

MATERIAL THAT ADVOCATES TERRORIST ACTS DISCUSSION PAPER

1 MAY 2007

1 BACKGROUND

There are community concerns about the public availability of material that advocates people commit terrorist acts. It is not certain that the national classification scheme adequately captures such material.

This paper therefore outlines a proposal for amendments to the national Classification Code and the Classification guidelines to ensure that material that advocates terrorist acts is refused classification.

Submissions are sought on the proposal by no later than 29 May 2007.

Submissions may be sent in writing –

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Status of the Discussion Paper

This discussion paper does not necessarily represent the views of the Standing Committee of Attorneys-General or any individual Attorney-General.

Confidentiality

All submissions will be treated as public unless the author clearly indicates to the contrary. A request made under the *Freedom of Information Act 1982* for access to a submission marked confidential will be determined in accordance with that Act.

2 PROPOSAL SUMMARY

The proposal is to amend the Classification Code and guidelines so that publications, films and computer games that advocate terrorist acts are refused classification.

The proposal is to amend the National Classification Code to include the requirement that publications, films and computer games that 'advocate terrorist acts' be refused classification. This would be done by adding, 'advocates terrorist acts', in Item 1 (RC Classification) of each table (publications, films and computer games).

The meaning of the terms 'advocate' and 'terrorist act' would be explained in the amendments – by using terms similar to the provisions in the Criminal Code definitions – as either definitions in the Code or part of the List of Terms in the guidelines. In addition, the Explanatory Statement would provide further explanation and discussion of the terms and the types of material that would be unlikely to be considered to advocate terrorist acts such as bona fide articles by investigative journalists, satirical pieces or patriotic battle movies. It is intended that only material that advocates terrorist acts as strictly described would be refused classification.

Attachment 1 provides an indication of how the Code and guidelines might look should these proposals be agreed to by State, Territory and Commonwealth Ministers.

The *Customs (Prohibited Imports) Regulations 1956* and *Customs (Prohibited Exports) Regulations 1958* prevent the import or export of some material. The Regulations repeat the language of item 1 of the Classification Code. To ensure consistency between restrictions on material distributed within the country and material entering or leaving the country, it would also be necessary to amend these regulations to include as a prohibited import or export material that advocates terrorist acts.

3 LACK OF CERTAINTY

Doubts exist as to the extent to which the present law ensures all material that advocates terrorist acts is refused classification. The lack of clarity is illustrated by a combination of public concern about various material available as books, DVDs or on the internet; the differences of interpretation in Board and Review Board review decisions which overturn Board decisions applying the same criteria to the same material; and litigation in the Federal Court (for which judgment has yet to be handed down) over the interpretation of the phrase. Further litigation may result in a clearer understanding of the current law but it is doubtful that it will supply real clarity anytime soon.

The national classification scheme requires material to be refused classification if it 'promotes, incites or instructs in matters of crime or violence'. An alternative category for refusal of classification of material advocating terrorist acts is if material deals with matters of violence in such a way that it 'offends against the standards of morality, decency and propriety of a reasonable adult to the extent that [it] should not be classified'. However, this provision has not been actively used in classifying material that might be considered to encourage terrorist acts.

The elements of the term 'promotes, incites or instructs in matters of crime or violence' are not fully explained in either the guidelines or by judicial consideration. There remains uncertainty around the classification of material which may more insidiously encourage people – whether or not they are naïve and impressionable – to commit terrorist acts. Material may be expressed in a way that does not clearly attract the operation of the provisions that would require it to be refused classification.

Arguably, terrorist acts are of sufficient concern and pose such potential danger to the community that material that advocates people commit them should be specifically identified for refusal of classification. The classification scheme should be clear enough that the impressionable and vulnerable in the community are protected from material which encourages people to carry out acts of terrorism through techniques such as praising terrorist acts or issuing calls for action based on ideological or religious duty.

Directly praise

It is unclear to what extent the existing term 'promote' would include 'praise'. The proposed definition of 'advocate' would cover 'praising', including material that supports a particular terrorist attack or method of terrorist attack.

Example: An article published by a fundamentalist religious organisation describes the action of an individual who has detonated a suicide bomb amidst a market place of civilian shoppers, causing death and mayhem. The article directly praises the particular act, its deadly effect on 'the enemy' and the bomber's consequent martyrdom. It claims that the person would be assured a place in heaven.

