 'M' film shall not be exhibited or displayed in a public place unless the container, wrapping and casing in which the video tape or video disc is contained bear the prescribed markings.".

Subsequent classification of publication

5. Section 46 of the Principal Ordinance is amended by inserting ", other than a video tape or video disc," after "objectionable publication".

Sale, &c., of classified publications

6. Section 47 of the Principal Ordinance is amended by adding at the end thereof the following sub-section:

"(3) A person who exhibits or displays in a public place a video tape or video disc that is classified as a 'G' film, a 'PG' film or an 'M' film and contained in a container, wrapping or casing that does not bear the marking prescribed in relation to that film for the purposes of sub-section 35 (1A) is guilty of an offence punishable, on conviction—

(a) in the case of a body corporate—by a fine not exceeding $1,000; and
(b) in the case of an individual—by a fine not exceeding $200."

Films—offences

7. Section 48 of the Principal Ordinance is amended by inserting in sub-section (1) "in the case of a video tape or video disc," after "distribute a film".

8. After section 48 of the Principal Ordinance the following section is inserted:

Video tapes—offences

"48A. (1) A person who sells, offers for sale, lets on hire or distributes a video tape or video disc that has not been classified or that has been refused classification is guilty of an offence punishable, on conviction—

(a) in the case of an unclassified video tape or video disc that is subsequently classified as a 'G' film—by a fine not exceeding $500 for a body corporate or $100 for an individual;
(b) in the case of an unclassified video tape or video disc that is subsequently classified as a 'PG' film—by a fine not exceeding $1,000 for a body corporate or $200 for an individual;
(c) in the case of an unclassified video tape or video disc that is subsequently classified as an 'M' film—by a fine not exceeding $2,000 for a body corporate or $400 for an individual;
10. After section 57 of the Principal Ordinance the following section is inserted:

Evidence

"57A. In any proceedings for an offence under this Ordinance, a certificate signed or purporting to be signed by the Chief Censor and stating that—
(a) a film has been classified or refused classification;
(b) a film has not been classified;
(c) advertising material in relation to a film has been approved or refused approval; or
(d) advertising material in relation to a film has not been approved, is evidence of the matters stated in the certificate."

Abolition of common law offences

11. Section 58 of the Principal Ordinance is amended by omitting from paragraph (2) (a) "or a 'PG' film" and substituting ", a 'G' film or an 'M' film".

NOTES

AUSTRALIAN CAPITAL TERRITORY

Classification of Publications (Amendment) Ordinance 1988

No. 14 of 1988


N. M. STEPHEN
Governor-General

By His Excellency's Command,

GARY PUNCH
Minister of State for the Arts and Territories

An Ordinance to amend the Classification of Publications Ordinance 1983

Short title

1. This Ordinance may be cited as the Classification of Publications (Amendment) Ordinance 1988.

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister by notice in the Gazette.

Principal Ordinance

3. In this Ordinance, “Principal Ordinance” means the Classification of Publications Ordinance 1983.

Insertion

4. Before section 23 of the Principal Ordinance the following section is inserted in Division 2 of Part III:
2 Classification of Publications (Amendment) No. 14, 1988

Interpretation

"22A. In this Division, 'previous decision' means—
(a) a decision of the Censorship Board, a member of that Board or a Deputy Censor—
(i) approving, or refusing to approve, the classification of a film;
or
(ii) approving, or refusing to approve, the advertising matter relating to a film; or
(b) a decision of the Films Board of Review under paragraph 32 (1) (b)."

Insertion

5. After section 28 of the Principal Ordinance the following sections are inserted:

Review by Censorship Board

"28A. (1) The Censorship Board shall, at the direction of the Attorney-General, review a previous decision.

"(2) A direction may be given—
(a) in the case of a decision referred to in paragraph 22A (b) resulting from an application by the Attorney-General—at any time; and
(b) in any other case—after the expiration of 2 years after the date on which the previous decision took effect.

"(3) The Censorship Board may, of its own motion, review a previous decision (not being a decision referred to in paragraph 22A (b) resulting from an application by the Attorney-General) after the expiration of 2 years after the date on which the previous decision took effect.

Notice of review

"28B. (1) The Chief Censor shall, not later than 30 days before a proposed review of a previous decision, cause—
(a) notice of the review to be published in the Gazette; and
(b) notice in writing of the review to be served on—
(i) the person who applied for classification of the relevant film; and
(ii) the publisher of that film.

"(2) Any person who is entitled to be served with a notice under paragraph (1) (b) may, within 30 days after—
(a) that service; or
(b) notice having been published in the Gazette;
(whichever occurs later), make a written submission to the Censorship Board about whichever of the following matters are relevant:
(c) whether the film should be classified or refused classification;
d) the appropriate classification of the film;
e) whether the advertising material should be approved or refused approval.

Review of previous decision

"28C. (1) When a previous decision is reviewed by the Censorship Board, the Board may make a decision—
(a) confirming the previous decision; or
(b) setting aside the previous decision and classifying, or refusing to classify, the film or approving, or refusing to approve, the advertising matter to which the previous decision relates.

"(2) When reviewing a previous decision, the Censorship Board shall have regard—
(a) to any submissions made in accordance with subsection 28B (2);
(b) in the case of a film—to the criteria referred to in sections 25 and 34; and
(c) in the case of advertising matter relating to a film—to the criteria referred to in sections 28 and 34.".

Notice of decision

6. Section 29 of the Principal Ordinance is amended—
(a) by omitting from paragraph (1) (a) "or" (last occurring);
(b) by inserting after paragraph (1) (b) the following word and paragraph:
"; or (ba) confirming, or setting aside, a previous decision;"
(c) by omitting from paragraph (1) (c) "and"
(d) by inserting after paragraph (1) (c) the following paragraph:
"(ca) in the case of a decision confirming or setting aside a previous decision—to be given in writing to the publisher of the film; and"
(e) by omitting from subsection (2) "subsection (1)" and substituting "paragraph (1) (a) or (b)"; and
(f) by adding at the end of the following subsection:
"(3) A decision referred to in paragraph (1) (ba) shall take effect at the expiration of 30 days after the date on which a notice of the decision is published in the Gazette.".

Review of classification—application

7. Section 30 of the Principal Ordinance is amended by inserting in subsection (1) "or confirming, or setting aside, a previous decision" after "film" (second occurring).
NOTES

AUSTRALIAN CAPITAL TERRITORY
Regulations 1984 No. 2

Classification of Publications Regulations

1. GARETH JOHN EVANS, the Attorney-General of the Commonwealth of Australia, hereby make the following Regulations under the Classification of Publications Ordinance 1983.


GARETH EVANS
Attorney-General

Citation
1. These Regulations may be cited as the Classification of Publications Regulations.

Interpretation
2. In these Regulations, "the Ordinance" means the Classification of Publications Ordinance 1983.

Restricted publications areas—construction, management and control
3. (1) A restricted publications area shall be so constructed that no part of the interior of the area is visible to any person outside the area.
(2) Each entrance to a restricted publications area—
(a) shall be fitted with a gate or door capable of excluding persons from the area; and
(b) shall be closed by means of the gate or door referred to in paragraph (a) when the area is not open to the public.

(3) The proprietor or any adult person who is in charge, or who has the management or control of, a restricted publications area shall be in attendance in or near the area at all times when the area is open to the public.

Restricted publications areas—prescribed notice
4. For the purposes of sub-section 50 (2) of the Ordinance, a prescribed notice is a notice containing the words "RESTRICTED PUBLICATIONS AREA—PERSONS UNDER EIGHTEEN YEARS OF AGE MAY NOT ENTER. THE PUBLIC IS WARNED THAT SOME MATERIAL DISPLAYED HEREIN MAY CAUSE OFFENCE," written in clearly legible letters, being letters not less than 15 millimetres in height and of a colour that contrasts with the colour of the background of the notice.
5. (1) For the purposes of sub-section 35(1) of the Ordinance, the prescribed markings in relation to a Category 1 restricted publication shall comprise—
(a) a symbol, being the letter “R” enclosed within, but not touched at any point by, a diamond, the letter “R” being not less than 5 millimetres or more than 10 millimetres in height; and
(b) the word and figure “CATEGORY 1” printed in clearly legible letters immediately below the symbol, with or without the addition of any other words.

(2) For the purposes of sub-section 35 (3) of the Ordinance, the prescribed markings in relation to a Category 2 restricted publication shall comprise—
(a) a symbol, being the letter “R” enclosed within, but not touched at any point by, a diamond, the letter “R” being not less than 5 millimetres or more than 10 millimetres in height; and
(b) the word and figure “CATEGORY 2” printed in clearly legible letters immediately below the symbol, with or without the addition of any other words.

(3) For the purposes of sub-section 35 (2) of the Ordinance, the prescribed markings in relation to a film that is classified as an “R” film shall comprise a symbol, being the letter “R” enclosed within, but not touched at any point by, a diamond, the letter “R” being not less than 5 millimetres or more than 10 millimetres in height, with or without the addition of any words.

(4) For the purposes of sub-section 35 (3) of the Ordinance, the prescribed markings in relation to a film that is classified as an “X” film shall comprise a symbol, being the letter “X” enclosed within, but not touched at any point by, a square, the letter “X” being not less than 5 millimetres or more than 10 millimetres in height, with or without the addition of any words.

6. Each of the following is a prescribed body for the purposes of sub-section 56 (2) of the Ordinance:
(a) The Australian National University;
(b) The Canberra College of Advanced Education;
(c) The National Library of Australia;
(d) The Australian National Gallery.

NOTE
Administrative Arrangements for the Operation of Controls over the Importation of Offensive Publications and Goods

PREAMBLE

1.1 This Document sets out administrative arrangements between the Australian Customs Service (ACS) and the Attorney-General’s Department (AG’s) for the operation of import controls over offensive publications and goods contained in:

   - Regulation 4A of the Customs (Prohibited Imports) Regulations; and
   - the Customs (Cinematograph Films) Regulations.

1.2 The regulations reflect the Government’s policy that adults should be entitled to read, hear and see what they wish in private and in public, subject to provisions preventing persons being exposed to unsolicited material offensive to them and preventing conduct exploiting, or detrimental to the interests of children.

PRIORITIES

2.1 ACS has as its major priority enforcement of laws regarding narcotics, quarantinable items and dangerous goods, and ensuring the correct applications of the Customs Tariff and other assistance arrangements for Australian industry. ACS second priority concerns other prohibited imports and exports and minor revenue evasion matters. Enforcement of censorship controls falls to the latter category.

SCOPE OF THE LEGISLATION

3.1 Import prohibitions under regulation 4A are confined to:

   - publications depicting in pictorial form a child (whether engaged in sexual activity or otherwise) who is, or who is apparently, under the age of 16 years, in a manner that is
publications depicting in pictorial form bestiality in a manner likely to cause offence to a reasonable adult person (reg 4A(1A)(a)(i));

publications containing detailed and gratuitous depictions in pictorial form of acts of considerable violence or form of sexual violence against non-consenting persons (reg 4A(1A)(a)(ii));

publications that promote or incite terrorism (reg 4A(1A)(a)(iv));

publications that promote or incite the misuse of a drug specified in the Fourth Schedule to the Customs (Prohibited Import) Regulations (reg 4A(1A)(a)(v));

any other goods that depict, express or are otherwise concerned with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a manner that is likely to cause offence to a reasonable adult person to the extent that they should not be imported (reg 4A(1A)(b)(i)); and

any other goods that depict a child (whether engaged in sexual activity or otherwise) who is, or who is apparently under the age of 16 years, in a manner that is likely to cause offence to a reasonable adult person (reg 4A(1A)(b)(ii)).

3.2 The Attorney-General or persons authorised by him shall provide expert advice as to whether material falls within the scope of Regulation 4A. Authorised persons are:

- the Censorship Board solely in relation to films; and
- officials of the Attorney-General's Department in relation to publications other than films, and all other goods.

3.3 Publication is defined as any book, paper, magazine, film (as defined in paragraph 3.4) or other written or pictorial matter.

3.4 Film is defined as including cinematographic films, slides, video tapes, video discs or any other recording from which a visual image can be produced.

3.5 The application of the Customs (Cinematograph Films) Regulations is confined to films imported for public exhibition. For the purposes of these Regulations film is defined as a cinematograph film, a video tape or a video disc, and includes a positive or negative of a cinematograph film.

3.6 The purpose of the Customs (Cinematograph Films) Regulations is to provide a vehicle for the registration of film for public exhibition in cinemas or on broadcast television on behalf of State and Territory Governments and the Australian Broadcasting Tribunal. These regulations are not intended to provide a means of preventing the importation of offensive films. A film, imported but not registered under the Customs (Cinematograph Films) Regulations, which contravenes the provisions of Regulation 4A is to be dealt with under that Regulation.

OPERATIONAL PROCEDURES AT THE CUSTOMS BARRIER - REGULATION 4A

4.1 ACS will be responsible for the interception of offensive material at the Customs barrier, using the procedures outlined in this Section and in accordance with the priorities set out at paragraph 2.1.

4.2 Procedures outlined in this section are to apply to all offensive material, irrespective of whether it is imported for commercial or private purposes.

Procedures for the Enforcement of Barrier Controls

4.3 In accordance with the priority accorded to the enforcement of censorship controls, ACS will apply only normal check levels for the detection of offensive material imported as cargo, through parcels post or by passengers.

4.4 In making decisions on whether to investigate breaches or intelligence alleging planned breaches of the Customs barrier, ACS will take into account resource availability and the existence of higher priority tasks.

Identification of Material Subject to Prohibition

4.5 An officer who has a reasonable belief that particular material falls within the scope of import prohibitions may detain the material as a prohibited import. The following guidelines shall be used by ACS officers to identify suspect material at the Customs barrier:

(a) publications containing pictorial child pornography:

- includes films, video tapes, etc as defined in paragraph 3.4;

- depicts pictorially in an offensive manner a child, not necessarily engaged in sexual activity, who appears to be under the age of 16 years;
any inclusion of pictorial child pornography in a publication is sufficient to place the publication in this category.

(b) publications containing pictorial bestiality:
- includes films, video tapes, etc as defined in paragraph 3.4;
- depicts in pictorial form sexual activity between humans and animals;
- does not include bona fide veterinary publications;

(c) publications depicting in pictorial form gratuitous violence or cruelty especially in combination with a sexual element;
- includes films, video tapes, etc as defined in paragraph 3.4;
- depicts in pictorial form acts of considerable violence or cruelty, leading to real physical damage of a significant nature to a victim who does not appear to consent to the activities - especially violence with some sexual element;
- would normally be confined to publications with no other apparent purpose than the presentation of acts of significant violence or cruelty in explicit and graphic detail; and
- would not include:
  - violence or cruelty, however graphic or explicit, in the context of war, western, kung fu, crime, thriller, horror or similar publications;
  - depictions of the infliction of pain, violence or cruelty which are obviously simulated having regard to the nature of the depiction or the known reputation of the publisher of the material; or
  - bondage and similar publications where there is no potential harm to the victim.

(d) publications which promote or incite to terrorism;
- must incite acts of violence; and
- would normally contain instructions on how to manufacture, using easily obtainable materials, weapons, bombs, poisons or other dangerous devices.

(e) publications which promote or incite misuse of drugs;
- includes both pictorial and textual publications;
- must advocate the illegal use of a drug specified in the 4th Schedule of the Customs (Prohibited Imports) Regulations; and
- is not intended to cover publications dealing with illegal use of drugs, however explicit the treatment, unless the publications have as their essential purpose the advocacy of drug misuse.

(f) goods involving sex, bestiality, violence or drugs, etc;
- applies to goods including sound recordings and statues but does not include publications; and
- ACS officers, when considering detention action against goods under this category, shall give consideration to all previously notified advices from the Attorney-General’s Department (e.g. microfiche listings).

(g) goods depicting child pornography:
- applies to goods including sound recordings and statues but does not include publications; and
- depicts in an offensive manner a child, not necessarily engaged in sexual activity, who appears to be under the age of 16 years.

Procedures when Offensive Material is Intercepted at the Barrier

4.6 The procedures to be adopted when offensive material is found will differ, depending on the category of material.

4.7 In the case of all categories of publications, and goods depicting child pornography, where the Attorney-General has provided preliminary guidelines for the identification of suspect material, the ACS will detain the material and refer it to an appropriate person (i.e. the Attorney-General or a person authorised by him) for expert advice on whether it contravenes Regulation 4A.

4.8 ACS will refer material to an appropriate person where an examination of the material or consideration of the circumstances of importation gives rise to a reasonable belief that it could fall within the Attorney-General’s guidelines. In the case of films, video tapes, etc, the ACS will not screen the material, but will make a judgement based on titles, cover illustrations, documents or other circumstances associated with the importation.
Consideration will be given also to previous advices from the
Attorney-General's Department (e.g. microfiche listings).

4.9 Detained material should be forwarded by secure means to:
- in the case of films, as defined in paragraph 3.4, detained
  in NSW - to the Censorship Board; and
- in all other cases - to the regional office of the
  Attorney-General's Department.

4.10 The appropriate person will advise the ACS of the import
status of the material. If the material is determined to be a
which is determined not to be a prohibited import, ACS by the appropriate person and the ACS will make
arrangements for return to the importer, after ensuring that
other Customs requirements have been finalised.

4.11 In the case, where material specified in paragraph 4.5 (a -
titles or descriptions), the ACS will seize the material and issue
a seizure notice.

Treatment of Seized Material

4.12 ACS will follow normal statutory procedures after seizure of
offensive material. In cases where a claim for return of the
advice the Central Office of AG's, through ACS Central Office,
whether to contest the claim will be made after consultations
between the two Departments.

4.13 Following condemnation of seized material, it will be
disposed of by either:
- transfer to AG's for reference material; or
- destruction.

4.14 Under no circumstances is material which contravenes
Regulation 4A to be returned to the importer or the supplier.

Prosecution Policy - Regulation 4A

4.15 ACS will consider launching prosecution action for breaches
of Regulation 4A in the circumstances set out hereunder.

Non-Commercial Breaches

4.16 A breach will be considered non-commercial when it involves
the importation in cargo, through parcels post or by a passenger
of a limited number of articles for private use.

4.17 When considering prosecution of non-commercial breaches,
factors that will particularly be taken into consideration by ACS
will be whether:
- the circumstances suggest a deliberate intention to
circumvent the controls, for example, an attempt at
  concealment; or
- the person involved is a previous offender.

Commercial Breaches

4.18 Relevant factors in considering prosecutions of commercial
breaches will include:
- whether the case involves deliberate intention to circumvent
censorship controls;
- whether the action constituting the offence has been taken
  with reckless disregard of the legislation;
- whether the breach, which in itself is a minor nature, is
  part of a pattern of recurring minor breaches by the same
  offender, despite counselling and/or warnings; or
  recidivists.

