

30 May 2024

Dear Director - Classification Reform,

Modernising Australia's Classification Reform Scheme - Stage 2 Reforms

The Eros Association is Australia's industry association for adults-only retail, wholesale, media and entertainment. We write to you in response to the public consultation on Modernising Australia's Classification Reform Scheme (Stage 2 Reforms) and specifically the question raised in the Consultation Paper:

"Are there aspects of the current [Classification] Guidelines that you would like the Classification Advisory Panel or similar to consider?"

At the outset, we welcome the Government's commitment to reform the classifications scheme in line with the Review of Australian Classification Regulation conducted by Neville Stevens ('the Stevens Review'). We have long advocated for reforms to Australia's outdated classifications scheme.

We also note that the Consultation Paper proposes the establishment of a Classification Advisory Panel. Without expressing views on whether such an independent Panel or similar body should be established, we are concerned that the establishment of such a body could take time and thus delay reforms to the classification scheme.

In this light, we believe that the Government should urgently bring forward a proposal to the Standing Council of Attorneys-General to remove the absolute prohibition on legal fetishes within the X18+ category, in line with recommendation 9-15 of the Stevens Review.

We note that such a prohibition is not reflective of current community values given that the prevalence of interest in BDSM activities in the general population is as high as 69%.¹ It is also inconsistent with the overarching principle in the classification guidelines that "adults should be able to read, hear, see and play what they want." Furthermore, in our view, if it is legal for consenting adults to do something, it should be legal to film and sell media depicting those same acts.

¹ Nele de Neef et al, 'Bondage-discipline, dominance-submission and sadomasochism (BDSM) from an integrative biopsychosocial perspective: A systematic review' (2019) 7(2) *Sexual Medicine*.

Further to this, we believe it is then appropriate to consider the regulation of classification more broadly. In response to the question of whether we support the consolidation of classification regulations under a single national regulator, we support the comments in the submission of Jarryd Bartle, namely:

“The existence of divergent bodies in each State or Territory has been unhelpful in ensuring Australia’s classification laws are in keeping with community standards. A single national regulator would be a preferable step.”

This is consistent with the recommendations of the Australian Law Reform Commission,² and would necessarily include consolidation of state and territory laws that regulate the classification of films and other materials. We also note that some local governments also regulate access to such materials, even if the local laws may be inconsistent with state or federal laws, and ask that you investigate this further.

In addition, we recommend that there be an independent human rights evaluation of the reforms to ensure that they align with international human rights standards, including freedom of expression and privacy, as required under law.³

We look forward to meeting with your Classification Reform Team to discuss these matters further and welcome the opportunity to share our views with you.

Graeme Dunne
General Manager
Eros Association

E: manager@eros.org.au | www.eros.org.au

² Australian Law Reform Commission, *Classification - Content Regulation and Convergent Media* (2012).

³ *Human Rights (Parliamentary Scrutiny) Act 2011* s 9.