Under the current classification scheme, the article is about a 'matter of crime or violence' (which is clearly an act of terrorism) but it is not clear that the elements of 'promotion' or 'incitement' to do the same, or 'instruction' in how to build or detonate a suicide bomb are satisfied. However, 'direct praise' as in this sort of article carries the risk that a person reading such literature might be influenced to commit a similar terrorist act.

Indirectly counsel

Example: A pamphlet distributed at a cultural festival, or a DVD of a speech adopts words and / or tone which indirectly advocate committing a terrorist act. It does not provide detailed step-by-step instruction on how to carry out any specific action. It does not expressly urge anyone to take action. It does not expressly praise an action.

However, through its text, tone and context, the material may indirectly counsel, urge or provide instruction in how to commit a terrorist act. It may not be a dispassionate exposé of serious issues. It may through its text or tone indirectly urge or instruct the reader to commit a terrorist act by for example causing death or serious harm to sections of the community to advance a political, ideological or religious cause.

Under the current scheme, it is about a 'matter of crime or violence' (terrorist act) but there would be no certainty that the element of 'promote' is satisfied, nor direct 'incitement' to act, nor direct 'instruction' on how to attack the weaknesses. However, it may be regarded as indirectly 'counselling, urging or instructing' doing a terrorist act by its inspirational tone and exhortations.

4 WHAT WILL BE THE EFFECT OF THE CHANGES?

The Classification Scheme targets the material and gets it out of circulation. It will be illegal under State and Territory legislation for the material to be sold and distributed in Australia. The Commonwealth proposes mirroring amendments to the Customs Regulations that will prevent import or export.

Criminal laws allow the prosecution of a person who commits a range of offences and crimes (including those preparatory to and/or in collusion with others) which could be part of terrorist activity. Sedition laws allow the prosecution of a person for advocating that force or violence be used against a Government. Terrorism laws allow the prosecution of a person for committing a terrorist act or training for or otherwise preparing or financing such activities. In each case the evidential burden is high and the relevant or appropriate person to be prosecuted may not be identifiable or within jurisdiction.

Criminal prosecution of terrorists does not, in and of itself, authorise police to remove terrorist material from sale in Australia. This proposal is one strategy aimed at restricting the trade in this material, regardless of whether the person who wrote, created or distributed it can be prosecuted.

5 AMENDING THE CODE AND GUIDELINES

The Board and Review Board are required to apply the Commonwealth Classification Act, the National Classification Code and the relevant Guidelines when making classification decisions. The proposal includes amendments to both the Code and guidelines but would not change the other matters to which the Boards must have regard in classifying material.

The Board and Review Board would continue to take into account the broad matters set out in s 11 of the Act such as certain standards of reasonable adults, the literary, artistic or educational merit of the material, its general character and the class of persons to whom it is intended to be published. The Act also requires material to be classified in accordance with the Code and guidelines (s 9).

The Code sets out some broad principles to which classification decisions should give effect (as far as possible), including that adults should be able to read, hear and see what they like, that everyone should be protected from exposure to unsolicited material they find offensive, and the need to take account of community concerns about depictions that condone or incite violence (cl 1).

The Code also contains specific tables describing in greater detail the content of publications, films, and computer games that would require them to be given a particular classification (cls 2-4).

The proposal is to add another subsection for material that 'advocates terrorist acts' to the RC item in the Classification column for each type of material – publications films and computer games.

An alternative suggestion is to amend the existing criteria in the Code of 'promote, incite or instruct' so that it expressly encompasses material that advocates terrorist acts. This could be done by redrafting the criteria in each of the RC items in the Code to read:

‘promote, incite or instruct in matters of crime or violence, including advocating terrorist acts’.

The guidelines state that material that has elements which exceed the limits of the classification categories must be refused classification. There is little further explanation of the terms related to crime and violence. In fact, in the film guidelines the word ‘incite’ is not used at all, and although ‘instruct’ is qualified by ‘detailed’ the word ‘promotion’ is repeated but not explained. Other than repeating the terms of the Code, the publications guidelines simply refer to ‘detailed instruction’ in crime or violence with no mention of ‘incite’ or ‘promote’.

It is proposed that there would be definitions of the essential terms ‘terrorist act’ and ‘advocate’ (see below).

