



STIRLING GRIFF

Centre Alliance
Senator for South Australia

Director, Policy and Research, Classification Branch
Department of Communications and the Arts
Locked Bag 3
Haymarket, NSW 1240

17 February 2020

Dear Director

Re: Review of Australian classification regulation submission

I provide the following submission for the Review of Australian classification regulation.

Censorship is largely the purview of the Classification Board and it has come to my attention that there is a failure on the part of board to provide certain classifications to material that, in my view, is child abuse material, and should have been refused classification and therefore banned.

Child abuse material is a global problem heightened by modern technology and a myriad of platforms to access such material.

It has come to my attention that there is a vast array of child abuse material freely available in Australia which have been reviewed by the Classification Board as legal, despite falling within the meaning of child abuse material under the *Commonwealth Criminal Code Act 1995*.

Anime is a Japanese form of animation. Manga is the Japanese comic books or graphic novels which serve as the basis for anime.

It is clear to me that the current classification regime with respect to sexually explicit anime and manga involving children is not fit for purpose and needs immediate action to remove such material from all platforms including, film, print, video games and streaming services.

The two media share a unique visual style and is popular the world over, especially amongst teens.

However, there is a dark and sickening side to anime and manga - with a significant proportion of the two media featuring child abuse material containing images of wide-eyed depictions of children - usually in school uniform - engaged in explicit sexual activities and poses, often being sexually abused. This is referred to as '*hentai*' anime and manga. In Japanese *hentai* describes any type of perverse or bizarre sexual desire or acts. Internationally, *hentai* is a term used to categorise the genre of anime and manga pornography.

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Experts that advocate against child exploitation have referred to this type of anime and manga as a 'gateway' to the abuse of actual children.

'Child pornography' even in animated form is child abuse material – there is no question about it – and the law in Australia is clear - representations and depictions that appear or are implied to be of under 18s and are depicted in sexual poses or engaged in sexual activity or is a victim of torture, cruelty or abuse **is child abuse material**. That is the definition in the Commonwealth Criminal Code.

I was horrified to learn that this type of child abuse material is freely available in Australia despite clearly being in breach of the definition of child abuse material under commonwealth law.

My staff recently alerted me to a movie series distributed in Australia by Madman Entertainment called *Sword Art Online*, commonly referred to as 'SAO'.

Sword Art Online covers various media platforms from 'light novels', manga, anime and video games. The series takes place in the near future and focuses on protagonists Kazuto 'Kirito' Kirigaya and Asuna Yuuki as they play through various virtual reality worlds.

One particular episode '*Sword Art Online Extra Edition*' has an 'M' Classification which allows children under 15 to legally access the material, as the classification rating is advisory only.

The movie features the abuse of children – there is no doubt.

In one disturbing scene high school girls are at a swimming pool when one of the girls indecently assaults another character by repeatedly squeezing her breasts and bullies her because of her physicality.

In another explicit scene that takes place in the virtual world the character Asuna is raped by her captor (Sugou) who threatens to also rape her in the 'real world' where she is lying in a hospital room in a catatonic state and that he will make a recording of the virtual rape to shame her as well. The rape is referred to as a 'fun party'. Another character is forced to witness the rape. Asuna is described online as seventeen years old.

The English subtitles are extremely disturbing.

What is most disturbing is that in the Classification Board's Decision Report dated 16 October 2016 this particular movie received an "M" classification despite depicting sexualised imagery of children and a rape scene involving a 17 year old.

I note that the 'M' classification allows children under 15 to legally access the material as the classification rating is an advisory category only. In addition to the M Classification the following warnings are displayed on the packaging and start of the movie "sexualised imagery, sexual references and animated violence".

I believe this classification is inadequate for the material described. It raises questions as to why the Classification Board does not consider such scenes in anime as child abuse material and whether they receive legal advice with respect to such content. There **must** be reference in the guidelines that if the material breaches the definition of 'child abuse material' in the Commonwealth criminal code it must be denied classification.

The Classification Board provides justifications throughout the Decision Report for the repeated sexualised images of children in the movie and there is **no** mention of the sexual violence and sexual assault I have described above.

Further research by my staff uncovered another series called '*No Game No Life*' available across many formats. This series is also very sexualised and features incest themes between the two protagonists' brother and sister Sora and Shiro.

The Classification Board's Decision Report for '*No Game No Life*' dated 13 August 2015 states:

"The film contains sexual references and themes involving the sexualisation of characters who are implied to be, or stated to be, minors and themes involving a sexual attraction between siblings. These elements are justified by context and cumulatively strong in impact in this animated series centred on 18 year old Sora's relationships with a number of females, including his 11 year old step-sister, Shiro.

Throughout the material, the female characters are frequently depicted in sequences that feature panning visuals of, or close focus on, their crotches, breasts, legs and/or buttocks..."¹

In my view, what is described falls well within what is considered to be child abuse material within the definition contained in the *Commonwealth Criminal Code Act 1995*. A copy is attached marked Annexure "A".

There is a constant downplaying of the sexualised images of children and "*justification by context*" in the Board's Decision Report which pays no mind to the relevant legislation governing child abuse material. The Board's decisions appear to be made in isolation of the Commonwealth Criminal Code. The series should not have received an MA15+ classification – it should be banned for being child abuse material.