4.19 Consideration will be given to joining company management
along with the body corporate where the elements of the offence
can be directed to individuals.

4.20 If it is decided not to prosecute, a letter of warning will
be considered.

4.21 Processing of prosecution briefs is to be in accordance with
departmental guidelines, see ACS Manual No. 19.

4.22 As a general rule, court proceedings will not be taken
against the advice of the AG's. If the Collector is of the
opinion that prosecution should proceed contrary to such advice,
for example where the interpretation of the legislation is in
doubt, requiring clarification or demonstration of the need for
legislative amendment; or where the circumstances of a case
appear to warrant proceedings even recognising a possible adverse
result, he will seek the view of ACS Central Office, which will
consult with AG's.

4.23 Similarly, where the Collector forms the view that
prosecution should not proceed despite AG's advice that a prima
facie case exists, a similar consultation process will be
followed.
5.1 The ACS role in administration of the Customs (Cinematograph Films) Regulations will be limited to the granting of permissions under S40AA of the Customs Act, to enable the movement of goods subject to Customs control to the Film Censor for registration and classification.

5.2 ACS will not question importers' statements about whether or not a film is intended for public exhibition. The absence of a statement will be construed as meaning that a film is not intended for public exhibition.

5.3 Regular importers of film for public exhibition will be granted S40AA permissions on a continuing basis. Occasional importers will be granted single transaction permissions.

5.4 Permissions will allow the movement of films to a place agreed by the Chief Censor and will include conditions suggested by the Chief Censor. Collectors will ensure that any conditions suggested are valid and capable of enforcement. In cases of difficulty Collectors will consult with the Chief Censor.

5.5 The Attorney-General's Department, on the recommendation of the Chief Censor, will advise the ACS in writing of breaches or suspected breaches of S40AA permission requirements. The decision on action following such breaches will rest with the ACS.

5.6 ACS will not take action against importers of films which are exhibited publicly in the absence of registration or in breach of registration conditions except on written request from AG's Central Office following recommendation by the Chief Censor. Normal responsibility for dealing with such cases will rest with the relevant State or Territory Government.

Appendix 5

FILM CENSORSHIP BOARD
ATTORNEY-GENERAL’S DEPARTMENT
GUIDELINES FOR CLASSIFICATION OF VIDEOTAPES/DISCS FOR SALE/HIRE
DECEMBER 1984

G GENERAL (suitable for all ages)
Parents should feel confident that children may view material in this classification without supervision, knowing that no distress or harm is likely to be caused.

Language: Mild expletives only if infrequent and used in exceptional and justifiable circumstances.

Sex: Very discreet verbal references or implications and only if in a justifiable context.

Violence: Minimal and incidental depictions, and only if in a justifiable context.

PG PARENTAL GUIDANCE (parental guidance recommended for persons under 15)
Material in this classification may contain adult themes/concepts which require the guidance of a parent or guardian.

Language: Minimal crude language if not gratuitous.

Sex: Discreet verbal and/or visual suggestions and references to sexual matters.

Violence: Discreet, inexplicit and/or stylized depictions.

Other:
(i) mild supernatural and/or "horror" themes.

(ii) minimal nudity if in justifiable and non-sexual context.

(iii) discreet informational and/or anti-drug references.
M  **MATURE (suitable for persons 15 years and over)**

Material which is considered likely to disturb, harm or offend those under the age of 15 years. While most adult themes may be dealt with, the degree of explicitness and exploitativeness of treatment will determine what can be accommodated in this classification.

**Language:** Crude language that is excessive, assaultive or sexually explicit is not acceptable.

**Sex:** Depictions of discreetly implied sexual activity.

**Violence:** Depictions of realistic and sometimes bloody violence but not if gratuitous, exploitative, relished, cruel or unduly explicit.

**Other:** Depictions of drug use if not advocacy.

R  **RESTRICTED (18 years and over)**

Adult material which is considered likely to be possibly harmful to those under 18 years and possibly offensive to some sections of the adult community.

**Language:** May be sexually explicit and/or assaultive.

**Sex:** Implied, obscured or simulated depictions of sexual activity; depictions of sexual violence only to the extent that they are discreet, not gratuitous and not exploitative.

**Violence:** Explicit depictions of violence, but not detailed and gratuitous depictions of acts of considerable violence or cruelty (see "Refused Classification").

**Other:** Depictions of drug abuse if not advocacy.

X  **EXTRA-RESTRICTED (18 years and over)**

Material which includes explicit depictions of sexual acts involving adults, but does not include any depiction suggesting coercion or non-consent of any kind.

**REFUSED CLASSIFICATION**

**Language:** No proscriptions.

**Sex:** Child pornography, bestiality.
FILM CENSORSHIP BOARD
ATTORNEY-GENERAL’S DEPARTMENT
GUIDELINES FOR CLASSIFICATION OF VIDEOTAPES/DISCS FOR SALE/HIRE
NOVEMBER 1984

G  GENERAL (suitable for all ages)
Parents should feel confident that children may view material in this classification without supervision, knowing that no distress or harm is likely to be caused.

Language: Mild expletives only if infrequent and used in exceptional and justifiable circumstances.
Sex: Very discreet verbal references or implications and only if in a justifiable context.
Violence: Minimal and incidental depictions, and only if in a justifiable context.

PG  PARENTAL GUIDANCE (suitable for persons 12 years and over)
Material in this classification may contain adult themes/concepts which require the guidance of a parent or guardian.

Language: Minimal crude language if not gratuitous.
Sex: Discreet verbal and/or visual suggestions and references to sexual matters.
Violence: Discreet, inexplicit and/or stylized depictions.
Other: (i) mild supernatural and/or "horror" themes.
(ii) minimal nudity if in justifiable and non-sexual context.
(iii) discreet informational and/or anti-drug references.

M  MATURE (suitable for persons 15 years and over)
Material which is considered likely to disturb, harm or offend those under the age of 15 years. While most adult themes may be dealt with, the degree of explicitness and exploitativeness of treatment will determine what can be accommodated in this classification.

Language: Crude language that is excessive, assaultive or sexually explicit is not acceptable.
Sex: Depictions of discreetly implied sexual activity.
Violence: Depictions of realistic and sometimes bloody violence but not if gratuitous, exploitative, relished, cruel or unduly explicit.
Other: Depictions of drug use if not advocacy.

R  RESTRICTED (18 years and over)
Adult material which is considered likely to be possibly harmful to those under 18 years and possibly offensive to some sections of the adult community.

Language: May be sexually explicit and/or assaultive.
Sex: Implied, obscured or simulated depictions of sexual activity; depictions of sexual violence only to the extent that they are discreet, not gratuitous and not exploitative.
Violence: Explicit depictions of violence, but not detailed and gratuitous depictions of acts of considerable violence or cruelty (see "Refused Classification").
Other: Depictions of drug abuse if not advocacy.

ER  EXTRA-RESTRICTED (18 years and over)
Material which includes explicit depictions of sexual acts involving adults, but does not include any depiction suggesting coercion or non-consent of any kind.

REFUSED CLASSIFICATION
Language: No proscriptions.
Sex: Child pornography, bestiality.
Violence: Detailed and gratuitous depictions of acts of considerable violence or cruelty; explicit or gratuitous depictions of sexual violence against non-consenting persons.
Other: Instruction "manuals" for
(i) terrorist-type weapons and acts.
(ii) abuse of hard drugs.
FILM CENSORSHIP BOARD

ATTORNEY-GENERAL'S DEPARTMENT

GUIDELINES FOR CLASSIFICATION OF VIDEOTAPES/DISCS FOR SALE/HIRE

MAY 1984

G GENERAL (suitable for all ages)

Parents should feel confident that all children may view material in this classification without supervision, knowing that no distress or harm is likely to be caused.

Language: Some infrequent coarse language (e.g. "bloody", "bastard", "arse", "piss") may be found, if non-assaultive.

Sex: Very discreet sexual references or implications only.

Violence: Minimal and incidental depictions of violent activity only.

PG PARENTAL GUIDANCE (suitable for persons 12 years and over)

Material will be found in this classification which would be considered to be too strong for unsupervised viewing by children.

While adult themes may be dealt with they should be handled in a way that would not cause distress or harm to children in a family viewing situation.

Language: Some infrequent crude language (e.g. "shit", "screw", "arsehole" - possibly "fuck" in exceptional circumstances) and mild sex-oriented dialogue and jokes.

Sex: Discreet verbal and/or visual suggestions of, and references to, intercourse and discussions about, for example, menstruation, masturbation, labour and childbirth; visuals of occasional full frontal nudity and head-and-shoulders shots of implied intercourse. (No implications of, for example, oral-genital sex or homosexual sex activity).

Violence: Discreet and sporadic depictions, but if continuous (e.g. kung-fu films) should be inexplicit and/or stylized.

Other:

(i) mild supernatural and/or "horror" themes.

(ii) informational drug references.

M MATURE (suitable for persons 15 years and over)

Material which is considered likely to disturb, harm or offend those under the age of 15 years. While most adult themes may be dealt with, the degree of explicitness and exploitiveness of treatment will determine whether they can be accommodated in this classification.

Language: No word or phrase is proscribed - "fuck" and "cunt", for example, may be found, if not used excessively. (A high degree of assaultiveness or of verbal sexual explicitness is not acceptable).

Sex: Implied sexual activity, but no "full length" depictions of intercourse. Implications of fellatio, cunnilingus, masturbation, etc. may be depicted, if visually discreet.

Violence: May be strong, realistic and sometimes bloody, but not exploitive, relished, very cruel or very explicit, e.g., decapitations, disembowelling, etc. if briefly shown; discreet sexual violence, e.g., rape, only if very discreet.

Other: Drug abuse depictions, if not advocacy.

R RESTRICTED (18 years and over)

Adult material likely to be harmful to those under 18 years and possibly offensive to some sections of the adult community.

Language: Sexually explicit and/or assaultive dialogue.

Sex: Implied, obscured or simulated sexual activity.

Violence: Explicit depictions with some gratuitous and exploitive non sexual violence; decapitations, dismemberment, disembowelling, etc. if briefly shown; discreet sexual violence.

Other: Depictions of use of drugs which might be construed as mildly advocacy.

X EXTRA POINT-OF-SALE CONTROLS (18 years and over)

Language: No proscriptions.

Sex: All explicit depictions of sexual acts involving adults (except those referred to under "Refused Classification") including
explicit penetration, masturbation, ejaculation, fellatio, cunnilingus; insertion of objects in orifices; miscellaneous other sexual activities and fetishes.

Violence: Explicit depictions (except those referred to under "Refused Classification").

Other: Depictions of use of hard drugs which might be construed as advocacy.

REFUSED CLASSIFICATION

Language: No proscriptions.

Sex: Child pornography; bestiality.

Violence: Detailed and gratuitous depictions of acts of considerable violence or cruelty; explicit and gratuitous depictions of sexual violence against non-consenting persons.

Other: Instruction "manuals" for
   i) terrorist-type weapons and acts.
   ii) abuse of hard drugs.

G GENERAL (suitable for all ages)

Parents should feel confident that all children may view material in this classification without supervision, knowing that no distress or harm is likely to be caused.

Language: Some infrequent coarse language (e.g. "bloody", "bastard", "arse", "piss") may be found, if non-assaultive.

Sex: Very discreet sexual references or implications only.

Violence: Minimal and incidental depictions of violent activity only.

PG PARENTAL GUIDANCE (suitable for persons 12 years and over)

Material will be found in this classification which would be considered to be too strong for unsupervised viewing by children.

While adult themes may be dealt with they should be handled in a way that would not cause distress or harm to children in a family viewing situation.

Language: Some infrequent crude language (e.g. "shit", "screw", "arsehole" - possibly "fuck" in exceptional circumstances) and mild sex-oriented dialogue and jokes.

Sex: Discreet verbal and/or visual suggestions of, and references to, intercourse and discussions about, for example, menstruation, masturbation, labour and childbirth; visuals of occasional full frontal nudity and head-and-shoulders shots of implied intercourse. (No implications of, for example, oral-genital sex or homosexual sex activity).

Violence: Discreet and sporadic depictions, but if continuous (e.g. kung-fu films) should be inexplicit and/or stylized.

Other: (i) mild supernatural and/or "horror" themes.
   (ii) informational drug references.
MATURE (suitable for persons 15 years and over)

Material which is considered likely to disturb, harm or offend those under the age of 15 years. While most adult themes may be dealt with, the degree of explicitness and exploitiveness of treatment will determine whether they can be accommodated in this classification.

Language: No word or phrase is proscribed - "fuck" and "cunt", for example, may be found, if not used excessively. (A high degree of assaultiveness or of verbal sexual explicitness is not acceptable.)

Sex: Implied sexual activity, but no "full length" depictions of intercourse. Implications of fellatio, cunnilingus, masturbation, etc. may be depicted, if visually discreet.

Violence: May be strong, realistic and sometimes bloody, but not exploitive, relished, very cruel or very explicit, e.g., dismemberment or beheadings, limited to flashes only; sexual violence, e.g., rape, only if very discreet.

Other: Drug abuse depictions, if not advocacy.

 restricted (18 years and over)

Adult material likely to be harmful to those under 18 years and possibly offensive to some sections of the adult community.

Language: Sexually explicit and/or assaultive dialogue.

Sex: Implied, obscured or simulated sexual activity.

Violence: Explicit depictions with some gratuitous and exploitive non sexual violence; decapitations, dismemberment, disembowelling, etc. if briefly shown; discreet sexual violence.

Other: Depictions of use of drugs which might be construed as mildly advocacy.

extra point-of-sale controls (18 years and over)

Language: No proscriptions.

Sex: All explicit depictions of sexual acts involving adults (except those referred to under "Refused Classification") including explicit penetration, masturbation, ejaculation, fellatio, cunnilingus; insertion of objects in orifices; miscellaneous other sexual activities and fetishes.

Violence: Explicit depictions (except those referred to under "Refused Classification").

Other: Depictions of use of hard drugs which might be construed as advocacy.

Refused Classification

Language: No proscriptions.

Sex: Child pornography; bestiality.

Violence: Detailed and gratuitous depictions of acts of significant cruelty; explicit and gratuitous depictions of sexual violence against non-consenting persons.

Other: Instruction "manuals" for

i) terrorist-type weapons and acts.

ii) abuse of hard drugs.
FILM CENSORSHIP BOARD
ATTORNEY-GENERAL'S DEPARTMENT
GUIDELINES FOR CLASSIFICATION OF VIDEOTAPES/DISCS FOR SALE/HIRE
JANUARY 1984

G GENERAL (Suitable for all ages)

Parents should feel confident that all children may view material in this classification without supervision, knowing that no distress or harm is likely to be caused.

Language: Some infrequent coarse language (e.g. "bloody", "bastard", "arse", "piss"); may be found, if non-assaultive.

Sex: Very discreet sexual references or implications only.

Violence: Minimal and incidental depictions of violent activity only.

PG or PGR PARENTAL GUIDANCE RECOMMENDED

Material will be found in this classification which would be considered to be too strong for unsupervised viewing by children.

While adult themes may be dealt with they should be handled in a way that would not cause distress or harm to children in a family viewing situation.

Language: Some infrequent crude language (e.g. "shit", "screw", "arsehole" - possibly "fuck" in exceptional circumstances) and mild sex-oriented dialogue and jokes.

Sex: Discreet verbal and/or visual suggestions of, and references to, intercourse and discussions about, for example, menstruation, masturbation, labour and childbirth; visuals of occasional full frontal nudity and head-and-shoulders shots of implied intercourse. (No implications of, for example, oral-genital sex or homosexual sex activity.)

Violence: Discreet and sporadic depictions, but if continuous (e.g. kung-fu films) should be inexplicit and/or stylized.

Other: - mild supernatural and/or "horror" themes.

M MATURE (Suitable for persons 15 years and over)

Material which is considered likely to disturb, harm or offend those under the age of 15 years. While most adult themes may be dealt with, the degree of explicitness and exploitiveness of treatment will determine whether they can be accommodated in this classification.

Language: No word or phrase is proscribed - "Fuck" and "cunt", for example, may be found, if not used excessively. (A high degree of assaultiveness or of verbal sexual explicitness is not acceptable.

Sex: Implied sexual activity, but no "full length" depictions of intercourse. Implications of fellatio; cunnilingus, masturbation, etc. may be depicted, if visually discreet.

Violence: May be strong, realistic and sometimes bloody, but not exploitive, relished, very cruel or very explicit, e.g., dismemberment or beheadings, limited to flashes only; sexual violence, e.g., rape, only if very discreet.

Other: Drug abuse depictions, if not advocatory.

R RESTRICTED - 18 years and over

Adult material likely to be harmful to those under 18 years and possibly offensive to some sections of the adult community.

Language: Sexually explicit and/or assaultive dialogue.

Sex: Implied, obscured or simulated sexual activity.

Violence: Explicit depictions with some gratuitous and exploitive violence; decapitations, dismemberment, disembowelling, etc. if briefly shown; discreet sexual violence.

Other: Depictions of use of drugs which might be construed as mildly advocatory.

X EXTRA POINT-OF-SALE CONTROLS

All overt and explicit material, except such as described under "Refused Classification".

Language: No proscriptions.
All depictions of sexual acts involving adults (except those of an extreme sexually violent or cruel nature) including explicit penetration, masturbation, ejaculation, fellatio, cunnilingus, insertion of objects in orifices, urolagnia, necrophilia, coprophilia, sado-masochism, fetishism.

Explicit depictions (except those referred to under "Refused Classification").

Depictions of use of hard drugs which might be construed as advocacy.

Material considered to be harmful to society.

No proscriptions.

Child pornography; bestiality.

Explicit detailed and gratuitous depictions of acts of extreme cruelty including extreme sexual violence.

Instructions "manuals" for
   i) terrorist-type weapons and acts
   ii) abuse of hard drugs.

... when we manipulate the outcome of the woman's reaction to being raped we get the strongest effects. It is the message about rape - or sexual violence, to use that term - which is ultimately important whether that message about rape occurs in an X rated category, an R rated category, an M rated category or in 'Time' magazine. (Evidence, p. 81; cf. p. 83)

In speaking about the research into the propensity of violent pornography to desensitise women to rape he said:

(The research looked) at the effects [of violent pornography] on desensitisation to rape, feelings of self esteem, feelings of body image, feelings of objectification as a woman, and their perceptions of a real woman as a rape victim...

What we got was pretty much the same effects as we got with men. They are less affected as they watch more and more graphic violence ... They become less and less bothered by the violence and they see less and less suffering and pain happening to the rape victim.