6 ELEMENTS ‘TERRORIST ACT’ AND ‘ADVOCATE’

Explaining the terms

‘Terrorist act’ and ‘advocate’ would be explained based on definitions used in the Commonwealth Criminal Code.
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The terms would be explained as follows:

‘advocate’ means action that directly or indirectly counsels or urges doing a terrorist act; or directly or indirectly provides instruction on doing a terrorist act; or directly praises doing a terrorist act where there is a risk that such praise might lead a person (regardless of his or her age or any mental impairment) to engage in a terrorist act.
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‘terrorist act’ means an action or threat of action that causes serious physical harm or death to a person, or endangers a person's life or involves serious risk to public health or safety, serious damage to property or serious interference with essential electronic systems. Such an action or threat of action must also be intended to advance a political, ideological or religious cause and to coerce or influence by intimidation an Australian or foreign government or intimidate the public or a section of the public. However, it does not include advocacy, protest, dissent or industrial action which is not intended to cause serious harm, death, endangerment of life, or serious risk to the health or safety of the public.

Where the terms should be explained

Should the explanation of the terms ‘advocate’ and ‘terrorist acts’ be placed in the Code or guidelines?
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If placed in the Code as definitions, they would give the explanations the status of a legislative definition. Although this would provide more detail than the other criteria set out in the Code, it would ensure clarity about the meaning of the terms. However, the Code as

currently structured lists criteria only. A full definition of the meaning of those criteria in the Code itself would be inconsistent in length and style with the other elements.

Section 9 of the Commonwealth Classification Act requires classifiers to consider the Code and guidelines when classifying. Section 12(1) refers to the guidelines as assisting the Board in applying the criteria in the Code. The attached suggestion for amended Code and guidelines places definitions of the terms 'advocate' and 'terrorist acts' in the List of Terms in the guidelines. The Act would require the Board and Review Board to use the definitions in the guidelines in applying the Code.

Ensuring such material is adequately captured and balancing freedom of speech

Freedom of speech is a valued part of Australian society. A lot of material may be controversial but that alone would not attract the operation of the provisions. It is not intended to capture material that does not 'advocate terrorist acts' within their meaning in the Code and/or Guidelines.

The key for material to be captured by the new provisions would be that it must actually advocate someone commit a terrorist act within the concept of the expansive definition of 'advocates'. All aspects of the elements 'advocates' and 'terrorist acts' must be present for material to be refused classification. Material would have to be specifically about advocating committing a terrorist act, not merely expressing generalised support for a cause. The Board and Review Board would need to decide that the act clearly fell within the definition of a 'terrorist act' and that the material clearly 'advocates' doing that act within the meaning of 'advocate' as explained in the Code or guidelines.

Examples of material not intended to be captured by the provisions include investigative journalists' work, satirical pieces, or patriotic material that might appear to glorify war or battle. It is not intended that the proposal restrict film-makers or authors or publishers dealing with contentious subject matter in an entertaining, informative, educational, ironical or controversial way. This may include dealing with strong themes, having a shocking impact and presenting a story from alternative perspectives. The Board and Review Board are used to dealing with such material and giving appropriate classifications.

'Terrorist act' would not include action legitimately taken by the armed forces of a country on the international stage in accordance with what they perceive to be their national interests and international law. However, where material could be seen to advocate terrorist acts as defined, outside the framework of the internationally recognised concept of 'war', it should not be available in Australia.

Some concern has been expressed about the implications of using terminology from the Criminal Code in a civil context and whether this could mean that a wider range of material is captured and a greater restriction on freedom of expression than is desirable is a likely result. One advantage of using this terminology is that the language has previously been agreed by the Commonwealth, States and Territories. While it is currently used in the criminal context, the Board and Review Board do not operate within the criminal jurisdiction, but rather apply a civil standard of what represents community values. The drafting would make no direct reference to the Criminal Code but would explain the expression.

7 SCOPE OF PROPOSAL

The amendments to the Code and guidelines would apply to publications, films and computer games submitted for classification in the same way as the Act, Code and guidelines already apply to them. It would apply by application of the *Broadcasting Services Act 1999* to internet pages hosted in Australia and through amendments to the Customs Regulations to imports and exports.

The normal requirements and processes for classification would apply including for applications by distributors, publishers or authorities or agencies for law enforcement purposes. The proposal imposes no additional requirements for law enforcement or policing.

