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Works of art and the role of artistic merit in classification decisions

The following is a summary of comments made in formal submission and as evidence to the Public Hearing of the Senate Legal and Constitutional Affairs Reference Committee Inquiry into the Australian Film and Literature Classification Scheme.

[On] works of art and the role of artistic merit in the Australian Film and Literature Classification Scheme's decisions, the ASA does not see how the classification system can be effectively applied or make sense within the current formulations, or even how it may be improved based on some reworking of the current classification formulations.

The ASA is concerned by the arbitrariness that arises in attempts to assert artistic merit as a criterion classification. What is interpreted as artistic by one reader is seen by another as an expression of reprehensible immorality. Why should *American Psycho* be classified as an R-rated publication when many consider it to be a work of considerable artistic merit? Why should, at the same moment, a popular fiction title such as *Transfer of Power* by the American author Vince Flynn not be classified under 9A—that is, refused classification for publications that advocate terrorist acts?

When reverse engineered, part of the content of *Transfer of Power* is how to kidnap a president. When decoupled from the book's purpose—that is, to produce thrills in the reader according to the methods of a conventional literary genre, it can be read as a detailed and plausible set of instructions on how to commit a terrorist act. It is not a classified publication. So it may be that the classification system needs to be simplified rather than further codified.

On questions on artistic merit, the ASA does not wish to see the classification system used for the censoring or banning of political speech however that is described. The open air is a far better place for the community to make its judgments about what is and is not acceptable for the organisation of society.

In applying censorship derived from fear, 9A inescapably inhibits not only freedom of expression but also freedom of thought. All arguments about censorship are arguments about power and necessarily involve the transfer of power from creators to state functionaries. As it does so, the state's interests are fundamental. In our culture, power is more valued than rationality.

More specifically, we submit that section 9A—'refuse classification for publication of films or computer games that advocate terrorist acts'—should be deleted for the reasons set out in Professor Williams' submission. In particular, it fails the most elementary test of censorship—certainty of application. Because no one knows precisely what it prohibits, it inescapably catches material which is beyond the ambit of the censorship.

Such censorship purportedly controlled by the rule of law is in fact an arbitrary undermining of the rule of law. As the Australian Press Council submission points out, the problem extends to the discussion of euthanasia—subjects of such sensitive areas of public debate that the potential threat to censorship tends to diminish clarity and insight in an area where they are urgently needed.

It could be argued that, other than refused classification as measured under section 11 and clause 1, there is no need for any other categories. Protecting children by limiting what they can see may be considered a useful form of censorship. The question arises: by whom? It is far better to develop morality by exposing students and young people to notions of the good and true through teaching and education and far better also to allow parents the decisions in this area rather than having standards imposed by the state...

From the perspective of literature and writing, artistic merit is a form of moral force. It has the quality of moral force. Artistic merit resides in books that are complex, challenging, perhaps threatening on the surface, but beneath whose surface there is usually something teachable, something moral, something good. The arguments over *Lolita* have ended. We understand that *Lolita* is a moral book. What it teaches is about relations between adults and children...

It is important not to see these matters as a confrontation between art industries and viewers or citizens or readers. There is a cultural circle here. It includes education, educators and parents. We must avoid, at all costs—certainly from literature's point of view—the criminalisation of serious artists. That is one of the risks you take when you go wanting to ban the Bill Hensons and the Bret Easton Ellises. They are not criminals.