(Evidence, p. 70)

Dr John Court, in speaking about the general thrust of behavioural science research into pornography, told the Committee:
In my opinion, those who deny the harmful effects of explicit depiction of sex and violence as currently presented in the media, do so in the face of increasingly strong theoretical arguments, and against an accumulation of evidence... (Evidence, p. 207)


Arousal by sexual stimuli can generate increased tendencies to aggression in certain contexts, even though it is not a general finding. Conversely, increased aggressive stimulation can provoke a sexual response. (Evidence, p. 209)

Dr Paul Wilson, in speaking about his research into child and serial murders, told the Committee:

... while I find no evidence that sadistic sexual pornography causes serial killing, lust killing, or child killing ... I have found evidence that in the killer's background there is, first of all, a preoccupation with this material; secondly, a feeling that their sexual and sadistic fantasies are fuelled by this material and, thirdly, a feeling in some cases that the material is not strong enough and that their fantasies are not satisfactorily fulfilled. (Evidence, p. 1041)

In speaking about how certain personalities are affected by violent pornography, he said:

... it seems that with particular personalities, material of a sadistic, sexual kind, which intertwines sex and violence reinforces existing predispositions towards the sadistic acts that are carried out. I use the word 'reinforce', rather than 'cause', deliberately. (Evidence, p. 1041)

Professor Sheehan, in speaking on aggressive pornography, told the Committee:

The clearest evidence is of a strong link between aggressive pornography and negative effects ... Such is the strength of the evidence, [that] I think total censorship is justified for exposure to violent pornography. (Evidence, p. 1102)

In speaking about the influence of aggression in general and of the catharsis and modelling theories, he said:

The evidence seems to be very strongly against the view ... that when children see aggression on television it stimulates them and they feel the better for having seen it. It is called the catharsis view. The notion is that you let your feelings run free and give vent to them. I think now the evidence is very strongly against that and [is] much stronger for a modelling viewpoint. (Evidence, p. 1191)

Mr. Frank Horwill, in speaking about Feshbach's rejection of his own version of the catharsis theory, told the Committee:

The best known ... theory linking sex and violence in the media with actual violence is the so called Feshbach hypothesis or catharsis theory, which suggested that viewing violence in the media had a 'cathartic' effect, relieving aggressive tensions and resulting in less actual aggression. Feshbach ... now holds to the opposite view, viz. that viewing aggressive media depictions increase [sic] the likelihood of violence. (Evidence, p. 1434-1435)
THEORIES RELEVANT TO THE PORNOGRAPHY ISSUE

1. Theories of human behaviour, which bear on the question of pornography and its influence, were detailed to the committee in submissions, evidence, or supporting studies, among which were the following:

Conditioning Theory,
Social Learning Theory,
Arousal-Affect Theory and the
Social Cognition Theory.

CONDITIONING THEORY:

2. Conditioning theory states that behaviours and attitudes can be developed and strengthened by associating desirable behaviours and attitudes with reinforcing stimuli; or conversely, behaviours and attitudes can be weakened or suppressed by associating undesirable behaviours and attitudes with aversive stimuli. Conditioning theory provides a sound theoretical basis for being concerned about the linking of sex and violence. According to Malamuth:

... the coupling of sex and aggression may result in conditioning whereby aggressive acts become associated with sexual arousal, a powerful unconditioned stimulus and reinforcer. (Neil M. Malamuth, 'Aggression Against Women: Cultural and Individual Causes' in Neil M. Malamuth and Edward Donnerstein (eds), Pornography and Sexual Aggression, Academic Press, London, 1984, p. 31)
Conditioning theory predicts that, when pornography portrays aggressive behaviour as a condition of sexual satisfaction, the prospect of sexual rewards could encourage aggressive behaviour in pornography users and could effect changes in their attitudes towards aggression and towards those who are the objects of aggression. Conditioning theory does appear to work in practice. For instance, aversion therapy is based on conditioning theory. It is a commonly used clinical technique designed to modify sexual behaviour. Deviant sexual behaviour can be suppressed by associating aversive stimuli with the deviant behaviour and reinforcing stimuli with the desired behaviour. If the theory works in the psychologist's clinic, or in the researcher's laboratory, there appears to be no reason in principle why it should not work when people seek stimulation through pornography.

3. Malamuth (ibid. p. 33) refers to research which indicates that pornography which portrays women being sexually aroused by rape encouraged males to believe that a sexually aroused rape victim had not suffered as much as a non-aroused rape victim.

4. Further to this, research has demonstrated that exposure to R-rated films which represented aggressively sexual behaviour as having 'positive consequences' - for example rape victim falls in love with rapist and they elope - significantly increased the acceptance by male experimental subjects of interpersonal violence against women and tended to increase acceptance of rape myths by those subjects. (Malamuth, ibid. pp. 33-34; Neil H. Malamuth and Ed Donnerstein, 'The Effects of Aggressive-Pornographic Mass Media Stimuli', Academic Press, Orlando, Florida, 1982, pp. 114-5 (Advances in Experimental Social Psychology, Vol. 15, 1982))

5. According to Malamuth this experiment showed that there can be 'relatively long-term anti-social effects' from movies which portray violent sex as having positive consequences. (Malamuth, op.cit. pp. 33-34)

6. Another experiment was conducted on male subjects who had been rated according to their inclinations to commit rape. It showed that men who have a relatively higher propensity to be aggressive toward women:

...not only accepted rape myths to a relatively high degree but may also be particularly susceptible to the influence of media depictions of such myths. (Malamuth, ibid. pp. 39-40)

7. Summing up the findings of his research into aggressive images, victim association, and rape-related attitudes, Donnerstein says that, where violent pornography, is concerned:

The victim's reaction ... played a crucial role in terms of how male subjects behaved toward a female ... positive victim reactions (those which are most common in pornography) can act to justify aggression and also to reduce general inhibitions against aggression. (Edward Donnerstein, 'Pornography: Its Effect on Violence Against Women', in Malamuth and Donnerstein, 1984, op.cit. p. 78)

SOCIAL LEARNING THEORY:

8. According to this theory, put forward by Albert Bandura, people can learn new behaviours, and modify or reinforce old ones, by modelling observed behaviours. Bandura's theory is not one of simple imitation; it puts forward several key factors or 'determinants' which reinforce the power of models to impress behaviour on a learner. Modelling determinants include:

Symbolic Expectancy Learning,
Vicarious Expectancy Learning,
Vicarious Reinforcement Learning, and Dehumanisation.

(see James V.P. Check and Neil H. Malamuth, Pornography and Sexual Aggression: A Social Learning Theory Analysis, paper presented at the meeting of the International Society for Research on Aggression, Mexico City, August 1982, pp. 10-13.)

9. Applied to pornography, Bandura's social learning theory would predict that, since pornography presents a model of sexual behaviour which both condones and teaches the objectification of women, pornography should have anti-social effects on the attitudes and behaviour of pornography users towards women. (ibid. p. 9.)

10. According to Check and Malamuth, this application to pornography is a reasonable inference from social learning theory because

Extensive research has shown, for example, that television violence both lowers the threshold of aggression and shapes its form. This generally occurs through both the instruction and sanction of aggressive methods, especially with reference to the usefulness of violence in gaining desired ends. (ibid. p. 9)

11. The symbolic expectancy learning determinant as applied to pornography, predicts that the association of sexual arousal and violence would train viewers of video pornography to be sexually aroused by non-sexual violence. (ibid. p. 35)

12. The vicarious expectancy learning determinant predicts that a man could come to believe that he might obtain sexual satisfaction from rape by seeing another person enjoy rape. Experiments cited by Check and Malamuth (ibid. pp. 37-38) which show men being more highly aroused by pornography depicting sexually aroused rape victims indicate that pornography users do undergo vicarious expectancy learning.

13. The case of men being most aroused by pornography depicting sexually aroused rape victims also demonstrates learning by vicarious reinforcement. This determinant predicts that pornography users will be influenced by pornography models when the models engage in apparently enjoyable but unacceptable activity which is rewarded in some way by, for instance, the arousal of a rape victim.

14. As we have seen from the discussion on conditioning theory, there is overwhelming evidence that male attitudes and behaviour can be shaped in a manner hostile to women by pornography which portrays them enjoying rape. Check and Malamuth provide a detailed summary account of the experiments which provide confirmation for vicarious reinforcement learning. (ibid. pp. 40-42)

15. Bandura's theory also puts forward 'dehumanisation' as a determinant of social learning. Work by Bandura and other behavioural scientists has demonstrated that the dehumanisation of a victim acts as a powerful disinhibitor of cruelty against others. The idea that others are less than human generates self-disinhibiting justifications for cruelty. (ibid. p. 13)

16. Experimental evidence that the dehumanisation determinant operates on viewers has been provided by Check's research into the effects of the type of filmic pornography to be found in Category II pornography. This research project indicated that Category II video pornography was perhaps more powerful even than Category I video pornography in communicating to viewers values and behaviours calculated to exploit women. These results tend to strengthen the theory that the degrading of women in
pornography justifies male sexual aggression, and the ready acceptance by pornography users of rape myths and adversarial sex roles.

AROUSAL-AFFECT THEORY:

17. The arousal-affect theory states that 'any dominant response may be energised by a state of increased arousal.' (Malamuth and Donnerstein, 1982, op.cit. p.123) This theory has important ramifications for a society which countenances widespread pornography use.

18. The theory predicts amongst other things that pornography should increase the arousal of already aggressively aroused individuals. This prediction has been confirmed by a number of experiments, including those of Donnerstein and Berkowitz (cited in ibid. pp. 118-122).

19. The subjects in these experiments were angered, shown a pornographic film, and, then, given an opportunity to express their aggression at the expense of a laboratory assistant. When the subjects were shown Category I (violent) pornography, and given a chance to behave aggressively toward a female assistant, there were very significant increases in aggression:

In fact, this increase occurred even if subjects were not angered, although the combination of anger and film produced the highest level of aggressive behaviour. (ibid. p.117)

20. The Donnerstein and Berkowitz experiments showed that angered subjects who watched 'positive- and negative-outcome' rape depictions (a 'positive outcome' being a sexually aroused rape victim), both increased aggression against women. The experiment also showed that subjects who had not been angered at

the outset of the experiment still showed a significant increase in aggression towards women after they had watched 'positive outcome' rape pornography.(ibid. pp.120-121)

SOCIAL COGNITION THEORY

21. Social cognition theory suggests that to translate a complex social environment into a comprehensible form, human beings develop sets of so-called 'cognitive categories'. These are used to label and to organise information about other humans based on their appearance, disposition and behaviour. Theorists believe that cognitive categories fill a central role in developing the social judgements which guide human behaviour towards others. However when people are faced with making such judgements:

... they do not perform an exhaustive search of memory for all potentially relevant categories. Rather they often form judgements utilising only those categories that have been activated in memory either recently and/or frequently. (James B Weaver III, Effects of Portrayals of Female Sexuality and Violence against Women on the Perceptions of Women, Ph.D. thesis, Indiana University, July 1987, p. 31)

22. Moving to the field of human sexual interactions, researchers have proposed that female sexual promiscuity, whether observed or merely inferred, is a key discriminating factor in formulating categories into which perceptions of women can be fitted. As Weaver explains it, there are two categories of women which play an important role in relations between the sexes: the 'sexually restrictive' and the 'sexually permissive' female types. (ibid. p. 31; Evidence, P. 3213)

23. Weaver provided details of a body of research which indicates that the categorisation of women, according to whether they appear sexually restrictive or permissive:
... permeates many aspects of everyday life and is readily recognized and used by both genders in a number of social circumstances. (op. cit. p. 32)

24. Weaver also identified research which link cognitive categorisation of women, based on observed or inferred promiscuity, with a sexually calloused and manipulative orientation toward women. (ibid. p. 33) According to this research the link occurs because, for many men, once a woman is categorised as promiscuous, she becomes 'public property' and is seen as having 'forfeited her right to accept or reject sexual partners'. Specifically, many men report substantially more justification for the use of exploitative techniques to obtain sexual intercourse as a function of the 'type of girl' involved. (ibid. p. 33)

25. On the basis of these findings the following theory about the effects of pornography was formulated according to the principle of cognitive mediation:

... that exposure to portrayals of female sexuality accentuates the categorization of 'women into the age-old good-girl/bad-girl categories'. Specifically, it is argued that the seemingly factual, documentary style depiction of female sexual pleasure and abandon presented by contemporary sexually explicit materials facilitates the accessibility of the sexually permissive, "bad-girl" category. Making this "bad-girl" category accessible increases the likelihood that constructs associated with female sexual promiscuity and permissiveness will be used in the formation of subsequent perceptions and behaviors towards women. Furthermore, repeated exposure to such depictions is thought to result in the generalization and misattribution of characteristics associated with sexually promiscuous women to other women and, in turn, expansion of the "bad-girl" category... (ibid. pp. 33-34; cf. Evidence, p. 3213)

26. Weaver set out to demonstrate this series of hypotheses. An experiment was constructed for 60 male and 60 female subjects. The subjects were divided into five groups and the reactions of group members to one of five different types of material was tested. This was done by measuring their evaluations of their peers both before and after exposure to the materials. The subjects were also given an opportunity to 'pass sentence' on cases of men convicted of assaulting women. This test was designed to determine how exposure to the various kinds of materials had influenced the judgment of experimental subjects on the seriousness of the assault.

27. In the light of the theory, Weaver made, among others, this prediction about the experimental results:

... the portrayal of women as eager and indiscriminate seekers of sexual interactions should enhance the perception of female sexual promiscuity for male subjects. (ibid. p. 38)

The result was detailed in his paper and summarised by Weaver as follows:

... the data show that exposure to non-violent sexually explicit materials can adversely influence perceptions of the "sexual receptivity" of women without affecting other personality assessments. This effect was most pronounced for judgments of women who manifest characteristics typically associated with the subjects' peer group (e.g., age, attractiveness, etc.) and characteristics associated with sexual restrictiveness (e.g., sexually conservative and inexperienced). (ibid. p. 85)

... the findings reveal that exposure to depictions of women eagerly and indiscriminately seeking and participating in sexual endeavors influenced punitive judgments against a convicted rapist most strongly. Subjects exposed to the female-instigated materials, compared to those in other conditions, recommended significantly shorter
periods of incarceration. This effect was equal for both men and women. (ibid. p. 89)

In the abstract to his paper, Weaver concludes that the 'pattern of perceptual responses (obtained from his research) suggests that exposure to media portrayals of female sexual permissiveness can activate cognitions that reflect a general "loss of respect" for female sexual autonomy and self-determinism'. (ibid. p. vii)

Appendix 8

THE RELEVANCE OF BEHAVIOURAL SCIENCE EVIDENCE

1. Having surveyed the behavioural science evidence of pornography's harmful effects on human behaviour and attitudes, it is important to recognise that the relevance of this evidence has been challenged by certain witnesses called before the Committee and, perhaps most notably, by the report of the Fraser Committee. The criticism will now be addressed.

THE DOUBLE-EDGED SWORD OF SUBJECTIVISM

2. One matter to consider is the claim made by Edward C. Nelson that evidence is always interpreted subjectively (Maurice Yaffe and Edward C. Nelson eds, The Influence of Pornography on Behaviour, Academic Press, London, 1982, p.xi). According to this view 'judgements about the value and meaning of scientific evidence are biased by the consistency of that evidence with the reader's attitudes, beliefs and expectations'. In other words, people do not judge rationally; they pick and choose among the evidence in search of what supports their already decided positions.

3. Granted, for the sake of this argument, that moral commitments can influence arguments and distort evidence, the supporters of more effective censorship are not the only ones who have a moral viewpoint. Among those who oppose censorship are people who take a stand by principles which they claim should govern human conduct: namely, that censorship is unjust and offends against an individual's rights.
4. There is, however, an alternative to this apparent impasse and that is to suspend judgement as to which set of moral viewpoints is the closest to reality and examine the scientific evidence about the effects of pornography in the light of principles proper to science. To import criteria proper to other fields of intellectual endeavour would make it difficult, if not impossible, to understand in its own language what science has to say to us about pornography. This brings us to the second major problem.

A FALSE UNDERSTANDING OF SCIENTIFIC METHOD

5. The criticism of certain of the experiments and their results is based on the false assumption that the scientific method proceeds by simple induction. Thus those who question the value of the scientific research into the effects of pornography claim that one cannot deduce from results obtained in a laboratory that the same phenomena occur in the world outside. Much was made of this point by Sheldon Goldenberg and Augustine Brannigan in their submission to the Committee (Evidence, p. 1486) and Brannigan's oral evidence in support of their submission.

6. According to Brannigan '...the extrapolation from the laboratory experiments to everyday life is so fraught with problems as to leave even the most radical critic of pornography unsure of its relevance.' (Evidence, p. 1498) He endorses the conclusions of the Canadian Committee which, he said, found that the 'psychological evidence...(was) so far removed from reality as to be demonstrably absurd.' (Evidence, p. 1498), and, referring to experiments on angered males, said that 'the generically angered male and the one created in the laboratory are two separate creatures, though the research proceeds as though they are not.' (Evidence, p. 1500) The argument would have force were it not for the fact that science does not proceed by simple induction.

7. The theories which scientists test in the laboratory do not generate predictions only about what will happen in the laboratory. The theories are concerned with the way things are in the real world of which laboratories form a part. Phenomena which occur in the laboratory occur precisely because they are real-world phenomena. If they were not, then they could not happen in the laboratory. The predictions made by a good general theory can be successfully confirmed in a laboratory precisely because the theory is a statement about the way things are in the real world. It may well be that in the world outside the laboratory a particular phenomenon may be masked or muted by its interaction with other phenomena, but, for all that, it has neither ceased to exist nor stopped operating according to theoretical principles tested in the laboratory setting. Consequently, confirmation in the laboratory of general theories indicates that these theories are making reliable statements about how things are in the world. This brings us to the third problem.

WHETHER THEORETICAL KNOWLEDGE YIELDS CERTAINTIES

8. The claim is often made that the results of experimentation yield no certainty about the effects of pornography. Because of this lack of certainty, so the argument goes, one cannot conclude with any firmness that pornography is harmful.

9. This argument is based on another false assumption that anything short of certainty is not knowledge. Through the agency of theory, the sciences offer us a degree of knowledge short of certainty. It does not follow, however, that scientific knowledge is unreliable. On the contrary, its reliability is such that the scientist, as Eysenck neatly puts it, will often prefer a good theory to any number of uncertain facts. (H.J. Eysenck, 'Sex, Violence, and the Media: Where Do We Stand Now?')
in Neil Malamuth and Edward Donnerstein (eds), Pornography and Sexual Aggression, Academic Press, London, 1984, p.309). This is because the good theory is one which has a proven record of successfully predicting how the world works.