8 DISTINGUISHING SO-CALLED ‘HATE’ MATERIAL FROM MATERIAL THAT ADVOCATES TERRORIST ACTS

In Australia, material that could be considered by some to be offensive, insulting, controversial, or just unpleasant is readily available. Free speech is an important tenet of our Western liberal democracy and is enshrined in the Code. This proposal is not designed to remove from circulation material that falls short of actually advocating people commit terrorist acts. Under the proposal, the Classification Board and Review Board will only be required to refuse classification to material that advocates terrorist acts as defined.

The media has given a lot of attention to so-called ‘hate’ material. This material might insult or make claims about identified groups of people on the basis of their race, religion or ethnicity. It might rail against people other than themselves and their practices and customs. Its content can vary from unpleasant to quite abhorrent. However, only ‘hate’ material that could also be considered to advocate that people commit terrorist acts would be captured by this proposal.

Some ‘hate’ material – such as that which racially vilifies someone, may be captured by other regulation. For example, Commonwealth, State and Territory anti-discrimination and/or anti-vilification laws prohibit racial vilification, which could include the distribution of material promoting racial hatred.

The Commonwealth *Racial Discrimination Act 1975* (RDA) prohibits offensive behaviour based on racial hatred (racial vilification), that is, public acts that are reasonably likely to offend, insult, humiliate or intimidate a person or groups of people, and that are done because of a person’s or group’s race, colour or national or ethnic origin. In the landmark cases of *Jones v Scully* and *Toben v Jones*, vilification of Jewish people in leaflets and on the internet was found to be unlawful under the RDA and not to be a legitimate exercise of free speech.

Commonwealth racial vilification laws are complaints based. Complaints may be made to the Human Rights and Equal Opportunity Commission which will attempt to conciliate. If the conciliation is unsuccessful the complainant may commence legal proceedings in the Federal Magistrates Court or the Federal Court. A person may also have a ground of complaint under State or Territory racial vilification legislation and may complain to the anti-discrimination body in that State or Territory. Some State and Territory laws include offences of serious vilification on prohibited grounds of discrimination

Racial vilification on the internet is also dealt with under the Commonwealth Criminal Code. The *Crimes Legislation Amendment (Telecommunications Offences and Other Measures) Act 2004* extended the offence of using a telecommunications service in an offensive manner to cover material on the internet.

9 CONSEQUENTIAL AMENDMENTS TO CUSTOMS REGULATIONS

It is important to be consistent in the ability to stop material at the border as well as get it out of distribution when within the country. The *Customs (Prohibited Imports) Regulations 1956* and *Customs (Prohibited Exports) Regulations 1958* would be amended to identify material that advocates terrorist acts as prohibited imports and exports

The prohibitions in the Customs Regulations do not automatically pick up by reference material that is refused classification under the classification scheme. Rather, they prohibit the importation or exportation of publications (and other goods including films and computer games) in terms that replicate the grounds on which the Boards must refuse classification. These include goods that 'promote, incite or instruct in matters of crime or violence'.

The same lack of certainty in the coverage of these provisions is relevant to goods at the border. Therefore, the Australian Government will need to amend the regulations so that they identify material that advocates terrorist acts as prohibited imports and exports. Amendments would use the same terms and definitions as the classification scheme.

PROPOSED AMENDMENTS TO NATIONAL CLASSIFICATION CODE

National Classification Code

1. Classification decisions are to give effect, as far as possible, to the following principles:
 - (a) adults should be able to read, hear and see what they want;
 - (b) minors should be protected from material likely to harm or disturb them;
 - (c) everyone should be protected from exposure to unsolicited material that they find offensive;
 - (d) the need to take account of community concerns about:
 - (i) depictions that condone or incite violence, particularly sexual violence; and
 - (ii) the portrayal of persons in a demeaning manner.

Publications

2. Publications are to be classified in accordance with the following table:

Item	Description of publication	Classification
1	Publications that: (a) describe, depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified; or (b) describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not); or (c) promote, incite or instruct in matters of crime or violence; or (d) advocate terrorist acts	RC
2	Publications (except RC publications) that: (a) explicitly depict sexual or sexually related activity between consenting adults in a way that is likely to cause offence to a reasonable adult; or (b) depict, describe or express revolting or abhorrent phenomena in a way that is likely to cause offence to a reasonable adult and are unsuitable for a minor to see or read	Category 2 restricted

Item	Description of publication	Classification
3	Publications (except RC publications and Category 2 restricted publications) that: (a) explicitly depict nudity, or describe or impliedly depict sexual or sexually related activity between consenting adults, in a way that is likely to cause offence to a reasonable adult; or (b) describe or express in detail violence or sexual activity between consenting adults in a way that is likely to cause offence to a reasonable adult; or (c) are unsuitable for a minor to see or read	Category 1 restricted
4	All other publications	Unrestricted

