

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ENFORCEMENT ACT

Grievance

MR P. ABETZ (Southern River) [9.20 am]: My grievance is to the Attorney General represented in this chamber by the Minister for Health. It relates to the Classification (Publications, Films and Computer Games) Enforcement Act 2012 and its failure to deliver to the West Australian community what was promised. At the time, the Attorney General and his department told us that he had agreed at the Council of Australian Governments to support the commonwealth government's wish to introduce an R 18+ category for video games. In part, this was on the grounds that some of the games that were being given a MA 15+ classification would move to the R 18+ category, thus giving more protection to children. The Attorney General will know that a significant number of members in both houses had grave reservations about the bill. The then Attorney General stated —

The reality is that if the commonwealth decides that it wants an R 18+ classification, the commonwealth gets it, because the commonwealth can always insist on disregarding the states in this respect.

... constitutionally the commonwealth can take this over, and it has made that plain.

Members were placed in an invidious position: we were told that if Parliament rejected the bill, it would allow anyone to buy R 18+ games without any age restrictions, which clearly would have been an unacceptable outcome. We were very aware that by supporting the bill, we were giving tacit approval to the introduction of R 18+ games that would allow games with a level of violence and sexual explicitness that until that time had been refused classification. On that basis, I and many others in this chamber felt compelled to support the bill. In debate in the Legislative Council, Hon Adele Farina disclosed that, at the time, the Standing Committee on Uniform Legislation and Statutes Review had received a submission suggesting that it is open to Western Australia, while remaining a full participating state in the National Classification Scheme, to prohibit the sale of R 18+ computer games in the same way that we had refused to allow X-rated movies to be sold or rented out in WA. However, the then Attorney General disputed this point.

All that is history. What is important now to know is the impact of allowing an R 18+ category for video games. What is happening is appalling. Professor Elizabeth Handsley, professor of law at Flinders University and president of the well-respected Australian Council on Children and the Media, has recently reviewed how video games have been classified since the introduction of the R 18+ category. She found that two-thirds of the violent material considered too extreme for teens in the United States, Canada and Europe—where it was classified as adults only—received an MA 15+ category in Australia. So much for the claim that some MA 15+ materials would move up to the R 18+ category.

Professor Handsley's research clearly shows that the Attorney and this house were conned by the violent video game lobby and the Australian Classification Board. Interestingly, in his contribution to the debate, the then Attorney General pointed out that the classification guidelines have no legal force in themselves and are only there to help the Classification Board in its thinking. The Attorney General made the following point —

... this house has no capacity, as a matter of law, to debate those guidelines because they are not state law.

He went on to say about the Standing Committee on Uniform Legislation and Statutes Review —

If the committee wants to do something about that, it is quite at liberty to put up a private member's bill ...

I believe that unless the film Classification Board wakes up to itself, there may well be such private members' bills appearing on the notice papers in various state Parliaments. With respect, the current classification system is a farce when our Classification Board puts materials that every other civilised country puts in the adults-only category in the MA 15+ category. Frankly, it is a disgrace. I believe that the community expects our Attorney General to take strong action. At the time of debate on the bill, there was already powerful evidence to show that R 18+ video games have an adverse impact on our children. The wider community is also well aware of the dangers. A Galaxy poll taken in December 2009 showed that 70 per cent of respondents agreed that an R 18+ classification for games would make it difficult for parents to stop their children from accessing them. Sixty-three per cent of respondents and, interestingly, 42 per cent of 16 to 24-year-olds agreed that playing violent games results in real-life violence, and 59 per cent of respondents agreed that computer games should be classified differently because people play them; they do not just watch them.

The Attorneys General of our country ignored these warnings, along with the warnings issued by a number of organisations at the forefront of the issues—the Australian children's commissioners and guardians and the Australian Council on Children and the Media. The Attorneys ignored warnings of learned individuals such as Andrew Scipione, the New South Wales Commissioner of Police. Of special note, they ignored the warning of

the former Special Air Service Commander Jim Wallace, who stated that these violent video games were not just games, but effectively simulators resembling those used in the armed forces to teach and desensitise new recruits in how to kill others. I said in my contribution to the debate on the bill that although we keep acknowledging that we need more police officers and more prison officers, we fail to acknowledge the contribution that playing violent video games makes to violence in our society.

The act has failed to deliver what was promised, and I urge the Attorney General to write to the new federal Attorney-General and urge him to sack the current Classification Board and replace it with people who will reflect the values held by the vast majority of Australians. If the federal Attorney-General fails to replace the current Classification Board with such individuals, the state Attorney General should take steps to introduce legislation to disallow the sale of R 18+ items in the state.