10. Certainly the experimental data which confirms the predictive power of a theory does not constitute certain proof of the theory’s statements about the world. Proofs of this kind are to be had only in the fields of geometry, mathematics, and logic. It is to ask the impossible of scientific method to demand certainty of it. What it does provide, however, is reliability. In the field of science, once the reliability of a theory as a predictor has been established, it is irrational to claim that, because they are unproven, its predictions do not tell us something real about the world. This is because, where theoretical knowledge is concerned, there is no standard of proof higher than reliability, a fact integral to the nature of scientific method. It is, therefore, reasonable to hold that the predictions made by a good theory are true until shown to be otherwise. On this point, and on the whole character of scientific methodology, it is worth quoting how Eysenck deals with the supposition that science proceeds by simple induction:

The man in the street...would consider that our belief that any newly discovered planet would be ball-shaped was due to the fact that all previously discovered planets have this shape. This is a simple example of induction and completely unacceptable to physicists and astronomers. Newton's theory demands that all planets greater than a certain mass are ball shaped, and the existing planets simply verify and illustrate this law. Our predictions, then, are based on that law, not on simple induction, and of course the law itself is based on a huge number of experimental studies embracing many more and different types of investigation, experiment, etc.

What makes Newton’s theory all the more attractive to scientists, of course, is that it predicts not simply that planets will be round in shape, but it also predicts lawful deviations from this rule, for example, that planets will form a bulge around the equator because of the rotary movement of the planet around its axis. This prediction also well illustrates the comparative faith of scientists in theory and empirical investigation. Several expeditions were set up to investigate the actual shape of the earth, with results that were sometimes negative, sometimes positive; it was only relatively recently that measurements were sufficiently accurate to give convincing results. Nevertheless, scientists universally accepted Newton’s precise predictions, and negative results were laughed out of court. (ibid. p. 309)

11. The same reasoning holds in the field of behavioural science. In the general field of human behavioural science numerous reliable theories of behaviour have been generated. When applied to the study of human behaviour under the influence of pornography, these theories have made certain predictions about behaviour which, generally speaking, have received strong confirmation. The consistency and strength of the confirmation which these theories of behaviour have received indicates that the theories are telling us something real about pornography and its effects on human behaviour.

12. It is important to develop here a point just now touched upon and that is that behavioural science brings to the study of pornography a battery of theories and a body of knowledge whose authority in the area of general human behaviour has been well established. Critics of the scientific research into the effects of pornography appear to treat this research as if it were a totally isolated field of discovery to which the principles established in related areas of knowledge do not apply. Indeed, reports such as the Fraser Report proceed as if the influence (if any) of pornography on human behaviour operates according to a unique set of principles as yet unknown and perhaps even unknowable.
13. This attitude toward research into pornography is ironic given the fact that, generally speaking, the same people have expressed their concern about the effects of media violence on child behaviour. On what possible grounds could they base a concern about the effects of media violence? If a science based on general theories of human behaviour is incompetent in the field of pornography, then it must also be suspect in the area of violence. It would be irrational to attempt to distinguish between particular areas of human behaviour on the ground that the general theories of human behaviour applied to some but not to others. In the end it seems that such people must fall back on the subjectivist claim that their intuitive moral sensibilities are adversely affected by media violence but are not so affected by pornography.

14. The point is that the results of behavioural science research into pornography draw their authority chiefly from the fact that they have been achieved by applying to the pornography question general theories whose reliability as predictors has been established in other fields of human behaviour. The fact that research into the influence of pornography on behaviour has in some areas yielded mixed (and sometimes even contradictory) results, does not imply that these results are of no significance. On the contrary, the recognised predictive effectiveness of the theories employed in pornography research suggests that findings contrary to predictions about the effects of pornography can be discarded in the same way that scientists 'laughed out of court' evidence that the earth was not shaped in the way that Newtonian theory had predicted.

THE ASSUMPTION: ESSENTIAL STEP IN SCIENTIFIC METHOD

15. In his evidence Brannigan emphasised what he appeared to consider his most telling point against the 'theoretical approach' to the pornography question. According to Brannigan, the whole problem with this approach is that 'the most important causal variable is presumed in the theories not discovered in the experiments'. (Evidence, p. 1501)

16. If one were to take this argument seriously, one could suppose that the whole scientific case had collapsed for having made a cardinal logical error, namely, that of having assumed in the premises the conclusion of the argument. In reality, however, the claim serves to highlight how profoundly the critics misunderstand the scientific method. It is the very nature of this method to make and to test assumptions.

17. A theory is an assumption made about how the world works. The assumption is then tested experimentally and, if the experimentation yields positive results, the scientist treats the assumption as confirmed. But if the experimentation produces negative results, the scientist will judge the assumption to be untrue.

18. The scientific method is: 'Try it and see whether it works.' It is absolutely correct, as Brannigan points out, that some experimenters in the field of pornography have favoured 'models which presuppose an underlying male tendency to aggression'. (Evidence, p. 1501) Moreover, by experimentally trying out these models, they have been shown to work. It is, however, a misrepresentation of scientific method to claim, as Brannigan does, that the thing discovered is 'discovered in the experiments'. The truth is that experiments merely confirm the discovery - if, indeed, one has been made. The discovery is in, so to speak, 'the bright idea' which the scientist had in deciding to test such-and-such an assumption and that is just how it happened in the case of those who assumed that sexual stimuli would arouse aggressive tendencies.

19. Therefore the argument that the scientists have assumed their conclusions also falls to the ground. Science proceeds by
making assumptions the truth of which is later confirmed by experimentation. There is nothing illogical or irrational about this method. The observations made by the Committee about the outcome of experiments to test behavioural science theories as they relate to pornography use should not necessarily be taken as an ethical endorsement of the methods used in each case.

WHETHER CAUSES CAN BE ESTABLISHED

20. Given, then, that the scientific evidence is relevant to our understanding of pornography, does science enable us to establish a causal link between the use of pornography and changes in human attitudes and behaviours?

21. As we have already pointed out above, the concern with trying ‘to prove’ something is misplaced. Science does not aim at establishing certainty; it makes no claim to ‘prove causation’. What science attempts to do is to establish theories which make reliable (as distinct from certain) predictions about the way the world works. Moreover, in the field of behavioural science a connection has been reliably shown to exist between the use of pornography and changes in attitudes and/or behaviour.

22. One can say something about the nature of the connection between pornography use, on one hand, and anti-social attitudes and behaviour, on the other. While behavioural science does not identify precisely the actual cause-and-effect link between the two phenomena, behavioural science does establish, at the very least, that pornography use is a sufficient condition for the formation of anti-social attitudes and behaviours. Thus it is legitimate to speak of certain attitudes and behaviours being ‘effects’ of using pornography in the sense that pornography use has conditioned their development. The fact that these anti-social attitudes or behaviours have been conditioned by the
SUBMISSION NO. 693

SUBMISSION TITLE:

NAME OF ORGANISATION/PERSON: Film Censorship Board

ADDRESS: 7th Floor
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222 Pitt Street
SYDNEY NSW 2000
Dr. R. E. Klugman, M.P.,
Chairman,
Joint Select Committee on Video Material,
Parliament House,
CANBERRA. A.C.T. 2600.
22 March 1988

Dear Dr. Klugman,

I attach for your Committee a submission from the Film Censorship Board on the type of films and videos it receives and the classification process.

Because of recent community concern, the submission deals more fully with violence than other categories. However, there has also been concern expressed in the Parliament and elsewhere about the effect of sexually explicit material and this matter has also been addressed.

The issues have been considered by the Board at some length and while there may be some minor qualifications in some areas, the submission represents the collective view of the Board in these important matters.

We appreciate the opportunity to share this view with your Committee.

Kind regards,

John Dickie
CHIEF CENSOR.

Encl.
The depiction of violence is one of the chief considerations when the Film Censorship Board classifies films. Others include the usage of coarse language, the portrayal of sexual activities, and the conceptual strength and treatment of adult themes. The strength of elements contained in a film is signalled by its particular classification and by the Board's coded reasons for that decision.

The present classification system rests on the philosophical foundation that adults have the right to make their own decisions about what they view. The system provides a gradation of categories for the inclusion of increasingly stronger depictions of violence, the highest of which is legally restricted to adults, and it thereby:

- provides protection for children from unsuitable and possibly harmful material
- affords protection for adults from material they may find offensive
- emphasizes the rights/responsibilities of parents to supervise the viewing of their children.

The Board's prime role is the classification of cinema films and videotapes according to its guidelines, into the following categories:

G - suitable for all ages
PG - parental guidance recommended for persons under 15
M - suitable for persons 15 years and over
R - legally restricted to persons 18 years and over
X (for videotapes only and then only in the ACT and Northern Territory)
- legally restricted to persons 18 years and over

(NB. Material Refused Classification currently amounts to 2-3% p.a.)

The Film Censorship Board aims to provide a system of consumer advice as it regards its primary function as the classification and not the censorship of films. Additionally, it makes available the reasons for its classification decisions. The Board's brief does not extend to any enforcement of legal requirements relating to exhibition or marketing of films. Since 1 March 1986 the Board has not been responsible for the classification of any television programmes.
The success of the current classification system depends on:

(a) widespread community/industry understanding and endorsement of it

(b) the effective enforcement of State/Territory regulations relating to video outlets and cinemas

(c) the Board's adherence to its classification guidelines, and to its judgement of acceptable community standards.

Proposed strategies to improve the practical application of the current system

It is the Board's view that all of the above areas need attention to greater or lesser degrees.

(a) Lack of community awareness about the meaning of the classifications, and the expected content of each requires a widespread education policy with input from the Film Censorship Board, relevant Federal and State authorities, and the film marketing and distribution industry.

Possible lines of action include:

- a short film on the meaning of the classification symbols for screening on television, in cinemas and as an inclusion at the head of videotapes

- distribution of relevant media study brochures to educational institutions

- publication of classification reasons in a readily available form

- publication of a regular newsletter detailing, inter alia, reasons for classification decisions

- organization by the Board of seminars for groups such as film critics, exhibitors, distributors and film makers.

(b) Effective enforcement of current video and cinema regulations is necessary, and this would include, for example:

- clear depiction of classification symbols and their meanings on all films and trailers

- enforcement of restricted material to those 18 years and over.

Existing legislation could be supplemented by other legal requirements such as:

- registration/licensing of video outlets

- provision of a restricted area in video hire premises for restricted material

- age identification on demand for its hire

- display of additional content information beside classification symbol wherever it appears.

(c) The Board sees guidelines as a workable approach to the resolution of some of the difficulties in the classification process. As an attempt to objectify what, in many ways, must ultimately be a subjective process, the guidelines describe general levels of impact, explicitness and contextual justification considered acceptable in the different classifications.

The Board is aware that one area of difficulty in assessing community standards to apply the current guidelines occurs at the border between the M and R classifications. Here the decision must be made whether or not to legally restrict certain material. Material considered "possibly harmful to those under 18 years" and "possibly offensive to some sections of the adult community" is classified R. Given current community concern about the portrayal of violent behaviour in the mass media, the Board is reassessing its interpretation of levels of violence acceptable in the upper reaches of the M classification.

Another controversial area is the depiction of sexual activity for the adult market. Soft-core material is currently classified R, whereas hard-core material is accommodated in the X classification. Both types of material, however, polarise social attitudes: whereas some people consider such films to be primarily "erotic", others regard them as "pornographic".

The Board believes that adults have a right to view sexually oriented material if they so wish provided the appropriate safeguards apply. Sexual depictions which are Refused classification by the Board are indicated in the classification guidelines. These are:

- child pornography

- bestiality

- explicit or gratuitous depictions of sexual violence against non-consenting persons.
Generally, to assist in the interpretation of guidelines according to prevailing community standards, the Board intends actively to seek feedback by:

(i) addressing community organizations
(ii) being available for media appearances, such as talk-back radio programmes
(iii) regular attendance at public cinema screenings in order to gauge audience reactions.

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1. INTRODUCTION:

In performing its functions, the Film Censorship Board aims at reflecting the plurality of community standards which exist within our society. Within the limits of the Commonwealth/State legislation (see Attachment A), the Board tries to implement a censorship policy based on the philosophy shared by the major political parties that adults have the right to make their own decisions regarding the material they read, hear or see, but that people generally should be protected from exposure to material that may be offensive or, in the case of children, harmful to them.

The Film Censorship Board aims to provide a system of consumer advice as it regards its primary function as the classification and not the censorship of films. Although the responsibility for what is appropriate viewing for children must ultimately be assumed by parents, the classification system is aimed at enabling picturegoers and parents to select suitable cinema or video entertainment for themselves and their families.

The Board sees its function not as that of a film critic, reviewer or arbiter of public taste, advising the public which films are well made, entertaining, educative or otherwise. It is strictly limited to deciding whether a film may, in terms of legislation, be passed for exhibition/distribution and, if so, in which age-related classification category it is best accommodated. Generally, the frequency and intensity of such ingredients as sex, violence and coarse language within a film will determine the relevant classification.

The Film Censorship Board is a full-time statutory body whose members (see Attachment B) are appointed by the Governor-General and are responsible to the Attorney-General of the Commonwealth. The Board registers and classifies films and videotapes in accordance with both Commonwealth and State legislation:

(a) Under Commonwealth legislation, the Board is required to examine all imported films, and to register or refuse to register them for entry into Australia
(b) Under State/Territory legislation, the Board classifies cinema films for public exhibition, and videotapes for sale and hire.
Far reaching reforms during the early 1970's included the introduction of the R certificate. Its purpose was to liberalise Australian censorship policy by facilitating adult freedom to view while protecting younger viewers from exposure to material which might disturb them, and warning adults of possibly offensive matter.

Written guidelines were first formulated in 1982 and were intended, initially, as a wholly internal working document. In October 1984 a meeting of State and Commonwealth Ministers responsible for censorship unanimously agreed to revised guidelines drawn up by the Board. These were designed to limit more strictly the violence permissible in the M and R classifications, and described general levels of impact and explicitness, together with the degrees of exploitativeness considered acceptable in the different classifications.

The revised guidelines of 1984 are those currently in use.

2. CLASSIFICATION GUIDELINES AND PROCESSES:

(i) Guidelines

The Board classifies films according to its guidelines (see Attachment C) into the following categories, with the stated criteria relating to violence within each classification an important consideration:

**G** - General (suitable for all ages)
Minimal and incidental depictions, and only if in a justifiable context.

**PG** - Parental Guidance (parental guidance recommended for persons under 15)
Discreet, inexplicit and/or stylised depictions.

**M** - Mature (suitable for persons 15 years and over)
Depictions of realistic and sometimes bloody violence, but not if gratuitous, exploitative, relished, cruel or unduly explicit.

**R** - Restricted (legally restricted to persons 18 years and over)
Explicit depictions of violence, but not detailed and gratuitous depictions of acts of considerable violence or cruelty.
Depictions of sexual violence only to the extent that they are discreet, not gratuitous and not exploitative.

Videotapes are also classified into these categories, with an additional X category in the A.C.T. and the Northern Territory:

**X** - Extra-Restricted (legally restricted to 18 years and over)
Material which includes explicit depictions of sexual acts involving adults, but does not include any depiction suggesting coercion or non-consent of any kind

Refused Classification - material which is refused classification includes:
Detailed and gratuitous depictions of acts of considerable violence or cruelty; explicit or gratuitous depictions of sexual violence against non-consenting persons.

(ii) Processes

In classifying films and videotapes the Board is always conscious of individual acts of violence portrayed on the screen, as well as their cumulative impact. Since January 1980, the Board has published in the Commonwealth Gazette codified reasons for decisions made on feature-length films and tapes classified above "G" level. A key to the codes for violence appears in Table I.

Table I

<table>
<thead>
<tr>
<th>Violence</th>
<th>Frequency</th>
<th>Explicitness/Intensity</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Infrequent</td>
<td>Frequent</td>
<td>Low Medium High</td>
</tr>
<tr>
<td>V</td>
<td>i</td>
<td>f</td>
<td>l m h j g</td>
</tr>
</tbody>
</table>

Codes denoting violence as a reason for a particular classification can appear in any of the following combinations:

Table II

<table>
<thead>
<tr>
<th>PG</th>
<th>M</th>
<th>R</th>
<th>Refuse</th>
</tr>
</thead>
<tbody>
<tr>
<td>V(i,l,j)</td>
<td>V(i,m,j)</td>
<td>V(i,m,j)</td>
<td>V(i,h,g)</td>
</tr>
<tr>
<td>V(i,l,g)</td>
<td>V(i,m,g)</td>
<td>V(i,m,g)</td>
<td>V(f,h,g)</td>
</tr>
<tr>
<td>V(f,l,j)</td>
<td>V(f,m,j)</td>
<td>V(f,m,j)</td>
<td></td>
</tr>
<tr>
<td>V(f,l,g)</td>
<td>V(f,m,g)</td>
<td>V(f,m,g)</td>
<td></td>
</tr>
<tr>
<td>V(l,m,j)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Gratuitous Sexual Violence
Examples of the way code reasons are recorded beside the film title in the *Commonwealth Gazette* are:

- RAiders of the Lost Ark  **PG** V(f.l.j)
- The Untouchables  **M** V(f.m.j) L(i.m.j)
- Mad Max  **R** V(f.m.g)

As can be seen, there is some overlap of code usage among the classifications, but the level of violence denoted is appropriate to the classification e.g. *V*(f.m.j) for **R** signals more detail and impact than the same code for **M**. Clearly, therefore, the stronger and more frequent the violence, and the more gratuitous it is judged to be in context, the higher the classification the film receives.

The Film Censorship Board is aware of current community concern regarding depictions of excessive violence in the visual media. Problematic or controversial films are initially viewed by more censors than those assigned to other films. If there is considerable debate or a difference of opinion, the film will be rescreened by additional Board members. Sometimes, if a film proves to be particularly difficult to classify, all Board members will view and vote on the film. Final decisions reflect the majority view with the Chief Censor, in the case of a split decision, entitled to exercise a casting vote.