Films

3. Films are to be classified in accordance with the following table:

Item	Description of film	Classification
1	Films that: (a) depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified; or (b) describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not); or (c) promote, incite or instruct in matters of crime or violence; or (d) advocate terrorist acts	RC
2	Films (except RC films) that: (a) contain real depictions of actual sexual activity between consenting adults in which there is no violence, sexual violence, sexualised violence, coercion, sexually assaultive language, or fetishes or depictions which purposefully demean anyone involved in that activity for the enjoyment of viewers, in a way that is likely to cause offence to a reasonable adult; and (b) are unsuitable for a minor to see	X 18+
3	Films (except RC films and X 18+ films) that are unsuitable for a minor to see	R 18+
4	Films (except RC films, X 18+ films and R 18+ films) that depict, express or otherwise deal with sex, violence or coarse language in such a manner as to be unsuitable for viewing by persons under 15	MA 15+

Item	Description of film	Classification
5	Films (except RC films, X 18+ films, R 18+ films and MA 15+ films) that cannot be recommended for viewing by persons who are under 15	M
6	Films (except RC films, X 18+ films, R 18+ films, MA 15+ films and M films) that cannot be recommended for viewing by persons who are under 15 without the guidance of their parents or guardians	PG
7	All other films	G

Computer Games

4. Computer games are to be classified in accordance with the following table:

Item	Description of computer game	Classification
1	Computer games that: (a) depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified; or (b) describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not); or (c) promote, incite or instruct in matters of crime or violence; or (d) advocate terrorist acts; or (e) are unsuitable for a minor to see or play.	RC
2	Computer games (except RC computer games) that depict, express or otherwise deal with sex, violence or coarse language in such a manner as to be unsuitable for viewing or playing by persons under 15	MA 15+
3	Computer games (except RC and MA 15+ computer games) that cannot be recommended for viewing or playing by persons who are under 15	M
4	Computer games (except RC, MA 15+ and M computer games) that cannot be recommended for viewing or playing by persons who are under 15 without the guidance of their parents or guardians	PG
5	All other computer games	G

PROPOSED AMENDMENTS TO FILM AND COMPUTER GAMES GUIDELINES - RC SECTION AND LIST OF TERMS

RC – REFUSED CLASSIFICATION

Note: Films that exceed the R 18+ and X 18+ classification categories will be Refused Classification. Computer games that exceed the MA 15+ classification category will be Refused Classification.

Films and computer games will be refused classification if they include or contain any of the following:

CRIME OR VIOLENCE

Detailed instruction or promotion in matters of crime or violence.

The promotion or provision of instruction in paedophile activity.

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

Gratuitous, exploitative or offensive depictions of:

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

SEX

Depictions of practices such as bestiality.

Gratuitous, exploitative or offensive depictions of:

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

DRUG USE

Detailed instruction in the use of proscribed drugs.

Material promoting or encouraging proscribed drug use.

TERRORIST ACTS

Advocating terrorist acts.

Note: Some of the terms used in this category are defined in the List of Terms at the end of these Guidelines.

List of Terms

Note: Words which are used in the Guidelines but which are not contained in this List of Terms take their usual dictionary meaning. Refer to the latest edition of The Macquarie Dictionary.

Advocate

Action that:

- (a) directly or indirectly counsels or urges doing a terrorist act; or
- (b) directly or indirectly provides instruction on doing a

