



**National Council of  
Women of New Zealand**

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Wahine O Aotearoa

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S04.21

**Submission to the Government Administration Select Committee  
on the Films, Videos, and Publications Classification Amendment Bill**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 41 nationally organised societies. It has 33 branches throughout the country attended by representatives of those societies. The Council's function is to serve women, the family and the community at local, national and international levels through research, study, discussion and action.

**Opening Comment**

NCWNZ is very pleased to be given the opportunity to make a submission to this Bill as it is a subject that has been a concern for a very long time. From our organisation's earliest days 108 years ago, we have spoken out forcefully on the need to stop objectionable and harmful publications, especially where children are the subject and to make sure children can not access objectionable material.

The input for this submission comes from the work of two standing committees, Consumer Affairs and Social Issues, and it attracted a large number of replies from our membership, indicating the importance with which this subject is held

**Part 1**

Amendments to the principal Act

**Clause 3 Interpretation**

(2) Our membership is pleased to see this Bill is being strengthened to include a disc, electronic or computer file in the interpretation, and would suggest that all electronic devices such as cell phones also be included.

**Clause 4 Meaning of Objectionable**

(1) NCWNZ agrees with these amendments in particular (b) where the visual images are reasonably capable of being regarded as sexual in nature. Children are being exploited by being used even when there is only the smallest suggestion that the images are capable of being regarded as sexual in nature.

(2), (3) We do not agree with this amendment, as we believe that any publications that promote or support, tend to promote or support, or otherwise deal with one particular kind of coprophilic behaviour (namely the use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct) should be regarded as objectionable, and stand alone as a reason for a publication to be banned, and not just to be a factor that must be given particular weight in reaching a classification decision.

We oppose the repeal of Section (3) (2) (b) of the principal Act.



**Specific instances that illustrate our view are**

(1) The Nelson Mail dated 30-01-04. The front cover of this issue had a coloured photo of an Australian duo who had gone to Nelson to perform at the Community Trust Buskers and Street Theatre Series which was held as part of the Sealord Summer Festival. These two women were dressed as cojoined twins, with their costume a top that had three bare breasts with a raspberry on each nipple. We feel very strongly about this, as we thought that New Zealand was past making fun out of others' misfortune, where someone's physical abnormality becomes the comedy that attract the crowds to attend. Incidentally this Street Series started as early as 10:30am daily during this festival. Also as women we felt offended by this picture.

(2) The Edge radio station. For some reason this seems to be the radio station of choice for hair dressers, shops that are set to attract young shoppers, and other public places. Our members have been disgusted by the subject and content of the broadcast from this station from early in the morning and right throughout the day. One of our members reported that her husband was assisting with a trip for his son's school and was very embarrassed when this station was played on the bus.

(3) In this electronic age unsolicited material coming through email is a great concern. Those that are generating this material are cunning enough to not put explicit wording in the title, so that it passes any fire wall or restriction that we have placed on our computers. Without even opening these, before they can be deleted a picture has hit the screen with very vivid pictures of couple having sex, oral sex, women who are heavily posing in a very provocative manner.

(4) Another very big concern is programmes such as XXX Movies, and Sexy N.Z., which install themselves on to the computer, installing an icon on the screen, and when an attempt is made to remove them in the usual manner for unwanted files, you are not able to, only to isolate them. We feel that no-one has the right to force their unwanted programmes on the public and would hope that this Bill when it becomes the Act will address this. These programmes are generated in New Zealand.

All the above would be very easy to access to our 'electronic age' young people, and even with the strictest monitoring no parent is able to give 24/7 supervision.

**Clause 6 Submission of publications by others**

We agree with the amendment to this section to allow the Commissioner of Police to submit a publication to the classification office without first obtaining the leave of the Chief Censor. We feel that on occasions speed of classification would be important and by the time the Commissioner had obtained the leave required from the Chief Censor the country could be flooded with the publication.

**Clause 8 Examination and Classification**

NCWNZ members are very concerned about the classification of material for publication. Of the many replies we received to this bill the strongest voice was over classification. In the last few years many words that were not allowed to be broadcast have now become the norm and we have become de-sensitised.

We are also concerned that if a publication, computer programme or video is deemed R18, it is going to be very difficult, indeed almost impossible to keep it out of the hands of younger people. Most would be used in a private situation. Films run in cinemas would be easier to monitor but still not an easy task.

**Clause 9 Conditions relating to the display of restricted publications**

Our members, although preferring that restricted material was not available realise that this is not going to happen so would ask that very clear labelling is put on any packaging and on the actually article, be it video, magazine etc.

However in (3) (b) we would want to see regulations on the way in which classified publications are displayed, and not as proposed "in any manner the person who publicly displays the publication concerned think fit". A number of our members commented that often service stations display their wrapped magazines at a height that children can reach.