3. **Statistical Information on Films/Videos Classified in Recent Years According to Their Violence Content:**

<table>
<thead>
<tr>
<th>Classification</th>
<th>Infrequent</th>
<th>Frequent</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PG</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1982</td>
<td>30.00</td>
<td>11.67</td>
<td>41.67</td>
</tr>
<tr>
<td>1983</td>
<td>28.57</td>
<td>10.95</td>
<td>39.56</td>
</tr>
<tr>
<td>1984</td>
<td>23.38</td>
<td>10.95</td>
<td>34.33</td>
</tr>
<tr>
<td>1985</td>
<td>22.78</td>
<td>8.89</td>
<td>31.67</td>
</tr>
<tr>
<td>1986</td>
<td>26.62</td>
<td>5.80</td>
<td>32.42</td>
</tr>
<tr>
<td>1987</td>
<td>21.11</td>
<td>7.57</td>
<td>28.68</td>
</tr>
</tbody>
</table>

| **M**          |            |          |       |
| 1982           | 20.57      | 16.57    | 37.14 |
| 1983           | 14.85      | 22.11    | 36.96 |
| 1984           | 18.98      | 14.24    | 33.22 |
| 1985           | 20.73      | 10.00    | 30.73 |
| 1986           | 21.69      | 7.61     | 29.30 |
| 1987           | 25.27      | 5.24     | 30.51 |

| **R**          |            |          |       |
| 1982           | 5.56       | 23.46    | 29.02 |
| 1983           | 4.73       | 29.60    | 33.73 |
| 1984           | 19.23      | 20.00    | 39.23 |
| 1985           | 18.35      | 20.25    | 38.60 |
| 1986           | 13.39      | 20.47    | 33.86 |
| 1987           | 24.84      | 22.12    | 46.96 |

### Table III - Cinema Features Refused Registration

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Number refused</td>
<td>99</td>
<td>95</td>
<td>21</td>
<td>12</td>
<td>12</td>
<td>9</td>
</tr>
<tr>
<td>Total decision for year</td>
<td>1271</td>
<td>1000</td>
<td>620</td>
<td>857</td>
<td>632</td>
<td>535</td>
</tr>
<tr>
<td>Refused of total</td>
<td>7.75</td>
<td>9.50</td>
<td>3.39</td>
<td>1.40</td>
<td>1.90</td>
<td>1.45</td>
</tr>
</tbody>
</table>

(N.B. The advent of the video market and the X classification in 1984 explains the dramatic decrease in the total number of cinema features refused registration. This largely removed sex films containing explicit sexual depictions from submission for cinema classification.)
Table V - Video Features Refused Classification

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Total number refused</td>
<td>53</td>
<td>166</td>
<td>77</td>
<td>28</td>
</tr>
<tr>
<td>Total decisions for year</td>
<td>5173</td>
<td>4993</td>
<td>2335</td>
<td>1930</td>
</tr>
<tr>
<td>Refused as % of total</td>
<td>1.02</td>
<td>3.32</td>
<td>3.30</td>
<td>1.45</td>
</tr>
</tbody>
</table>

Table VI - Features for Video Sale/Hire Classified with Code Reasons including Violence (%)

<table>
<thead>
<tr>
<th>Classification</th>
<th>Infrequent</th>
<th>Frequent</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>PG 1984</td>
<td>29.96</td>
<td>6.99</td>
<td>36.95</td>
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<tr>
<td>1985</td>
<td>26.26</td>
<td>7.00</td>
<td>33.26</td>
</tr>
<tr>
<td>1986</td>
<td>26.70</td>
<td>6.45</td>
<td>33.15</td>
</tr>
<tr>
<td>1987</td>
<td>23.33</td>
<td>7.99</td>
<td>31.32</td>
</tr>
<tr>
<td>M 1984</td>
<td>23.61</td>
<td>15.44</td>
<td>39.05</td>
</tr>
<tr>
<td>1985</td>
<td>21.96</td>
<td>13.71</td>
<td>35.67</td>
</tr>
<tr>
<td>1986</td>
<td>9.01</td>
<td>20.00</td>
<td>29.01</td>
</tr>
<tr>
<td>1987</td>
<td>27.95</td>
<td>9.85</td>
<td>37.80</td>
</tr>
<tr>
<td>R 1984</td>
<td>9.18</td>
<td>22.92</td>
<td>32.10</td>
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<tr>
<td>1985</td>
<td>10.76</td>
<td>24.09</td>
<td>34.85</td>
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<tr>
<td>1986</td>
<td>8.17</td>
<td>13.22</td>
<td>21.39</td>
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<tr>
<td>1987</td>
<td>11.49</td>
<td>12.59</td>
<td>24.48</td>
</tr>
<tr>
<td>X</td>
<td>0.21</td>
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<td>0.21</td>
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</table>

Refused Classification

<table>
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<tr>
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<tbody>
<tr>
<td>5.66</td>
<td>1.89</td>
<td>7.55</td>
<td></td>
</tr>
<tr>
<td>7.41</td>
<td>3.70</td>
<td>11.11</td>
<td></td>
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<tr>
<td>1.49</td>
<td>1.49</td>
<td>2.98</td>
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<tr>
<td>7.14</td>
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<td>7.14</td>
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</table>
4. STATISTICAL INFORMATION ON FILMS/VIDEOS CLASSIFICATION IN RECENT YEARS ACCORDING TO THEIR SEXUAL CONTENT:

Table VII - Cinema features classified with code reasons including sex (%)

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</thead>
<tbody>
<tr>
<td>PG</td>
<td>10.42</td>
<td>5.49</td>
<td>4.79</td>
<td>4.97</td>
<td>5.46</td>
<td>2.20</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
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<td>1.20</td>
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<tr>
<td>M</td>
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<td>R</td>
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<tr>
<td>REFUSED</td>
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</tbody>
</table>

5. CURRENT CLASSIFICATION CONCERNS:

In the light of current community concern about violence on the screen, the Film Censorship Board emphasizes the following issues as significant ones integral to the classification of films/ videotapes which involve depictions of violence:

Table VIII - Features for video sale/hire classified with code reasons including sex (%)

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>PG</td>
<td>3.68</td>
<td>4.61</td>
<td>2.69</td>
<td>1.14</td>
<td>0.67</td>
<td>8.53</td>
<td>13.12</td>
<td>13.76</td>
<td>19.80</td>
<td>18.73</td>
<td>56.21</td>
<td>45.03</td>
<td>53.57</td>
<td>55.94</td>
<td>57.33</td>
<td>55.94</td>
<td>55.94</td>
</tr>
<tr>
<td>M</td>
<td>12.45</td>
<td>13.17</td>
<td>19.11</td>
<td>8.53</td>
<td>0.67</td>
<td>8.53</td>
<td>13.12</td>
<td>13.76</td>
<td>19.80</td>
<td>18.73</td>
<td>56.21</td>
<td>45.03</td>
<td>53.57</td>
<td>55.94</td>
<td>57.33</td>
<td>55.94</td>
<td>55.94</td>
</tr>
<tr>
<td>R</td>
<td>15.05</td>
<td>16.14</td>
<td>28.89</td>
<td>8.53</td>
<td>0.67</td>
<td>8.53</td>
<td>13.12</td>
<td>13.76</td>
<td>19.80</td>
<td>18.73</td>
<td>56.21</td>
<td>45.03</td>
<td>53.57</td>
<td>55.94</td>
<td>57.33</td>
<td>55.94</td>
<td>55.94</td>
</tr>
<tr>
<td>X</td>
<td>1.73</td>
<td>5.56</td>
<td>26.72</td>
<td>20.08</td>
<td>97.34</td>
<td>92.04</td>
<td>97.60</td>
<td>97.60</td>
<td>97.60</td>
<td>97.60</td>
<td>97.60</td>
<td>97.60</td>
<td>97.60</td>
<td>97.60</td>
<td>97.60</td>
<td>97.60</td>
<td>97.60</td>
</tr>
<tr>
<td>REFUSED</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>
Censorship and Democratic Processes

A fundamental dilemma exists in democratic societies in regard to the viewing of impactful depictions of violence which it is feared may encourage what has been described as a "Rambo" style culture, by either directly or indirectly suggesting the use of violence by individuals as a solution for personal and social problems. Calls for a blanket ban on violent material are, however, impractical and essentially misguided. This is a simplistic approach to the complex problem of community violence as research does not indicate that the majority of viewers are encouraged to violent and anti-social behaviour by the viewing of films containing a component of violence. Even where it is suggested a minority may be affected in an anti-social manner, it is as yet unclear and undocumented - despite an extensive amount of sociological and psychological research - how this process occurs, and whether filmic depictions of violence are of more significance than other influences.

People respond to films in different ways. It has even been suggested that seeing a world, in filmic fiction, in which crime is rife and violent action commonplace could have a cathartic effect.

Another controversial area is the depiction of sexual activity for the adult market. Soft-core material is currently classified R, whereas hard-core material is accommodated in the X classification. Both types of material, however, polarize social attitudes: whereas some people consider such films to be primarily "erotic", others regard them as "pornographic".

Classification of Violent Elements

The depiction of violence has always been accepted as having a legitimate place in literature, drama and film, whether documentary, news or fiction. The progressive development of sophisticated film techniques and conventions and the subsequent development of cinematic "literacy" in viewers, has resulted in a change in the degree of realistic portrayals of violence that film audiences are currently prepared to accept. Distinctions, however, are made among the following:

(a) films containing integral and justifiable depictions of realistic violence

(b) films which use realistic violence for legitimate ends, such as in the suspense, thriller, horror or even comedy genres

(c) films which contain detailed and gratuitous depictions of acts of considerable violence or cruelty.

Films containing integral and justifiable depictions of realistic violence could be acceptable in the PG, M and R classifications with the particular classification depending on, for example, the level of explicitness of the violence as well as its context and purpose. Films which realistically exploit considerable violence or cruelty gratuitously, i.e. which present violence for its own sake, are not considered acceptable and are refused classification. There is little agreement and much debate today, however, over at least some of the genre films which use realistic violence for legitimate ends, for example, that which might be considered to be a film of merit to "horror" film buffs, might be considered to be a gratuitous exercise in violence exploitation to others.

It is therefore difficult to reach general agreement on the level of violence acceptable in films as so many variables enter into any consideration of the effect or impact of any depictions of violent acts. These include such factors as the context, purpose, explicitness, quantity of blood, duration of depiction, camera angles, closeness or distance of shots, darkness or brightness of scene, held shots and quick inter-cuts.

The Board sees classification guidelines as a workable approach to the resolution of some of the difficulties inherent in the classification process. The guidelines attempt to objectify what, in many ways, must ultimately be a subjective process by describing general levels of impact, explicitness and contextual justification considered acceptable in the different classification.

Classification of sexual elements in legally Restricted films

The Board believes that adults have a right to view sexually oriented material if they so wish, provided:

- minors are not exposed to it
- adults who do not wish to view it are adequately warned of the content.

Currently, X classified material encompasses sexually explicit depictions, i.e. penetration - including the use of sex aids - masturbation and oral/genital contact. Such depictions are often graphic with the portrayal of close-up genital detail.

The R classification contains sexual depictions which are simulated or obscured, i.e. which clearly suggests sexual activity of various sorts. These may contain fully naked participants but stop short of explicit visuals of genital contact.

(i) Censorship and Democratic Processes

Films containing integral and justifiable depictions of realistic violence could be acceptable in the PG, M and R classifications with the particular classification depending on, for example, the level of explicitness of the violence as well as its context and purpose. Films which realistically exploit considerable violence or cruelty gratuitously, i.e. which present violence for its own sake, are not considered acceptable and are refused classification. There is little agreement and much debate today, however, over at least some of the genre films which use realistic violence for legitimate ends, for example, that which might be considered to be a film of merit to "horror" film buffs, might be considered to be a gratuitous exercise in violence exploitation to others.

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The R classification contains sexual depictions which are simulated or obscured, i.e. which clearly suggests sexual activity of various sorts. These may contain fully naked participants but stop short of explicit visuals of genital contact.
Sexual depictions which are Refused classification by the Board are indicated in the classification guidelines. These are:

- child pornography
- bestiality
- explicit or gratuitous depictions of sexual violence against non-consenting persons.

(iv) Censorship of individual elements versus censorship of ideas

The two poles of the classification procedure are the mechanistic or laundry list approach where certain verbal and visual elements are automatically placed in a particular classification no matter what the context, or the approach where particular scenes are defended on contextual grounds and the various elements are considered as component parts of the whole. The Board does, however, look closely at the gratuitous nature or contextual justification of any individual elements it may catalogue.

It is the policy of the Film Censorship Board not to censor concepts including those of violence and pornography/erotica, but rather to concentrate on the strength, impact and frequency of such elements and classify them accordingly. As providers of consumer advice, Board members try to make their assessments as far as possible without imposing for example their own moral and political views, but do take into account such factors as the technical merit, storyline and perceived artistic value.

(v) Is the present classification system satisfactory?

There has been no widespread objection to the current classification system although decisions on individual films sometimes cause comment. Indeed a recent survey commissioned by the Film/Video Coalition (see Attachment D) appears to indicate general approval of the current system.

The Board notes, however, increasing media and social concern about the depiction of screen violence, but believes that the classification system is flexible enough to accommodate this because the guidelines are applied according to current community standards.

Written complaints to the Board in any one year are generally limited. During 1986, for example, written complaints to the Board about classification - excluding those relating to the film "Hail Mary" which addressed the issue of blasphemy - amounted to 52 for the year:

21 were received in connection with cinema:
- 12 queried the appropriateness of the classifications of individual films
- 3 expressed concern about the incidence of coarse language in films
- 6 accused the Board of inconsistent decision-making
- 2 objected to the showing of unsuitable trailers in children's cinema programmes
- 1 complained about excessive violence in films.

14 were received in connection with videotapes:
- 5 blamed the Board for "unnecessary cuts" made to adult sex videos (in fact cut by distributors)
- 4 complained about classifications they considered inappropriate
- 1 complained about coarse language
- 4 addressed miscellaneous matters.

10 correspondents complained about television matters (since 1 March 1986, no longer the Board's responsibility).

7 complained that the Board's current censorship standards were too liberal.

(vi) Issues which relate to Restricted cinema classifications:

At present only the R classification prohibits a minor attending the cinema to see a particular film. The Film Censorship Board notes, however, the majority of appeals received by the Films Board of Review for reclassification concern R rated cinematic material; during 1986, for example, 15 of the 16 films submitted had been rated R by the Film Censorship Board. Of these 10 out of the 15 were reclassified M at the direction of the Films Board of Review.

The R certificate necessarily limits a film's potential audience, making the Restricted classification unpalatable to film distributors and exhibitors who argue that R rated cinema films are not sufficiently profitable to market for an adult audience, and that there are practical problems associated with legal enforcement.

The Board is obliged, however, to classify films according to content and not marketplace criteria. Distributors may therefore prefer to cut an R level film themselves in order to receive an M certificate. This is not the film censorship of the pre-1971 era as those involved have the real choice of showing the complete work to an adult audience or of tailoring it to box office specifications.

The Board is also conscious of the relative width of the M classification. All films within a given classification are not necessarily comparable, as each classification may encompass variations of strength. Thus films classified M may range from those which, in the opinion of the Film Censorship Board, barely exceed PG to those which border on R.

(Borderline cases are those where convincing arguments can be advanced to support either classification).
In line with perceived community concerns about the portrayal of violent behaviour in the mass media, the Board is particularly careful in its application of the guidelines to stronger material in the upper reaches of the Mature classification. This may mean, in the current climate, that more borderline M/R material involving violence will be legally restricted to an 18 plus audience.

(vii) Differences between video and cinema:

The Film Censorship Board is of the view that there are significant differences in the possible impact of the same film when viewed in video format as compared with cinema format. While cinema provides the added visual impact of the big screen, video permits the viewer to determine when, and under what circumstances, the film is seen.

A video cassette is a readily portable physical entity, like a book or magazine, which can be viewed privately as many times as the viewer chooses. It enables, for example, a scene to be played repeatedly and out of context, thereby lending it a significance not intended by the filmmaker.

The Board is aware that in contrast, cinema is essentially a shared social experience in which the audience views the film as a whole and in sequence, with the individual response influenced by the surroundings and relative constraints of public manners.

The videotape format, because of its portable and private nature, also poses difficulties in restricting the access of minors to adult material carrying R or X classifications. While the Board believes that the prime responsibility belongs with the parent, it is of concern that current point of sale/hire regulations are not strictly adhered to by retail outlets, or enforced by State authorities.

6. AIMS AND FUTURE TASKS OF THE FILM CENSORSHIP BOARD

It is quite clear from the study carried out by the Institute of Criminology and the Attorney-General’s Department in Canberra and Queanbeyan (see Attachment E) that a very large percentage of the population is not aware of the significance of the film and video classifications and the type of film and video they are likely to find in those classifications. One of the main tasks confronting the Film Censorship Board is to heighten the awareness in the community of the significance of the classifications.

In addition to this, the Board is considering providing additional information detailing reasons why a film or video receives a classification. It is proposed, for example, that alongside the R, M and PG classifications there will be additional symbols indicating whether the film received the classification because of sexual content, violent content or coarse language (see Attachment F for pictorial example). The purpose of this additional information is to alert people who do not wish to watch violent films that the film has been placed in that classification because of depictions of violence. It will be aimed particularly at parents who are concerned that their children do not watch M rated films with a violent content.

It is not the role of the Film Censorship Board to enforce exhibition and retailing regulations at cinemas and video outlets. The task of enforcement belongs legally with the relevant authorities in each State or Territory. The Board, however, plans to do everything in its power to provide information so that parents and others who wish to go and see films or hire videos can make an informed choice of the material they wish to watch, or wish to have their children watch.

The task of assigning a film a proper classification is made more difficult because there is an apprehension by the Board that children under the age of fifteen have relatively easy access to M rated films and videos. There is a legal restriction preventing people under the age of eighteen from viewing films classified R in the cinemas and from hiring films classified R from video outlets. Many of the films which are classified M deal with adult themes which the Board feels can be viewed by children aged over fifteen years. It may be that, in the judgement of parents, children younger than fifteen can watch such films. What causes the Board considerable unease is the knowledge that many children under the age of fifteen gain admission to theatres without being accompanied by an older person, and that the same group has access to video material in the same category.

In addition to such considerations, the Film Censorship Board is conscious that one area of difficulty in assessing community standards occurs at the border between M and R classifications - where the decision to legally restrict, or not to do so must be made. The Board carefully examines the levels of violence, sex and coarse language considered acceptable in the M classification, and will continue to monitor community attitudes to these elements.

Given possible changes in community thinking or stronger than anticipated public reaction to particular films, it is expected that the Board will soon, also, have the legislative authority to recall a particular film or video for reclassification.
It is additionally proposed that Board members in future will:

(i) actively seek public feedback by addressing community organizations and school groups

(ii) gauge audience response to classifiable elements in films through regular attendance at public cinema screenings

(iii) organize seminars on matters of mutual concern for such groups as film-makers, exhibitors, distributors and film critics.

The Film Censorship Board also intends to publish its own regular newsletter which will detail, inter alia, reasons for classification decisions.