	terrorist act; or (c) directly praises doing a terrorist act where there is a risk that such praise might lead a person (regardless of his or her age or any mental impairment) to engage in a terrorist act.
Coercion:	The use of threat or power to force agreement to sexual activity.
Demean:	A depiction or description, directly or indirectly sexual in nature, which debases or appears to debase the person or the character depicted.
Elements:	Themes, violence, sex, coarse language, drug use and nudity.
Exploitative:	Appearing to purposefully debase or abuse for the enjoyment of others, and lacking moral, artistic or other values.
Fetish:	An object, an action or a non-sexual part of the body which gives sexual gratification.
Intensity:	Strength of the treatment or subject matter; strength of engagement or involvement.
Offensive:	Material which causes outrage or extreme disgust.
Sexual Activity:	Matters pertaining to sexual acts, but not limited to sexual intercourse.
Sexual Violence:	Sexual assault or aggression, in which the victim does not consent.
Sexualised Violence:	Where sex and violence are connected in the story, although sexual violence may not necessarily occur.
Terrorist act	An action or threat of action that is intended to advance a political, ideological or religious cause and to coerce or influence by intimidation an Australian or foreign government or intimidate the public or a section of the public. Such an action or threat of action must also cause serious physical harm or death to a person, or endanger a person's life or involve serious risk to public health or safety, serious damage to property or serious interference with essential electronic systems. However, it does not include advocacy, protest, dissent or industrial action which is not intended to cause serious harm, death, endangerment of life, or serious risk to the health or safety of the public
Themes:	Social issues such as crime, suicide, drug and alcohol dependency, death, serious illness, family breakdown and racism.
Treatment:	The way in which material is handled or presented.
Violence:	Acts of violence; the threat or effects of violence.

PROPOSED AMENDMENTS TO PUBLICATIONS GUIDELINES - RC SECTION AND LIST OF TERMS

RC REFUSED CLASSIFICATION

Publications which contain elements which exceed those set out in the above classification categories are classified 'RC'.

Publications which fall within the criteria for 'RC' classification cannot be legally imported or sold in Australia.

The National Classification Code sets out the criteria for classifying a publication 'RC'. These include publications that:

- *describe, depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified; or*
- *describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is or appears to be, a child under 18 (whether the person is engaged in sexual activity or not), or;*
- *promote, incite or instruct in matters of crime or violence; or advocate terrorist acts.*

Publications that appear to purposefully debase or abuse for the enjoyment of readers/viewers, and which lack moral, artistic or other values to the extent that they offend against generally accepted standards of morality, decency and propriety will be classified 'RC'.

Publications will be classified 'RC' :

- (a) if they promote or provide instruction in paedophile activity;

or if they contain:

- (b) descriptions or depictions of child sexual abuse or any other exploitative or offensive descriptions or depictions involving a person who is, or appears to be, a child under 18 ;
- (c) detailed instruction in:
 - (i) matters of crime or violence,
 - (ii) the use of proscribed drugs;
- (d) realistic depictions of bestiality;

or if they contain gratuitous, exploitative or offensive descriptions or depictions of:

- (e) violence with a very high degree of impact which are excessively frequent, emphasised or detailed;
- (f) cruelty or real violence which are very detailed or which have a high impact;
- (g) sexual violence;
- (h) sexualised nudity involving minors;
- (i) sexual activity involving minors;

or if they contain exploitative descriptions or depictions of:

- (j) violence in a sexual context;
- (k) sexual activity accompanied by fetishes or practices which are revolting or abhorrent;

(l) incest fantasies or other fantasies which are offensive or revolting or abhorrent or if they advocate terrorist acts.

GLOSSARY OF TERMS

Abuse:

Maltreat or assault, especially sexually.

Adult Themes:

Adult themes may include references to and depictions associated with issues such as violence, sex, nudity, crime, suicide, drug and alcohol dependency, fetish, death, serious illness, and racism.

Advocate

Action that:

(a) directly or indirectly counsels or urges doing a terrorist act; or

(b) directly or indirectly provides instruction on doing a terrorist act; or

(c) directly praises doing a terrorist act where there is a risk that such praise might lead a person (regardless of his or her age or any mental impairment) to engage in a terrorist act.

Cultural context:

In relation to bona fide works of art, includes works of literary note.

Coarse language:

Mild coarse language might include “bloody” or “bugger” and infrequent use of words such as “shit”.

Strong coarse language includes “fuck” language and derivatives.

Demean:

A description or depiction, directly or indirectly sexual in nature, which debases or appears to debase the person or the character depicted.

Depiction:

Representation through image. **Realistic** depictions include photographs and illustrations which are close to real life; **stylised** depictions include cartoons and other unrealistic illustrations and images.

Description:

Representation through text. Generally, descriptions of classifiable elements may contain more detail than depictions.

Detail:

The amount of verbal or visual information in the representation of a subject.

Discreet:

With little or no detail and generally not prominent.

Disturb/disturbing:

Cause emotional trauma or anguish.

Drug use:

The use of proscribed drugs. Proscribed drugs are those specified in Schedule 4 (referred to in Regulation 4A (1A) (e)) of the Customs (Prohibited Imports) Regulations.

