



Red Tape Committee
Department of the Senate
PO Box 6100
Canberra ACT 2600

27 April 2018

EROS ASSOCIATION SUBMISSION TO INQUIRY INTO THE EFFECT OF RED TAPE ON OCCUPATIONAL LICENSING

Terms of Reference

As part of its inquiry into the effect of red tape on the economy and community, the committee will examine the effect of red tape on occupational licensing, in particular:

1. the effects on compliance costs (in hours and money), economic output, employment and government revenue;
2. any specific areas of red tape that are particularly burdensome, complex, redundant or duplicated across jurisdictions;
3. the impact on health, safety and economic opportunity, particularly for the low-skilled and disadvantaged;
4. the effectiveness of the Abbott, Turnbull and previous governments' efforts to reduce red tape;
5. alternative institutional arrangements to reduce red tape, including providing subsidies or tax concessions to businesses to achieve outcomes currently achieved through regulation;
6. how different jurisdictions in Australia and internationally have attempted to reduce red tape; and
7. any related matters.

About Eros

The Eros Association is Australia's leading adult industry body, with over 25 years experience in dealing with industry specific issues. Eros supports a responsible and non-discriminatory legal framework for adults-only businesses.

Adults-only business encompass a large and diverse range of businesses including adult retail, wholesale, media and entertainment. The following submission looks at red-tape impacting the following occupations:

- Adult Media
- Brothel Ownership



Adult Media

Eros supports reform of Federal, State and Territory classification laws to clarify the legal status of production, distribution, exhibition and sale of X18+ classified media. In particular, we recommend:

- The creation of a single federal media classification Act subsuming all current federal, state and territory laws.
- Reforming classification markers including the extension of the X18+ classification to include consensual fetish content that is currently refused classification;
- The creation of a new classification marker of 'prohibited' to include criminalised material including child exploitation material and image-based abuse, which can be enforced by multiple agencies.
- The legalisation of the production, distribution, exhibition, broadcast and sale of X18+ material at a state and federal level (through the federal government subsuming the responsibility for enforcement); and
- Removal of the need to classify most adult content, with a shift in focus toward age restriction and industry self-regulation of content.

The above recommendations are consistent with the findings of the Australian Law Reform Commission's 2012 report on content regulation and convergent media.¹ Please see the attached brochure outlining Eros' position on classification reform.

X18+ Licensing in the Australian Capital Territory

The *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* (ACT) allows for the licensed sale and distribution of X18+ classified media in the Australian Capital Territory. However, the licensing fee structure in the ACT has made compliance with the regime untenable.

Last year, a media report by the Canberra Times noted that the four remaining X-rated licensees in the ACT are unlikely to be able to afford the annual fees long term and the market is likely to become unregulated.²

As a result of the rise of X-rated content on the Internet, the market for X-rated DVDs and videos in-store has decreased dramatically. Therefore, if there is going to be

¹ Classification—Content Regulation and Convergent Media, ALRC Report 118, Tabled 1 March 2012

² Emily Baker, 'ACT porn providers say licence fee threatens to kill already-ailing industry' The Canberra Times, 22 April 2017.



effective regulation of X-rated media in Australia, a complete overhaul of regulation is required.

Brothel Ownership

It is the position of Eros that sex work should be treated like any other work category, with principles of minimum effective regulation applied to regulating ownership of brothel and escort agency businesses.

Licensing schemes for brothel ownership currently exist in Queensland and Victoria. The cost of annual license is \$9,690 p.a in Queensland and \$3,722.20 p.a in Victoria. Higher costs also apply for additional rooms. There are also costs associated with initial application fees, compliance costs as well as annual brothel management certificates.

Licensed brothel owners are concerned that the licensing system is overly burdensome, particularly given the growth of illicit, unlicensed operators in the sex industry.

Costs of renewing licenses, compliance costs and illicit competition are leading to the collapse of licensed brothels and the growth of an illegal sector to meet demand.

Eros does not oppose oversight on brothel ownership and management, however current licensing regimes double-up regulation already covered by OH&S, public health and planning laws.³ Moreover, licensing fees are in excess of what is required to effectively enforce compliance in both QLD and VIC.

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³ P Crofts et al, 'Ambivalent Regulation: The Sexual Services Industries in NSW and Victoria — Sex Work as Work, or as Special Category?' 23(3) *Current Issues in Criminal Justice*, 393.