**Clause 17 Membership**

The main comment on this clause was that we would prefer to have an uneven number of persons on the board, and wish to be assured that the consumer is well represented among their number. Fewer members of such boards frequently mean a very minimal consumer representation.

**Clause 21 Search Warrants**

NCWNZ agrees with the need to have this clause, and our only concern here is that the wording of the application is correctly prepared as we have knowledge of cases where a person charged has had the charges withdrawn because the search warrant was not carried out lawfully.

**Clause 22 Application of Customs and Excise Act 1996**

Again our comment would be that this is carried out strictly to the law so as not to allow a technicality to prevent a conviction.

**Clause 23 Meaning of distribute in Sections 123 to 132**

Our members are very much in favour of this clause being broadened to include the

"(a) to deliver, give, or offer the publication"; or

"(b) to provide access to the publication,"

as we know that the traders for financial gain will often give material away to entice people to become hooked into pornography.

**Clause 24 Offences of strict liability relating to objectionable publications**

NCWNZ agrees with these more explicit definitions.

**Clause 25 Offences involving knowledge in relation to objectionable publications**

"(2) Every person who commits an offence against subsection (1) is liable,-

"(a) in the case of an individual, to imprisonment for a term not exceeding 10 years:

"(b) In the case of a body corporate, to a fine not exceeding \$200,000."

While agreeing that this does warrant a harsh penalty, and welcome the considerable increase in penalties over the current provision, we feel that the \$200,000 for the body corporate is far less than the ten year for an individual, even considering that it would be very rare that the ten years would be imposed. In Clause 29 a penalty of two years equates with a fine of \$50,000 for the Individual, and for the Body Corporate \$100,000. This would suggest that \$25,000 equals 1 years prison term, so \$250,000 would bring it equal, but in all other categories the Body Corporate has a harsher penalty than the Individual.

**Clause 26 Where distribution, importation, etc, not an offence**

Our membership would agree that sometimes it would be appropriate to use this clause so that those who are censoring or policing the Act are kept up to date with what they are dealing with. Again we would want this strictly monitored, to prevent these publications reaching the wrong hands.

**Clause 27 Exhibition to persons under 18**

Our membership would again agree with this clause except subsection (5) where once again the penalty for the body corporate appears to be much less than the individual. (Individual 10 years imprisonment, Body Corporate \$200,000)

**Clause 28 Offences in public place**

NCWNZ would agree with the penalties imposed in this clause.

**Clause 29 Offences relating to possession of objectionable publications and involving knowledge.**

Once again we would agree that for the Individual 2 year's imprisonment or \$50,000, and \$100,000 for the Body Corporate is fair.

**Clause 30 Aggravating factor to be taken into account in sentencing, etc, for certain publications offences**

NCWNZ would again emphasise that any publication of any type, be it television, video, print media, or electronically generated that contains even a suggestion of the exploitation of children and young persons, be treated with the highest classification and that the sentencing should reflect this.

**Clause 31 Offences punishable on conviction on indictment**

Our membership is very concerned about the display of magazines in service stations and some dairies, where the publications are displayed where everyone who walks in can see and view the covers. We know there is a requirement that these types of magazines come with a sealed cover but these are always clear and the front cover of any magazine is designed to attract readers. We would like to see this Clause on the knowledge in relation to objectionable publications and the offence of exhibiting or displaying objectionable publication to a person 18 years or under knowing or having reasonable cause to believe that publication is objectionable, very closely monitored.

We feel that many 'promos' on television would fit this category when they are played before 8:30pm, well in children's viewing times. Adults who choose not to watch programmes with gratuitous sex and violence also object to being bombarded with the advertising of these programmes.

**Clause 32 Extraterritorial jurisdiction for certain offences as required by Optional Protocol**

NCWNZ has always strongly advocated for the Optional Protocol and so are very much in support of this clause, especially the new section 145A(2), 'even if the acts or omissions alleged to constitute the Offence occurred wholly outside New Zealand, proceedings may be brought for a relevant offence that involves child pornography (as so defined) if the person to be charged has been found in New Zealand and has not been extradited on the grounds that he or she is a New Zealand citizen.

**Clause 33 Regulations**

Clause 34 Decisions under the Indecent Publications Act 1963

Clause 35 Classification decisions under Video Recording Act 1987

Clause 36 Classification decisions under Films Act 1983

NCWNZ agrees with these amendments.



### **Closing Comments**

As mentioned in the opening comment our organisation had a very strong response from our membership over this Bill.

Our membership is made up of women who are very pro-active in our communities and because of this many have used the complaints system when confronted by material that they regard as objectionable but unfortunately many said that they found the process long, not very satisfactory and almost a waste of time.

NCWNZ will be watching the outcome of this Bill with much interest.

Beryl Anderson  
**National President**

Christine Rattray  
**Convener, Social Issues Standing Committee**