7. CONCLUSIONS:

The Film Censorship Board believes that the current classification system is based on a sound philosophical foundation and is, in principle, an effective one. It is basically a four-tier system of classification, though the film distribution industry often views it as a two-tier system (restricted 18 plus material, and everything of lesser strength), and the public appears under-informed about the meaning of the classification symbols, and the content to be expected within each category.

The Board submits that the present system of classification is viable, provided the Film Censorship Board continues to interpret its classification guidelines in the light of changing community standards, particularly regarding acceptable levels of violence, and provided also:

(i) a community education policy for consumers about film classification symbols/content is carried out

(ii) existing regulations at exhibition, sale and hire points are given effect

(iii) new regulations are promulgated (e.g. the licensing of video outlets) as required.

The Film Censorship Board is of the opinion that a variety of strategies can be adopted to meet the above concerns. By addressing these matters, the viewing of violent behaviour within the film and video entertainment industries can be more responsibly regulated.

Possible areas for action are:

- registration/licensing of video outlets and efficient regulation of this perhaps by a special policing body with powers to enforce legislation

- the provision of a restricted area in video hire premises for R rated videotapes and age identification on demand for their hire

- the provision of better consumer advice on the content relevant to the classification decision of each film and videotape e.g.:

(i) to be displayed beside classification symbol on videotape cassette covers (see Attachment F).

This will depend, however, on the States/Territories passing suitable legislation

(ii) the publication of classification reasons in a readily available form

- the implementation of a community education programme about the classification system which may, for instance, include a short film on the classification symbols and their meanings for regular screening on television, in cinemas and as an inclusion at the start of videotapes (either through voluntary co-operation on the part of exhibitors and distributors or through legal enforcement); relevant media study brochures to be distributed in educational institutions, etc.

For the above strategies to be truly effective, it is vital to establish and maintain close liaison with the film and video marketing industries.

These strategies recognize that video material particularly needs care in the process of selection, marketing and distribution as it occupies a special place compared with most other goods readily available for sale/hire.

If properly conducted, the strategies proposed by the Film Censorship Board should adequately protect the rights of adults to view legitimate adult entertainment, while preventing exposure to possibly offensive material. They will also provide more effective means of protecting children from exposure to material which may be unsuitable or possibly harmful to them.

* * * * * * * * * * * * * * *
LIST OF ATTACHMENTS

ATTACHMENT A - Commonwealth and State/Territory Legislation: Film and Video Censorship.

ATTACHMENT B - Members of the Film Censorship Board - 1 February 1988.

ATTACHMENT C - Film Censorship Board Classification Guidelines - December 1984.

ATTACHMENT D - "Public Attitudes to 'R' Censorship Classification", Film/Video Coalition Survey, May 1987, pp 1-3 (Introduction and Executive Summary).

ATTACHMENT E - "Video Viewing Behaviour and Attitudes Towards Explicit Material: A Preliminary Investigation", Joint Project by the Australian Institute of Criminology and the Attorney-General's Department, April 1987, pp ix-xii (Executive Summary).

ATTACHMENT F - Proposed symbols to represent type of content and its strength beside 'PG', 'M' and 'R' classification symbols.
ATTACHMENT A

Commonwealth and State/Territory Legislation: Film and Video Censorship.
LEGISLATION: FILM & VIDEO CENSORSHIP

CINEMA

Commonwealth

Customs (Cinematograph Films) Regulations

State/Territory

NSW
Film and Video Tape Classification Act 1984

QLD
Censorship of Films Act 1947 - 1984

S.A.
Film Classification Act, 1971

VIC.
Films Act 1971

W.A.
Censorship of Films Act 1947

TAS.
Films Act 1971

A.C.T.
Film Classification Ordinance 1971

N.T.
Film Classification Act

VIDEO

A.C.T.
Classification of Publications Ordinance 1983

N.T.
Classification of Publications Act 1985

NSW
Film and Video Tape Classification Act 1984*

QLD
Censorship of Films Act 1947 - 1984*

S.A.
Classification of Publications Act 1974

VIC.
Films (Classification) Act 1984
W.A. Video Tapes Classification and Control Act 1987
TAS. Classification of Publications Act 1984

* SAME AS FOR CINEMA

NOTE: The Film Censorship Board makes recommendations, not decisions, on items referred to it by the Australian Customs Service pursuant to the Customs (Prohibited Imports) Regulations, advising that the referred items be either prohibited or released.

Members of the Film Censorship Board – 1 February 1988
MEMBERS OF THE FILM CENSORSHIP BOARD - 1 FEBRUARY 1988

CHIEF CENSOR

JOHN JOSEPH DICKIE, (Date of birth - 4.1.1941), B.A. (Melb.)
Dip. Journalism (Melb.)
- 1.2.88 Appointed as Chief Censor; appointment expires 31.1.93
- 1986 Assistant Secretary, Special Services Branch, Attorney-General’s Department
- 1983-86 Assistant Secretary, Promotion and Information Branch, Human Rights Commission
- 1974-83 Director, Information and Public Relations, Attorney-General’s Department
- 1968-74 Press Officer, Attorney-General’s Department
- 1958-60 Cadet journalist Brisbane Telegraph

ACTING DEPUTY CHIEF CENSOR

DAVID HAINES, (Date of birth - 5.3.1942), Dip. Ed. (Bristol, U.K.)
- 8.7.81 Appointed as Board Member; appointment expires 30.6.88
- 1979-81 Co-writer and producer, children’s television drama
- 1965-79 Teacher, U.K.
- 1959-65 Worked in banking in the U.K. and South America, and in the U.K. wine industry

MEMBERS

GRAHAM WOOD, (Date of birth - 15.2.1954), B.A., M. Ed. (Sydney), Dip. Ed. (Sydney Teachers College)
- 1.7.84 Appointed as Board Member; appointment expires 30.6.90
- 1982-84 Secondary School Drama Co-ordinator
- 1978-84 Secondary School teacher (N.S.W.)
WILLIAM SALTER, (Date of birth - 6.9.1952), B.A. (R.M.I.T), Dip. Teaching (Phillip Institute)
- 15.1.85 Appointed as Board Member; appointment expires 31.12.90
- 1979-84 Film Acquisition/Appraisal Officer; Special Projects Officer, Victorian Education Department (Film and Video Collection); District Liaison Officer (Audio Visual Resources Branch); production duties (film unit) - Victorian Education Department
- 1977-79 Schools Art Teacher (Media studies and filmmaking)

BRONWYN BOEKENSTEIN, (Date of birth - 13.10.1950), M.S., B.S. (Oregon) Dip. Recreation
- 1.1.85 Appointed as Board Member; appointment expires 31.12.90
- 1982-84 Project Officer, Australian Bicentennial Authority
- 1980-85 Producer (part-time) documentary films, Roger Whittaker Films Ltd
- 1980-82 Head, Dept. of Leisure Studies, Kuring-Gai C.A.E.
- 1979-80 Senior Supervisor, Stewart House Preventorium
- 1978-79 Senior Tutor (youth work), State College of Victoria
- 1977-78 Lecturer in Recreation and Leisure Studies (part-time), Sydney Technical College

ADRIAN CARNELUTTI, (Date of birth - 5.10.1953)
- 16.5.85 Appointed as Board Member; appointment expires 31.12.90
- 1972-85 Toolmaker with Gerard Industries, Adelaide

ANDREE MARGARET WRIGHT, (Date of birth - 30.10.1950), B.A. (Hons.) (A.N.U.)
- 20.2.86 Appointed as Board Member; appointment expires 31.12.88
- 1985 Freelance writer and historian both literary and television; author of BRILLIANT CAREERS, pub. Pan Books 1986
- 1983-84 Co-director/writer/researcher on documentary feature film DON'T CALL ME GIRLIE
- 1981 Senior Tutor, Dept. of History, University of Sydney
- 1980 Freelance writer/researcher for ATN-7 Sydney Morning Herald sponsored T.V. Special ISLAND OF DREAMS
- 1975-79 Tutor and Senior Tutor in History, Universities of N.S.W. and Sydney

RELIEF MEMBER

EVE MILDERN, (Date of birth - 7.10.1937)
- 1.1.83 Appointed as Relief Censor
- 1972-82 Member, Film Censorship Board
- 1971 Postgraduate Course in Adolescent Behaviour, London University, U.K.
- 1968-71 Bankstown Project (N.S.W. Department of Health and Macquarie University)
- 1966-68 Health Education Officer, Dental Health Education and Research Foundation, Sydney University
- 1960-66 Perth Dental Hospital (W.A.) Health Education Diploma (W.A.) Government Administration Course (W.A.) Co-ordinator Permanent Country, Mobile and Aerial Dental Clinics (W.A.)
- 1958 Recreation and Youth Counselling Diploma (W.A.)
- 1955-57 Diploma of Dental Nursing (W.A.)
ATTACHMENT C

Film Censorship Board Classification
FILM CENSORSHIP BOARD
ATTORNEY-GENERAL'S DEPARTMENT
GUIDELINES FOR CLASSIFICATION OF VIDEOTAPES/DISCS FOR SALE/HIRE

G General (suitable for all ages)
Parents should feel confident that children may view material in this classification without supervision, knowing that no distress or harm is likely to be caused.

Language: Mild expletives only if infrequent and used in exceptional and justifiable circumstances.

Sex: Very discreet verbal references or implications and only if in a justifiable context.

Violence: Minimal and incidental depictions, and only if in a justifiable context.

PG Parental Guidance (parental guidance recommended for persons under 15)
Material in this classification may contain adult themes/concepts which require the guidance of a parent or guardian.

Language: Minimal crude language if not gratuitous.

Sex: Discreet verbal and/or visual suggestions and references to sexual matters.

Violence: Discreet, inexplicit and/or stylized depictions.

Other: (i) mild supernatural and/or “horror” themes.
(ii) minimal nudity if in justifiable and non-sexual context.
(iii) discreet informational and/or anti-drug references.

M Mature (suitable for persons 15 years and over)
Material which is considered likely to disturb, harm or offend those under the age of 15 years. While most adult themes may be dealt with, the degree of explicitness and exploitativeness of treatment will determine what can be accommodated in this classification.

Language: Crude language that is excessive, assaultive or sexually explicit is not acceptable.

Sex: Depictions of discreetly implied sexual activity.

Violence: Depictions of realistic and sometimes bloody violence but not if gratuitous, exploitative, relished, cruel or unduly explicit.

Other: Depictions of drug use if not advocacyary.
RESTRICTED (18 years and over)

Adult material which is considered likely to be possibly harmful to those under 18 years and possibly offensive to some sections of the adult community.

Language: May be sexually explicit and/or assaultive.

Sex: Implied, obscured or simulated depictions of sexual activity; depictions of sexual violence only to the extent that they are discreet, not gratuitous and not exploitative.

Violence: Explicit depictions of violence, but not detailed and gratuitous depictions of acts of considerable violence or cruelty (see "Refused Classification").

Other: Depictions of drug abuse if not advocacy.

EXTRA-RESTRICTED (18 years and over)

Material which includes explicit depictions of sexual acts involving adults, but does not include any depiction suggesting coercion or non-consent of any kind.

REFUSED CLASSIFICATION

Language: No proscriptions.

Sex: Child pornography, bestiality.

Violence: Detailed and gratuitous depictions of acts of considerable violence or cruelty; explicit or gratuitous depictions of sexual violence against non-consenting persons.

Other: Instruction "manuals" for (i) terrorist-type weapons and acts.

(refused classification)

December 1984

* Guidelines G to R apply equally to films for cinema release.

"Public Attitudes to 'R' Censorship Classification", Film/Video Coalition Survey, May 1987, pp 1-3 (Introduction and Executive Summary).
INTRODUCTION

This report is about a survey of 2,025 adults carried out during the week April 27th to May 3rd, 1987.

The objective of the survey was to establish public awareness of the "R" censorship classification and public opinion as to whether this classification should be given more censorship, less censorship or should remain the same as it is now.

EXECUTIVE SUMMARY

* 71 per cent of frequent cinema goers (once a month or more often) want censorship to remain at the current level or want less censorship.

* 67 per cent of frequent video viewers (once a month or more often) want censorship to remain at the current level, or want less censorship.

* 57 per cent of total survey (2,025) respondents want either current censorship to remain unchanged or would prefer less censorship.

* 31 per cent of total survey respondents favoured more censorship.

* 12 per cent of total survey respondents had no opinion on the subject.

* Those in favour of more censorship and who were able to correctly identify films as being an "R" classification, represented only 13% of all people surveyed.

Separating those who were able to correctly indentify the "R" classification and those who were not, the sample of 2,025 breaks down as follows:

Correct identification - 47 per cent of total sample

26 per cent favoured same censorship
4 per cent favoured less censorship
13 per cent favoured more censorship
4 per cent had no opinion

Incorrect indentification - 53 per cent of total sample

23 per cent favoured same censorship
4 per cent favoured less censorship
18 per cent favoured more censorship
8 per cent had no opinion
73 per cent of those surveyed aged between 18 and 34 want
the same or less censorship. This age group attends the
cinema and watches videos more frequently than other age
groups.

69 per cent of survey respondents in households with children
aged 5 or younger want either no changes or less censorship.

59 per cent of survey respondents in households with children
of primary school age want either no changes or less censorship.

59 per cent of survey respondents in households with teenage
children (13 to 17 years) want either no changes or less
censorship.

27 per cent of total survey respondents were aware of
the Joint Parliamentary Select Committee on Video Material.

Regular or occasional churchgoers had a lower awareness
of the correct censorship classification than infrequent
churchgoers or people who never go to church.

ATTACHMENT E

"Video Viewing Behaviour and Attitudes Towards
Explicit Material: A Preliminary Investigation",
Joint Project by the Australian Institute of Criminology
and the Attorney-General's Department, April 1987,
pp ix-xii (Executive Summary).

(Attention is drawn to points highlighted on page (xi))
VIDEO VIEWING BEHAVIOUR
AND ATTITUDES TOWARDS
EXPLICIT MATERIAL:
A PRELIMINARY INVESTIGATION

A joint project by the Australian Institute of Criminology (Tammy Pope and Paul Wilson)
and the Attorney-General's Department (Terry Brooks, David Fox and Stephen Nugent)
EXECUTIVE SUMMARY

This report discusses the findings of a study on video viewing behaviour and attitudes towards explicit material in video movies. Intended as a preliminary investigation, its findings are limited in the extent to which they can be generalised beyond the sample. However, the study does provide some valuable data and it does raise a number of issues which have direct policy relevance.

A questionnaire was sent to a sample of video hirers in Canberra and the surrounding district. One hundred and seventy five people returned completed questionnaires allowing comparisons to be made between different groups of video viewers.

Questions relating to general video viewing behaviour elicited the following responses:

(i) Most respondents said they watched either a few video movies each week (31.4 per cent) or a few each month (47.4 per cent).

(ii) The most popular time for watching video movies was between 8.00 pm and midnight. The early evening between 5.00 pm and 8.00 pm was the second most popular time.

(iii) The most influential factor affecting choice of video was, not unexpectedly, that the video was the type liked by the hirer.

(iv) Comedy movies were the most popular type amongst respondents. Action movies were the next most popular.

Behaviour and attitudes in relation to sexually explicit and violent material in video movies was one of the primary areas of interest in the present study. Findings in relation to this indicate the following:

(i) Nineteen per cent of respondents fell within the category of regular X-rated movie viewers (defined as those who said they watched this classification at least once a month). A much larger number fell within the category of regular R viewers (59.4 per cent).

(ii) A large proportion (87.9 per cent) of the regular X viewers were males. A smaller proportion of the regular R viewers were males (68.9 per cent).

(iii) Regular X viewers did not differ markedly from video viewers in general in terms of a series of characteristics including age, marital status, church attendance, education and work situation.

(iv) Viewing X-rated movies was predominantly done alone or with one other person.

(v) The two most popular reasons given for watching X-rated videos were that 'I find the sex scenes stimulating' and that 'my partner and I find they stimulate us'. Seventy three per cent of those who responded to the first of these reasons either strongly agreed or tended to agree. The equivalent figure for the second reason was 70.0 per cent.

(vi) Respondents who had bought or rented an X-rated video in the last year expressed a strong liking for sexual movies and people who said they liked sexual movies tended to be less satisfied with various aspects of their life and more liberal in their attitudes toward the availability of videos containing sexually explicit and violent material.

(vii) Those who had not bought or rented an X-rated movie in the last year were more likely to believe in a link between crime and X-rated viewing and the people who were strongest in this belief were older and female. Crime included both sexual crimes and crimes of violence even though movies in the X category contain little violence.

(viii) Only five per cent of respondents thought that X-rated videos should be banned. Over 60.0 per cent said that there should be no public display of such videos, while 30.0 per cent said there should be no restriction for adult audiences.

(ix) Attitudes to materials containing sexual violence were far more conservative. Over 60.0 per cent of respondents said that such material should be banned.

(x) A large proportion of respondents agreed with the present restrictions on the availability of X-rated videos. Over 85.0 per cent thought that X-rated videos should be kept in a restricted area of the video store, while just over half agreed with the present age restriction of only those over 18. Thirty five per cent of respondents said that 21 should be the minimum legal age for hiring X-rated videos.

(xi) Over 42.0 per cent of people who had children under the age of 18 said that their children had (or probably had) seen an R-rated movie. The equivalent figure for X-rated videos was 19.1 per cent.
Videos with an X classification were apparently seen as being potentially more harmful to children than R-rated movies. Respondents were more willing to allow their children, of whatever age, to watch R-rated videos, than they were to allow them to watch X-rated movies.

Factors which increased the frequency that respondents would allow their children to view R-rated movies were a liking for violence movies, a liberal attitude to the availability of explicit material in theatres, and disagreement with suggestions that there was a link between crime and R-rated movies.

The most popular reason given for viewing R-rated videos was that the movie was recommended as worth seeing. Males agreed more frequently than females with reasons suggesting that they liked the violence in R-rated movies (eg. I find the violent scenes exciting, I prefer violent scenes to be shown as they really happen).

Seventy three per cent of respondents said that R-rated videos should only be able to be hired by those over the age of 18. A further 10.9 per cent said that a more appropriate age limit was 21.

Knowledge of the censorship ratings used for videos was assessed by the questionnaire. Over 60.0 per cent of respondents were able to identify the correct group of censorship ratings from a series of options. However, over a third either picked an incorrect group of ratings or said that they did not know which ratings were used for videos. This finding suggests there is a need for further education on videotape censorship classifications. It is possible that the level of knowledge in the community in general, or in other parts of Australia, is lower than that found in this sample. Other findings relating to the censorship ratings include the following:

(i) The 40+ age group appeared to be the group in greatest need of education on censorship ratings. A little over half of this group identified the correct list of censorship ratings, as opposed to well over 60 per cent of the two younger groups.