The worst my office discovered is '*Eromanga Sensei*'. The plot is beyond what any person would consider as normal or appropriate and yet again the Classification Board again decided to give the series an MA15+ classification. The Board's Decision Report is dated 18 May 2018 for volume 1 (episodes 1 to 6) and 29 June 2018 for volume 2 (episodes 7-12)

¹ Australian Government Classification Board Decision Report File T16/2752 17 October 2016

The series features a 12 year-old protagonist named Sagiri who draws pornographic manga known as 'hentei' under the pen name of Eromanga Sensei. Her 15 year old step-brother writes the books.

The Board's Decision Report states:

"The film contains strong themes that are justified by context. The film also contains sexual references and sexualized imagery that are strong in impact. The two elements are inextricably linked in the film, which depicts the relationship between Masamune Isumi, a high school student who writes erotic 'light novels', discovers that the mysterious artist known as Eromanga-sensei, who illustrates his books is his younger sister.

The film features depictions of Masamune's sister Sagiri, and other young female characters, which emphasise their sexuality, including up-skirt views and close-up shots of the characters that focus on their thighs, cleavage and buttocks..."²

The series clearly sexualises the young girls in the series. Revealing clothing and sexually provocative poses are frequently depicted in illustrations throughout the series with the characters seen copying these poses and referring to genitalia.

The series also features incest themes and many scenes are so sickening I will not describe them in detail. The sexualisation of children and sexual imagery including the up-skirting is portrayed as comedic. There is nothing funny about it – it is sickening.

Whilst I note the series has a restricted MA15+ classification I say again that this falls within the definition of child abuse material contained in the Commonwealth Criminal Code and should be banned.

In addition to the anime there is also manga – or graphic novels. Regrettably, manga is not vetted in any way in Australia as it is published material. That must change.

One manga book series my office has discovered is "Goblin Slayer" published by Yen Press. The Book features a US parental advisory warning for explicit content. The book depicts the rape of children by goblins. The drawings are extremely graphic.

Rape is abundant in manga as are many other forms of degrading and demeaning sexual abuse, frequently toward children. Children are often portrayed as frightened or resisting but they are also shown enjoying sexual abuse. Animated or not, it causes significant harm and why such books must be vetted and indeed banned in Australia.

The Goblin Slayer book series is just one example of the type of explicit content available in Australia. However, there are so many explicit manga available on bookstore shelves in Australia.

² Australian Government Classification Board Decision Report File T18/1718 18 May 2018

In Australia magazines that contain sexual content for commercial release such as 'Playboy' are required to be submitted to Classification Board. Explicit 'hentai' manga does not. This must change.

Why I have described in this submission is just the tip of the iceberg.

There has been an increasing demand for such material in Australian and globally.

The Australian Federal Police have said that it does not condone any form of child exploitation, or activity of any kind that reinforces the sexualisation of children. I agree and they must look at this material.

Given what I have described, questions must be asked as to why the Classification Board does not consider what I have described as child abuse material.

For me, the issues I have raised are black and white.

What I have described clearly falls within the definition of child abuse material as defined in the *Commonwealth Criminal Code 1995*.

In 2015 a 52-year-old Adelaide man was charged, convicted and given a suspended jail sentence for having 361 anime images depicting children that were classed as child abuse material. He also had 44 child abuse images of actual children.

The sentencing Judge said that while no actual children were exploited in the anime he was concerned that people who accessed those sexualised cartoon images of children may easily progress to other child exploitation material. I agree.

It beggars belief then that the material I have described in this submission were deemed to meet the criteria for a classification under the classification scheme rather than being denied.

I look forward to a response to my submission.

Yours Sincerely

A handwritten signature in black ink, consisting of a large, stylized capital 'S' followed by a series of loops and a long horizontal stroke extending to the right.

Stirling Griff

Annexure "A"

Commonwealth Criminal Code Act 1995

child abuse material" means:

(a) material that depicts a person, or a representation of a person, who:

(i) is, or appears to be, under 18 years of age; and

(ii) is, or appears to be, a victim of torture, cruelty or physical abuse;

and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or

(b) material that describes a person who:

(i) is, or is implied to be, under 18 years of age; and

(ii) is, or is implied to be, a victim of torture, cruelty or physical abuse;

and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or

(c) material that depicts a person, or a representation of a person, who is, or appears to be, under 18 years of age and who:

(i) is engaged in, or appears to be engaged in, a sexual pose or sexual activity (whether or not in the presence of other persons); or

(ii) is in the presence of a person who is engaged in, or appears to be engaged in, a sexual pose or sexual activity;

and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or

(d) material the dominant characteristic of which is the depiction, for a sexual purpose, of:

(i) a sexual organ or the anal region of a person who is, or appears to be, under 18 years of age; or

(ii) a representation of such a sexual organ or anal region; or

(iii) the breasts, or a representation of the breasts, of a female person who is, or appears to be, under 18 years of age;

in a way that reasonable persons would regard as being, in all the circumstances, offensive; or

(e) material that describes a person who is, or is implied to be, under 18 years of age and who:

(i) is engaged in, or is implied to be engaged in, a sexual pose or sexual activity (whether or not in the presence of other persons); or

(ii) is in the presence of a person who is engaged in, or is implied to be engaged in, a sexual pose or sexual activity;

and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or

(f) material that describes:

(i) a sexual organ or the anal region of a person who is, or is implied to be, under 18 years of age; or

(ii) the breasts of a female person who is, or is implied to be, under 18 years of age;

and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or

(g) material that is a doll or other object that resembles:

(i) a person who is, or appears to be, under 18 years of age; or

(ii) a part of the body of such a person;

if a reasonable person would consider it likely that the material is intended to be used by a person to simulate sexual intercourse.