DR K.D. HAMES (Dawesville — Minister for Health) [9.26 am]: I have a prepared response by the Attorney General to read to the house.

I thank the member for Southern River for notifying this place of his grievance in relation to R 18+ computer games. I note his reference to the work done by Professor Elizabeth Handsley, president of the Australian Council on Children and the Media, which is based in South Australia. In response, I would like to provide members with background information on how the cooperative National Classification Scheme operates. The National Classification Scheme came into effect on 1 January 1996. Western Australia, in conjunction with the commonwealth and other states and territories, is a member of the cooperative National Classification Scheme. Under the scheme, the classification operations branch of the commonwealth Attorney-General's Department classifies films, computer games and some publications.

It is important to emphasise the distinction between the functions of the commonwealth and the states and territories in the National Classification Scheme. The classification of material is carried out by the Classification Board, which is established and operates pursuant to part 6, divisions 1, 2 and 4 of the commonwealth Classification (Publications, Films and Computer Games) Act 1995—the commonwealth act. The Classification Board classifies material in accordance with the National Classification Code, which is a schedule to the commonwealth act. The “Guidelines for the Classification of Computer Games” are a tool used to interpret the National Classification Code and help to explain the different classification categories and the scope and limit of material suitable for each category. These guidelines are revised from time to time after extensive community and ministerial consultation.

At the July 2011 meeting of the then Standing Committee of Attorneys-General—SCAG—ministers agreed, in principle, to introduce an R 18+ category for computer games. This was the product of some 10 years of negotiations between the commonwealth and the states and territories. Under the intergovernmental agreement that underpins the National Classification Scheme, amendments to the scheme can be made only by the unanimous agreement of ministers. Under that agreement, responsible ministers are required to table the amended guidelines in their respective Parliaments within 30 sitting days after the guidelines are published by the commonwealth. Accordingly, the Attorney General tabled the “Guidelines for the Classification of Computer Games” in the Western Australian Parliament on 14 May 2013.

The commonwealth legislation to provide for the introduction and classification of R 18+ computer games came into effect on 1 January 2013. In Western Australia, the complementary enforcement legislation is the Classification (Publications, Films and Computer Games) Enforcement Act 1996. The enforcement of those classification decisions is the responsibility of the states and territories. In this state, WA Police enforce classification decisions, pursuant to the Classification (Publications, Films and Computer Games) Enforcement Act 1996. Should WA Police determine that the classification provisions have been breached, it may proceed to prosecute the offenders in the court.

Amendments to the Western Australian act that regulates the sale and distribution of R 18+ computer games came into effect on 1 January 2013. As mentioned, classification decisions are made by the Classification Board, and its decisions can be reviewed by the Classification Review Board. On various occasions, censorship ministers have expressed their confidence and support for the integrity and operation of the National Classification Scheme.

Notwithstanding the view of ministers, the member has requested that the Attorney General write to the commonwealth Attorney-General and urge him to sack the Classification Board and replace it with people who reflect community values. This suggests that the board is unrepresentative of the community and lacks the requisite qualifications to carry out its task. However, I understand that this is not the case.

I refer to section 48 of the commonwealth Classification (Publications, Films and Computer Games) Act, and in particular to subsections (2) and (3). Section 48(2) states —

In appointing members, regard is to be had to the desirability of ensuring that the membership of the Board is broadly representative of the Australian community.

Section 48(3) states that the commonwealth minister —

... must, before recommending the appointment of a member ... consult with participating Ministers.

Therefore, the recruitment and appointment process to attract suitable applicants is extensive and transparent. This is necessary to ensure the appointment of persons with a diversity of views and qualifications. Accordingly, the composition and current members of the Classification Board, numbering 22 persons, represent diverse age groups, background, experience, qualifications and gender balance. Given the extensive consultation process with the states and territories that is required in the appointment of persons to the board, it is highly unlikely that the commonwealth minister would cede to any request to sack the current board.

I understand that the Attorney General has written to the member in response to the concerns he raised. In particular, I am advised that he has requested that the member provide him with details of the specific computer games and their respective classifications that are the subject of the member's concerns, in order to determine what action may be necessary or carried out under the operation of the national cooperative classification scheme. Additionally, it is open to Professor Handsley to write to the South Australian Attorney-General and ask him to seek a review of the classification decision for the computer games in question. The Attorney General has asked me to thank the member for raising this grievance and he appreciates the strong interest he has in the Classification Board's decision.