(ii) Fifty six per cent of respondents said that they always or sometimes checked to see what the censorship rating of a video was before hiring.

(iii) The censorship rating of a video was not an important factor in choice of video for many people.

A number of other findings are of general interest in relation to video viewing behaviour:

(i) Respondents living in New South Wales tended to have a higher frequency of video viewing than did Australian Capital Territory residents.

(ii) People who expressed a strong liking for 'adrenaline' movies (horror, spy and thrillers), tended to watch videos more frequently than others, and tended to have spent fewer years at school.

(iii) Younger respondents expressed a greater liking for violence movies than did those in the older age groups.

(iv) People with a preference for 'macho' movies (action, sport and westerns), were more likely to be male than female, more likely to have spent fewer years at school, more likely to believe in a link between crime and X-rated movies, and more likely to be younger than older.
Proposed symbols to represent type of content and its strength beside 'PG', 'M' and 'R' classification symbols.
MEMBERS OF THE FILMS BOARD OF REVIEW - JANUARY 1988

FRANK EVAN WILLIAMS (Chairman)
- Date of Birth: 22.10.34; appointment expires 31 December 1990
- 1984 - Director of the Office of the Minister for the Arts
- 1977-84 Director of the Division of Cultural Activities of the NSW Premier's Department
- 1972-75 Prime Ministerial adviser
- 1981 to the present time, Film Critic for The Australian, Film reviewer for the ABC
- Former Literary Editor and Film Critic of the Sydney Morning Herald
- Executive Member of the Cultural Grants Advisory Council of NSW since 1977.

IRENE FRANCES ARMSTRONG, B.A. (Macquarie University), Graduate Dip. Ed. (Hawthorn), Art Specialist, Teachers' Certificate, Department of Education (NSW) (Deputy Chairman)
- Date of Birth: 22.3.42
- 1.5.87 Senior Art Teacher, Emmaus College, Burwood, Victoria
- 1.1.86 Appointed as Member, Cinematograph Films Board of Review; appointment expires 31 December 1988
- 1980-87 Senior Art Teacher, Kilbreda College, Mentone, Vic.
- 1978 Teacher Mater Maria College, Warriewood, NSW
1969-77 Teacher NSW Department of Education: Barrenjoey High School, Avalon; Pittwater High School, Newport; Manly Girls High School; Beacon Hill High School.

JERRY JAMES O'SULLIVAN
- Date of Birth: 19.7.19
- 22.2.85 Appointed as Member, Cinematograph Films Board of Review; appointment expires 31 December 1988
- 1984-87 Consultant to Horwitz-Graham Pty Ltd, publishers of printed matter
- 1972-84 Regional Inspector, Censorship, Sydney (Attorney-General's Department); retired 1984
- Prior to 1972 Inspector, Publications, with the Australian Customs Service.

KEITH CONNOLLY
- Date of Birth: 15.10.28
- 22.2.85 Appointed as Member, Cinematograph Films Board of Review; appointment expires 31 December 1990
- 1969-87 Journalist and film critic Melbourne Herald
- 1947-69 Journalist on newspapers in Western Australia, Tasmania and Victoria.

MICHAEL JOHN ELLIGATE, B.A., Dip. Ed., Bachelor of Education, La Trobe University
- Date of Birth: 5.5.46; appointment expires 31 December 1990
- Appointed Chaplain Melbourne University 1987
- Parish priest at St. Carthage's Church, Parkville (Vic.)
- Theology studies, Corpus Christi College, Clayton (Vic.)
- Educated at the Assumption College, Kilmore (Vic.).

MARY MADELEINE FINN, B.A. (Qld), Bachelor of Laws (Qld), Barrister (Qld), Barrister and Solicitor (ACT)
- Date of Birth: 4.7.46; appointment expires 31 December 1990
- August 1983 - June 1986 Member of the Board of Management of the Institute of Family Studies
- 1980 - October 1986 Legal Officer, Senior Legal Officer, Principal Legal Officer in the Attorney-General's Department
- 1979 - 1980 Legal Research Officer, Parliamentary Joint Select Committee on the Family Law Act
## Appendix 11

**INDIVIDUALS AND ORGANISATIONS WHO APPEARED BEFORE THE COMMITTEE**

<table>
<thead>
<tr>
<th>Individuals/Organisations</th>
<th>Represented by</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT House of Assembly (Education and Community Affairs Committee), Canberra, ACT</td>
<td>Mr K.R. Doyle, Mrs B.A. Hocking</td>
<td>2640</td>
</tr>
<tr>
<td>Actors Equity of Australia Potts Point, NSW</td>
<td>Mr M. Crosby</td>
<td>2342</td>
</tr>
<tr>
<td>Adult Video Industry Association of Australia, Cammeray, NSW</td>
<td>Ms J. Bright, Mr D. Purlong, Mr J.W. Lark</td>
<td>759</td>
</tr>
<tr>
<td>Altman, Mr D., Clifton Hill, VIC</td>
<td></td>
<td>2766</td>
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<tr>
<td>Anglican Church Diocese of Sydney, Sydney, NSW</td>
<td>Bishop J.R. Reid</td>
<td>691</td>
</tr>
<tr>
<td>Attorney-General's Department, Canberra, ACT</td>
<td>Mr T.B. Brooks, Mr J. Dickie, Mr D.M. Fox</td>
<td>2944</td>
</tr>
<tr>
<td>ATV-10 Network, Melbourne, VIC</td>
<td>Mr P. Gibbs</td>
<td>1639</td>
</tr>
<tr>
<td>Australasian Film and Video Security Office, Edgecliff, NSW</td>
<td>Mr R.W. Stevenson</td>
<td>1928</td>
</tr>
<tr>
<td>Australian Broadcasting Corporation Sydney, NSW</td>
<td>Mr P.J. Conroy, Mr K. Jackson</td>
<td>2614</td>
</tr>
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<td>Australian Broadcasting Tribunal Melbourne, VIC</td>
<td>Ms S. Agardy, Mr J.G. Quaine</td>
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Australian Children's Television Foundation, Carlton, VIC
Australian Council for Children's Films and Television
Australian Customs Service
Canberra, ACT
Australian Family Association (National Secretariat)
Melbourne, VIC
Australian Family Association (Queensland), Brisbane, QLD
Australian Federal Police, Canberra, ACT
Australian Federation of Festival of Light, Sydney, NSW
Australian Film Commission
Sydney, NSW
Australian Institute of Criminology
Canberra, ACT
Australian Parents Council
Sydney, NSW
Australian Psychological Society (Victoria) - Working Party on Video Material, Parkville, VIC
Baptist Union of New South Wales, Glebe, NSW
Belson, Dr W.A., London, UK
Bottom, Mr R., Melbourne, VIC
Brannigan, Dr A., Doncaster East, VIC
Cinema Action Group, North Melbourne, Mr J.E. Glanville
VICT
Dr P.M. Edgar
Mrs B.E. Biggins
Mr B.F. Purcell
Mr K. Reilly
Mr J.A. Thurlow
Col L.G. Coleman
Mr R. Conway
Dr J. Santamaria
Dr E. Seal
Mr D.J. Grace
Mrs P. Smith
Insp K.J. McTavish
Sgt P.J. Lavler
Insp B.S. Brinkler
Rev F. Nile, MLC
Mr P. Adams
Mr D. Biles
Prof. R.W. Harding
Dr S.K. Mukherjee
Mr S.L. Mason
Mrs M. Slattery
Mr F.M. Norwill
Mrs J.E. Glanville
Mr K.J. Hill
Dr P.M. Edgar
Mrs B.E. Biggins
Mr B.F. Purcell
Mr K. Reilly
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Dr S.K. Mukherjee
Mr S.L. Mason
Mrs M. Slattery
Mr F.M. Norwill
Mrs J.E. Glanville
Mr K.J. Hill
Classification of Publications Board of South Australia
Adelaide, SA
Mr J.N. Holland
Prof. R.S. Kalucy
Mrs A. Robinson
Communications, Department of Canberra, ACT
Mr J.L. Brady
Mr J.R. Doherty
Mr V.J. Kane
Mr G.N. McAdoo
Mr R.D. Rudland
Conference of Churches of Christ in New South Wales, Carlingford, NSW
Mr P.G. Dixon
Mr J.C. Wilson
Court, Dr J.H., Spectrum Psychological and Counselling Centre, Kent Town, SA
Customs Officer Association of Australia, Ashbury, NSW
Mr P.F. Bennett
Mr R.G. Spanwick
Darling, Mrs E., MP, Federal Member for Lilley, Parliament House, Canberra
Donnerstein, Professor E. University of Wisconsin, USA
Family Team, ACT House of Assembly Canberra, ACT
Cains, Mrs B.M.E.
Craft, Mr H.C.
Federation of Australian Commercial Television Stations (FACTS) Sydney, NSW
Mr D. Morgan
Film Censorship Board
Sydney, NSW
Mrs J. Strickland
Mr K.F. Barton
Films Board of Review
Prof P.W. Sheehan
Dr F.M.B. Mackie
Mr J.J. O'Sullivan
Goodwin, Professor C.S. Department of Microbiology, Royal Perth Hospital
Human Rights Commission Canberra, ACT
Mr P.H. Bailey
Mr M. Teh
Information Seminars, Brighton, VIC
Mr J. Vickers-Willis
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
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<tr>
<td><strong>Knights of the Southern Cross</strong></td>
<td>Melbourne, VIC</td>
<td>1391</td>
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<tr>
<td>Mr B.G. Amott</td>
<td></td>
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<tr>
<td>Mr D.V. Boyle</td>
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<td>Mr G. Crosier</td>
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<td><strong>Knowles, Dr A.</strong>, Hawthorn, VIC</td>
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<td><strong>Law Reform Commission (Victoria)</strong></td>
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<td>Dr J.A. Scutt</td>
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<td><strong>Media Action Group (Tasmania)</strong></td>
<td>Devonport, TAS</td>
<td>2515</td>
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<td>Mrs I.D. Hawkes</td>
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<td><strong>Movielink Pty Ltd, Melbourne, VIC</strong></td>
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<td>Mr F.J. Furze</td>
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<td><strong>Murnane, Father P.</strong>, Canberra, ACT</td>
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<td><strong>National Viewers and Listeners Association, Perth, WA</strong></td>
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<tr>
<td>Mrs B.J. Van Luyn</td>
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<tr>
<td><strong>New South Wales Council for Civil Liberties, Glebe, NSW</strong></td>
<td></td>
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<tr>
<td>Mr K.G. Horler</td>
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<td>Mr T. Robertson</td>
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<tr>
<td>Ms B. Schurr</td>
<td></td>
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<tr>
<td><strong>New South Wales Video Retailers’ Association, Leichhardt, NSW</strong></td>
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<td>577</td>
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<tr>
<td>Mr R.W. Clayton</td>
<td></td>
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<td>Mr K.W. Williams</td>
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<tr>
<td><strong>Northern Territory Government</strong></td>
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<tr>
<td>Mr D.F. Dale, MLA</td>
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<tr>
<td><strong>NSW Women’s Advisory Council to the Premier, Sydney, NSW</strong></td>
<td></td>
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<tr>
<td>Ms B. Coddington</td>
<td></td>
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<tr>
<td>Ms C.D. Kibble</td>
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<tr>
<td>Ms P. Lo Po’</td>
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<td>Ms R.N. Winfield</td>
<td></td>
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<tr>
<td><strong>Office of the Status of Women</strong></td>
<td>(Department of Prime Minister and Cabinet),</td>
<td>2820</td>
</tr>
<tr>
<td>Ms P.M. Kolly</td>
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<td>Ms H. Knight</td>
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<td><strong>Peachey, Mr B.A.</strong>, Woodlands, WA</td>
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<td><strong>Radecki, Dr T.E.</strong>, Research Director, National Coalition on TV Violence, Illinois, USA</td>
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<td><strong>Richardson, Dr J.D.</strong>, Immediate Past National President, The Australian Society of Sex Educators, Researchers and Therapists, Sydney, NSW</td>
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<td><strong>Sheehan, Professor P.W.</strong>, University of Queensland, St Lucia, QLD</td>
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<td><strong>Shop, Distributive and Allied Employees Association, Melbourne, VIC</strong></td>
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<td><strong>Somssich, Mrs C.</strong>, Quakers Hill, NSW</td>
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<td><strong>Somssich, Mr G.</strong>, Quakers Hill, NSW</td>
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<td><strong>Australian Council for Children’s Films and Television, Prospect, SA</strong></td>
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<td>Mr C.G. Cupit</td>
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<td>Mr P.M. Dight</td>
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<td><strong>South Australian Video Retailers Association, Adelaide, SA</strong></td>
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<td>Mr G.A. Peters</td>
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<td><strong>Tasmanian Teachers Federation, Hobart</strong></td>
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<td>Ms S.Z. Ryan</td>
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<td>Ms A.A. Vallance</td>
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<td><strong>Thornton, Dr N.S.</strong>, Upper Brookfield, QLD**</td>
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<tr>
<td>Ms A.H. Smith</td>
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<tr>
<td>Ms M. Toohey</td>
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<td>Insp. A.R. Johnson</td>
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<td><strong>Video Industry Distributors Association, Sydney, NSW</strong></td>
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<tr>
<td>Mr K.C. Chapman</td>
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<tr>
<td>Miss J.G. Simpson</td>
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<td><strong>Wells, Hon Peter, MLC</strong></td>
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<td><strong>Wilson, Dr P.</strong>, University of Queensland, St Lucia, QLD**</td>
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<td><strong>Women Against Violence and Exploitation, Strawberry Hill, NSW</strong></td>
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<td>1007</td>
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<tr>
<td>Ms M. Milne</td>
<td></td>
<td></td>
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<tr>
<td>Ms P. Stoddart</td>
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<tr>
<td>Ms J. Unwin</td>
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<td>1007</td>
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</tbody>
</table>

826
SUMMARY OF

VIDEOTAPE CLASSIFICATION LEGISLATION IN AUSTRALIA

NOTES:

1 Classification legislation was designed solely to regulate the sale, hire and distribution of publications in the market place. The table does not set out to summarise all laws covering criminal behaviour or the regulation of other visual media outside this particular area.

2 Main offences and penalties covered in the model legislation are outlined in Chapter 5.

3 * on the chart denotes the situation that operates currently.
<table>
<thead>
<tr>
<th>ACT</th>
<th>Classification of Publications Ordinance 1983</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Classification of Publications Ordinance 1983</td>
</tr>
<tr>
<td></td>
<td><strong>G, PG, M, R, X</strong></td>
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<tr>
<td></td>
<td><strong>Material which offends against the standards of morality, decency and propriety generally accepted by reasonable adult persons to the extent that it should not be classified</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Film Censorship Board</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Films Board of Review</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Applicant for classification</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Publisher of film</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Attorney-General</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Commonwealth Gazette</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Child depictions likely to cause offence to a reasonable adult person</strong> (hereinafter called child abuse)</td>
</tr>
<tr>
<td></td>
<td><strong>Promotion of terrorism</strong></td>
</tr>
<tr>
<td></td>
<td><strong>[s. 25(3), (4)]</strong></td>
</tr>
</tbody>
</table>
### Prescribed Markings

- **With or without the addition of any words:**
  - G, PG, M or R - prescribed marking to be on container

- **X** - the publication must bear the prescribed marking

- Letters in symbol to be 5-10mm in height

### Display Conditions

- X not to be displayed except in a restricted area with conditions attached

### Conditions on or offences in relation to a classified category beyond R

- Not to be sold or hired to a minor (other than by parent or guardian)

### Conditions on publication

- Must bear prescribed marking

### Criteria for classification/prosecution

- 'Standards of morality, decency and propriety generally accepted by reasonable adult persons to the extent that it should not be classified'

- Principles that:
  - Adults entitled to read and view what they wish
  - All persons entitled to protection from unsolicited material they find offensive (hereinafter referred to as 1973 policy principles)

- Literary, artistic or educational merit, and medical legal or scientific character

### Trailers

- The videotape is defined as a total entity and should therefore take the classification of the highest material on it. In practice most distributors will remove any trailer bearing a higher classification than the feature in order to keep the feature classification for the whole videotape. Adding trailers later is possible, but if they bear a higher classification than the previously classified videotape the distributor is liable.