Elements:

Classifiable elements include violence, sex, adult themes, coarse language, drug use, nudity - the Classification Board assesses the impact of these when making classification decisions.

Emphasised:

Given prominence or strong focus. Factors include placement (within the publication or on the page), size (of image, article or text), style (including colour, clarity,

	realism), pose (of model), length of verbal description, and frequency.
Excessive:	Treatment which exceeds reasonable limits, especially in terms of detail, length of verbal description or frequency
Exploitative:	Appearing to purposefully debase or abuse for the enjoyment of readers/viewers, and lacking moral, artistic or other values.
Fetish:	An object, an action, or a non-sexual part of the body which gives sexual gratification. Mild fetishes include stylised domination and rubberwear. Stronger fetishes include bondage and discipline.
Genital Contact:	Genital manipulation, including penetration, in actual sexual activity.
Gratuitous:	Material which is unwarranted or uncalled for, and included without the justification of a defensible story-line or artistic merit.
Harm/harmful:	Cause damage.
Historical context:	In relation to a bona fide work of art, includes a documentary or biography.
Impact:	The strength of the effect on the reader/viewer.
Implied:	Depiction/s of a subject in which an act or thing is inferred or indicated without actually being seen.
Intensity:	Strength of treatment or subject matter.
Material:	The covers and content of publications.
Nudity:	Nudity can consist of frontal or rear below waist visuals, full frontal or full rear visuals for both sexes, or breast nudity for females. The amount of detail is determined not only by the content of the nudity shown, but by other factors including closeness and size of visuals, realism, and clarity.
Offensive:	Material which causes outrage or extreme disgust. The Guidelines distinguish between material which may offend some sections of the adult community, and material which offends against generally accepted standards, and is therefore likely to offend most people.
Plain opaque wrapping:	Opaque material covering the cover of a publication with the exception of the title of the publication, unless the title itself (including depictions and text) is unsuitable for public display.
Publication:	Has the same meaning as 'publication' in the Commonwealth Classification (Publications, Films and Computer Games) Act 1995.
Real:	Actual.
Realistic:	(see Depiction)
Reasonable Adult:	Possessing common sense and an open mind, and able to balance personal opinion with generally accepted community standards.
Reference:	References may be visual or verbal. References refer or relate to classifiable elements such as violence, sex, nudity and drug use.

Revolting and abhorrent phenomena:

Sexual Activity:

Sexual Context:

Sexual Excitement:

Sexual Violence:

Sexualised Nudity:

Simulation:

Submittable Publication:

Stylised:

Terrorist act

Fetishes or practices, sometimes accompanied by sexual activity, which are considered offensive.

Matters pertaining to sexual acts but not limited only to portrayals of sexual intercourse.

A sexual context may be established by the nature of the publication itself, by the frequency of depictions or descriptions of or implying sexual activity, by the placement (including juxtaposition) of images and text, or by the relationship between image and text (for example a caption accompanying a realistic depiction).

Includes the male erection.

The act of sexual assault or aggression, in which the victim does not consent.

Includes poses, props, text and backgrounds that are sexually suggestive.

Simulated sexual activity is not real, but looks realistic.

Has the same meaning as 'publication' in the Commonwealth Classification (Publications, Films and Computer Games) Act 1995.

(see Depiction)

An action or threat of action that is intended to advance a political, ideological or religious cause and to coerce or influence by intimidation an Australian or foreign government or intimidate the public or a section of the public. Such an action or threat of action must also cause serious physical harm or death to a person, or endanger a person's life or involve serious risk to public health or safety, serious damage to property or serious interference with essential electronic systems. However, it does not include advocacy, protest, dissent or industrial action which is not intended to cause serious harm, death, endangerment of life, or serious risk to the health or safety of the public

Tone:

The quality or feeling of material, such as its sadness, humour, menace, lightness, or seriousness.

Touching of Genitals:

Displaying of genitals, or implying sexual activity.

Treatment:

The way in which written or pictorial material is handled, with regard to such factors as detail, emphasis and tone.

Unsuitable:

Material that is not appropriate to readers/viewers under 18 years because of its ability to **harm** or **disturb**.

Violence:

Includes not only acts of violence, but also the obvious threat of violence or its result.

Violence in a Sexual Context:

Violence in a sexual context, as distinct from sexual violence, refers to a relationship between the elements of violence and sex/sexualised nudity. The relationship may be established by the placement, juxtaposition, style or content of images and text, and/or by a story-line.