### Distinctive Items in addition to the model legislation

- The likely audience or that intended and the conditions imposed on publication
<table>
<thead>
<tr>
<th>STATE LEGISLATION</th>
<th>CLASSIFICATIONS ALLOWED</th>
<th>CATEGORIES OF REFUSAL</th>
<th>CLASSIFYING AUTHORITY</th>
<th>REVIEW AUTHORITY</th>
<th>STANDING TO APPEAL FOR REVIEW</th>
<th>PUBLIC NOTIFICATION</th>
</tr>
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<tbody>
<tr>
<td>NSW Film and Video Tape Classification Act 1984</td>
<td>G, PG, M, R</td>
<td>. material which 'is likely to cause offence to a reasonable adult'</td>
<td>Commonwealth body (FCB) by arrangement* or a censor employed under NSW Public Service Act</td>
<td>Commonwealth body (FBR) by arrangement* or an appeal censor employed under the NSW Public Service Act</td>
<td>. applicant for classification</td>
<td>Commonwealth Gazette where there is an arrangement*; otherwise NSW Gazette</td>
</tr>
<tr>
<td></td>
<td></td>
<td>. child abuse</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>. any bestiality</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>. promotion of terrorism</td>
<td></td>
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[s. 9(2)]
<table>
<thead>
<tr>
<th>PRESCRIBED MARKINGS</th>
<th>DISPLAY CONDITIONS</th>
<th>CONDITIONS ON R OFFENCES IN RELATION TO A CLASSIFIED CATEGORY BEYOND R</th>
<th>CRITERIA FOR CLASSIFICATION/PROSECUTION</th>
<th>TRAILERS</th>
<th>DISTINCTIVE ITEMS IN ADDITION TO THE MODEL LEGISLATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>A 'For general exhibition</td>
<td>notice on premises</td>
<td>not to be sold or hired to a minor</td>
<td>refused classification</td>
<td>G - nothing above PG</td>
<td>. an offence for a person 15-18 years to buy or hire R films or films refused classification</td>
</tr>
<tr>
<td>PG 'Parental guidance recommended'</td>
<td>required as follows:</td>
<td></td>
<td></td>
<td>PG - no R or above</td>
<td>. an offence to procure a child for the making of a child abuse videotape</td>
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<tr>
<td>🏁 'For mature audiences'</td>
<td></td>
<td></td>
<td></td>
<td>M - no R or above</td>
<td>. an offence to exhibit an R videotape in a public place or in a picture theatre in the presence of a minor</td>
</tr>
<tr>
<td>🏁 'Restricted exhibition. Not available to persons under 18 years'</td>
<td></td>
<td></td>
<td></td>
<td>R - no unclassified (includes X)</td>
<td>. an offence to permit the attendance of a minor at the exhibition in a public place of an R videotape</td>
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<tr>
<td>prescribed marking to be on container</td>
<td></td>
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<tr>
<td>letters in symbol to be not less than 5mm; lettering not less than 2mm</td>
<td></td>
<td></td>
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<td>colour of symbol and lettering to contrast to background</td>
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<td></td>
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<tr>
<td>STATE</td>
<td>LEGISLATION</td>
<td>CLASSIFICATIONS ALLOWED</td>
<td>CATEGORIES OF REFUSAL</td>
<td>CLASSIFYING AUTHORITY</td>
<td>REVIEW AUTHORITY</td>
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</tbody>
</table>
| VIC   | Films (Classification) Act 1984 |  | - films refused classification under the Classification of Publications Ordinance 1983 of the ACT  
- films which were, before the commencement of Section 3(2)(a) of the Films Classification Act 1984, refused registration or classification under the Films Act 1971  
[ss. 3(2)(a)] |  |  |  |  |

| Films Act 1971 | G, PG, M, R |  |  | Commonwealth body (FCB) by arrangement*  
or a censor appointed under the Victorian Public Service Act | Commonwealth body (FBR) by arrangement* or an appeal censor employed under the Victorian Public Service Act |  |  |
<table>
<thead>
<tr>
<th>PRESCRIBED MARKINGS</th>
<th>DISPLAY CONDITIONS</th>
<th>CONDITIONS ON R OFFENCES IN RELATION TO A CLASSIFIED CATEGORY BEYOND R</th>
<th>CRITERIA FOR CLASSIFICATION/PROSECUTION</th>
<th>TRAILERS</th>
<th>DISTINCTIVE ITEMS IN ADDITION TO THE MODEL LEGISLATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>▲ with or without the addition of any words, prescribed marking to be on container, letters in symbol to be 5-10mm in height</td>
<td>not to be sold or hired to a minor</td>
<td>I not to be sold</td>
<td>when determining whether a film that is not refused classification is 'objectionable', or 'highly objectionable' for the purposes of prosecution, the court is to have regard to the general character of the film</td>
<td>same as in ACT</td>
<td>an offence to make an 'objectionable' film for purposes of selling it</td>
</tr>
<tr>
<td>prescribed marking to be on container</td>
<td>must bear prescribed markings</td>
<td></td>
<td>film that is not refused not to be found 'objectionable' if it:</td>
<td></td>
<td>also an offence to invite or procure anyone under 16 to make or be involved in the making of an 'objectionable' film or a 'highly objectionable' film ('objectionable' = X and above except child abuse; 'highly objectionable' = child abuse)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- possesses literary or artistic merit</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- is of medical, legal or scientific character except in the case of a film which promotes or encourages terrorism</td>
<td></td>
<td>must contain symbol and statement of classification</td>
</tr>
<tr>
<td>STATE</td>
<td>LEGISLATION</td>
<td>CLASSIFICATIONS ALLOWED</td>
<td>CATEGORIES OF REFUSAL</td>
<td>CLASSIFYING AUTHORITY</td>
<td>REVIEW AUTHORITY</td>
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<tr>
<td>SA</td>
<td>Classification of Publications Act 1974</td>
<td>G, PG, M, R</td>
<td>where classification would breach principles expressed in s.12(2)(a) and (b); that adults are entitled to read and view what they wish and that members of the community (and those in their care) are entitled to protection from exposure to unsolicited material that they find offensive, or</td>
<td>Films Censorship Board</td>
<td>Films Board of Review*</td>
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<td>SA Classifications of Publications Board if it is invoked or so chooses*</td>
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<td>SA Classifications of Publications Board itself</td>
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<td></td>
<td></td>
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<td>- the Minister</td>
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- anything above R

[s.13(3)]
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<th><strong>PRESCRIBED MARKINGS</strong></th>
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<th><strong>CONDITIONS ON R</strong></th>
<th><strong>CONDITIONS ON OR OFFENCES IN RELATION TO A CLASSIFIED CATEGORY BEYOND R</strong></th>
<th><strong>CRITERIA FOR CLASSIFICATION/PROSECUTION</strong></th>
<th><strong>TRAILERS</strong></th>
<th><strong>DISTINCTIVE ITEMS IN ADDITION TO THE MODEL LEGISLATION</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>A 'For General Exhibition'</td>
<td>sign to be displayed in premises in a prominent position at or near point of payment as follows:</td>
<td>not to be sold or hired to a minor (without written authority of parent or guardian)</td>
<td>refused classification</td>
<td>have regard to standards of morality, decency and propriety that are generally accepted by reasonable adult persons [s.12(1)]</td>
<td>same as in ACT Classification of Publications Board</td>
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<tr>
<td>☐ 'Parental Guidance Recommended'</td>
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<td></td>
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</tr>
<tr>
<td>☐ 'For Mature Audiences'</td>
<td>A General Exhibition - Suitable for general viewing</td>
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<td></td>
</tr>
<tr>
<td>☐ 'Restricted - Not to be available to persons under 18 years. Images from this film not to be exhibited to persons under 18 years'</td>
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<tr>
<td>☐ prescribed marking to be on the front of container</td>
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<tr>
<td>☐ letters in symbol to be 5 - 10mm in height</td>
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</tr>
<tr>
<td>☐ For Mature Audiences - Cannot be recommended for viewing by persons under the age of 15 years</td>
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</tr>
<tr>
<td>☐ 'Restricted - Not to be sold or delivered to a minor (otherwise than by a parent or guardian or a person acting with the written authority of a parent or guardian of the minor)</td>
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</tr>
</tbody>
</table>

Images from the film shall not be exhibited to a minor (otherwise than by a parent or guardian or a person acting with the authority of a parent or guardian of the minor):
<table>
<thead>
<tr>
<th>STATE</th>
<th>LEGISLATION</th>
<th>CLASSIFICATIONS ALLOWED</th>
<th>CATEGORIES OF REFUSAL</th>
<th>CLASSIFYING AUTHORITY</th>
<th>REVIEW AUTHORITY</th>
<th>STANDING TO APPEAL FOR REVIEW</th>
<th>PUBLIC NOTIFICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>QLD</td>
<td>Queensland Censorship of Films Act of 1947</td>
<td>G, PG, M, R</td>
<td></td>
<td>Commonwealth body (FCB) by arrangement* or a censor appointed by the Governor in Council</td>
<td>Commonwealth body (FBR) by arrangement* or the Minister or other person authorised by the Minister</td>
<td>applicant for classification</td>
<td>Commonwealth Gazette where there is an arrangement;* otherwise Queensland Gazette</td>
</tr>
</tbody>
</table>

- material which 'offends against the standards of morality, decency and propriety generally accepted by reasonable adult persons'
- child abuse
- promotion of terrorism
- objectionable films as defined s. 9(2) of Films Board of Review
- Supreme Court
- aggrieved person
- Queensland Gazette and otherwise as decided
<table>
<thead>
<tr>
<th>PRESCRIBED MARKINGS</th>
<th>DISPLAY CONDITIONS</th>
<th>CONDITIONS ON R OFFENCES IN RELATION TO A CLASSIFIED CATEGORY BEYOND R</th>
<th>CRITERIA FOR CLASSIFICATION/ PROSECUTION</th>
<th>TRAILERS</th>
<th>DISTINCTIVE ITEMS IN ADDITION TO THE MODEL LEGISLATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>With or without the addition of any words</td>
<td>. notice at each entrance, clearly visible as follows:</td>
<td>. no provision for any classification above R although categories of refusal remain the same as in ACT. All PCB's X classifications since the Films (Censorship and Review) Acts Amendment Act 1984 are excluded in practice under provisions of Films Review Act 1974 which prohibits distribution of 'objectionable' films (see below). Films classified X before that time deemed to have been refused approval [s.47(2)]</td>
<td>. literary artistic or educational merit and general character of film including medical, legal or scientific</td>
<td>. categories above the film to which trailer is attached are not allowed, i.e.:</td>
<td>. an offence for a person 14-18 years to purchase an R film</td>
</tr>
<tr>
<td>prescribed marking to be on container</td>
<td>'G' films that are suitable for general exhibition - A</td>
<td>'M' films that cannot be recommended for viewing by persons under the age of 15 years with the guidance of a parent or a guardian of that person - PG</td>
<td>persons for whom intended or to whom likely to be exhibited</td>
<td>G - PG, M, R or unapproved</td>
<td>private possession of material refused classification according to the same definition as the ACT Ordinance is an offence (private possession of X is not an offence)</td>
</tr>
<tr>
<td>letters in symbol to be 5-10 mm in height</td>
<td>'PG' films that should only be viewed by a person under the age of 15 years with the guidance of a parent or a guardian of that person - PG</td>
<td>'R' films that cannot be recommended for viewing by persons under the age of 18 years - PG</td>
<td>M - R or unapproved</td>
<td>PG - M, R or unapproved</td>
<td>distributors required to be registered</td>
</tr>
<tr>
<td></td>
<td>Warning: It is an offence for any person who has not attained the age of 18 years to purchase a film marked R. (Proof of age may be required).</td>
<td></td>
<td>N - R or unapproved</td>
<td>R - unapproved</td>
<td>Act operates alongside the Films Review Act 1974 which provides for a secondary censorship function within the State</td>
</tr>
</tbody>
</table>

- Some R and all X films are prohibited distribution in the State having been determined as 'objectionable' films by the Qld Films Board of Review set up under the Act [s.8, 9, 10] - sets up a Films Board of Review to prohibit the distribution in the State of objectionable films as defined in s.9(2) - see s.10 for matters for Board's consideration in determining whether a film is objectionable.
<table>
<thead>
<tr>
<th>STATE</th>
<th>LEGISLATION</th>
<th>CLASSIFICATIONS ALLOWED</th>
<th>CATEGORIES OF REFUSAL</th>
<th>CLASSIFYING AUTHORITY</th>
<th>REVIEW AUTHORITY</th>
<th>STANDING TO APPEAL FOR REVIEW</th>
<th>PUBLIC NOTIFICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>TAS</td>
<td>Classification of Publications Act 1984</td>
<td>G, PG, M, R</td>
<td>'objectionable publications' defined as material which is 'likely to cause offence to a reasonable adult'</td>
<td>Commonwealth body (FCB) by arrangement or a censor employed under the Tasmanian Public Service Act</td>
<td>Commonwealth body (FBR) by arrangement or an appeal censor appointed under the Tasmanian Public Service Act</td>
<td>applicant for classification</td>
<td>Commonwealth Gazette where there is an arrangement; otherwise Tasmanian Gazette</td>
</tr>
</tbody>
</table>

- child abuse
- bestiality
- promotion of terrorism

[s. 21(2)]
<table>
<thead>
<tr>
<th>Prescribed Markings</th>
<th>Display Conditions</th>
<th>Conditions on or Offences in Relation to a Classified Category Beyond R</th>
<th>Criteria for Classification/ Prosecution</th>
<th>Trailers</th>
<th>Distinctive Items in Addition to the Model Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>▲ □ ○ ◆</td>
<td>clearly visible</td>
<td>not to be sold or hired to a minor</td>
<td>. not to be sold or delivered</td>
<td>. films classified by the FCB must bear a sticker as follows:</td>
<td></td>
</tr>
<tr>
<td>prescribed marking to be on container</td>
<td>notice on premises required as follows:</td>
<td>. not to be displayed or exhibited in any publicly visible place</td>
<td>. 'warning This cassette may contain trailers of a higher rating than the feature movie'</td>
<td>. an offence to make or reproduce a child abuse or bestiality film for any purpose</td>
<td></td>
</tr>
<tr>
<td>letters in symbol to be 5-10mm in height</td>
<td>▲ Suitable for General Exhibition</td>
<td>. no casing to be displayed in any publicly visible place</td>
<td>. standards of morality, decency, and propriety generally accepted by reasonable adults'</td>
<td>. X and other refused not to be screened in the presence of a minor (except by parent or guardian)</td>
<td></td>
</tr>
<tr>
<td>△ Not recommended for viewing by a person under the age of 15 years only with the guidance of an adult</td>
<td>◎ Recommended for viewing by a person who has not attained the age of 18 years</td>
<td>. not to be screened in the presence of a minor (except by parent or guardian)</td>
<td>. literary, artistic or educational merit and general character including medical, legal or scientific</td>
<td>. an offence to procure a child for the making of a child abuse videotape</td>
<td></td>
</tr>
</tbody>
</table>

- © Not recommended for viewing by persons under the age of 15 years
- ◎ Not suitable for viewing by a person who has not attained the age of 18 years

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<table>
<thead>
<tr>
<th>STATE LEGISLATION</th>
<th>CLASSIFICATIONS</th>
<th>CATEGORIES OF REFUSAL</th>
<th>CLASSIFYING AUTHORITY</th>
<th>REVIEW AUTHORITY</th>
<th>STANDING TO APPEAL FOR REVIEW</th>
<th>PUBLIC NOTIFICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>NT Classification of Publications Act 1985</td>
<td>G, PG, M, R, X</td>
<td>material which 'offends against standards of morality, decency and propriety generally accepted by reasonable adults to the extent that it should not be classified'</td>
<td>Commonwealth body (FBR) by arrangement* or a censor appointed by the Minister</td>
<td>applicant for classification</td>
<td>NT Gazette</td>
<td></td>
</tr>
<tr>
<td>PRESCRIBED MARKINGS</td>
<td>DISPLAY CONDITIONS</td>
<td>CONDITIONS ON R OFFENCES IN RELATION TO A CLASSIFIED CATEGORY BEYOND R</td>
<td>CRITERIA FOR CLASSIFICATION/PROSECUTION</td>
<td>TRAILERS</td>
<td>DISTINCTIVE ITEMS IN ADDITION TO THE MODEL LEGISLATION</td>
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<tr>
<td>R, X - the prescribed marking to be on container</td>
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<tr>
<td>G, PG, M - the prescribed marking to be on container</td>
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<tr>
<td>both R and X not to be displayed, except in a restricted publications area with conditions attached (see s.50)</td>
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<tr>
<td>R and X - the publication must bear the prescribed marking</td>
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<tr>
<td>letters in symbol to be 5mm in height, black or red on white background</td>
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<tr>
<td>. not to be sold or hired to an infant (other than by parent or guardian)</td>
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<tr>
<td>. must bear prescribed markings</td>
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<tr>
<td>. not to be displayed except in a restricted publications area</td>
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<td>. not to be delivered to a person who has not made a direct request</td>
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<td>. not to be delivered unless contained in a plain opaque package</td>
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<tr>
<td>. have regard to the 'standards or morality generally accepted ... and shall have regard to the policy of the Censorship Board' (=FCB)</td>
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<td>. same as in ACT</td>
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<tr>
<td>. R as well as X to be shelved in a restricted publications area</td>
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<tr>
<td>. 1973 policy principles</td>
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<tr>
<td>. literary, artistic or educational merit or medical legal or scientific character</td>
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<tr>
<td>. the likely audience or that intended and the conditions imposed on publication</td>
<td></td>
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<tr>
<td>Video Tapes Classification and Control Act 1987</td>
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<tr>
<td><strong>CLASSIFICATIONS ALLOWED</strong></td>
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<td><strong>REVIEW AUTHORITY</strong></td>
<td><strong>STANDING TO APPEAL FOR REVIEW</strong></td>
<td><strong>PUBLIC NOTIFICATION</strong></td>
<td></td>
</tr>
<tr>
<td>G, PG, M, R</td>
<td>material which 'is likely to cause offence to a reasonable adult’</td>
<td>Commonwealth body (FCB) by arrangement* or a censor appointed under the WA Public Service Act</td>
<td>applicant for classification</td>
<td>the Minister</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>child abuse</td>
<td></td>
<td></td>
<td></td>
<td>WA Gazette where there is an arrangement*; WA Gazette where there is not</td>
<td></td>
</tr>
<tr>
<td></td>
<td>any bestiality</td>
<td></td>
<td></td>
<td></td>
<td>WA Gazette</td>
<td></td>
</tr>
<tr>
<td></td>
<td>promotion of terrorism</td>
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<td></td>
<td>Ministerial recategorisation is imposed</td>
<td></td>
</tr>
<tr>
<td></td>
<td>[s. 9(2)]</td>
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<td></td>
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<tr>
<td>Prescribed Markings</td>
<td>Display Conditions</td>
<td>Conditions on R Offences in Relation to a Classified Category Beyond R</td>
<td>Criteria for Classification/Prosecution</td>
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<td>Distinctive Items in Addition to the Model Legislation</td>
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</tr>
<tr>
<td>A For general exhibition</td>
<td>. notice on premises required as follows:</td>
<td>. not to be sold or hired to a minor (other than by parent or guardian)</td>
<td>. refused classification</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PG Parental guidance recommended</td>
<td>. suitable for general exhibition</td>
<td>. not to be displayed except in a restricted area</td>
<td></td>
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</tr>
<tr>
<td>E For mature audiences</td>
<td>. parental guidance recommended for persons under 15 years</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>R Restricted exhibition, not available to persons under 18 years</td>
<td>. mature audiences (not recommended for viewing by persons under 15 years)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>. prescribed marking to be on container</td>
<td>. restricted exhibition (not available to persons under 18 years)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>. letters in symbol to be less than 5mm; lettering not less than 2mm</td>
<td>. R not to be displayed except in a restricted area</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>. colour of symbol and lettering to contrast to background</td>
<td></td>
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</tr>
</tbody>
</table>

- Categories above the film to which trailer is attached are not allowed, i.e.: G - PG, M, R or unclassified.
- PG - M, R or unclassified.
- M - R or unclassified.
- R - unclassified.
- refusal of classification.

- Private possession of refused videotapes or ones dealing with child abuse, bestiality or the promotion of terrorism is an offence.
- An offence to cause a child to be in any way concerned in the making of a child abuse videotape.
- An offence for any person other than parent or guardian to 'give' an R-rated videotape to a minor.
- An offence for a minor 15 years and over to buy or hire an R videotape or one that has been refused classification.
- R to be displayed only in a restricted area.
- Offences similar to NSW concerning the presence of minors at an exhibition of an R videotape in a public place.
- The Minister may override decisions of the censor and assign a different classification or refuse classification.
- Persons authorized in writing by the Minister or his delegate as well as police may enter sale or hire premises at all 'reasonable' times to inspect. Their obstruction is an offence.