



29 May 2026

Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts  
GPO Box 594  
CANBERRA ACT 2601

Submitted via: <https://www.infrastructure.gov.au/have-your-say/modernising-and-harmonising-classification-standards>

To the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts,  
Thank you for the opportunity to consult on *Modernising and Harmonising Classification Standards*.

Formed in 1989, Scarlet Alliance is the peak body representing sex workers and sex worker organisations in Australia. We advocate for equality, justice and the highest level of health for past and present workers in Australia's sex industry. Through our work and the work of our member organisations and projects, we have the highest level of contact with sex workers and access to sex industry workplaces throughout Australia.

Our work includes policy analysis, research collaborations and sex worker representation on government and non-government committees and advisory mechanisms. We have a sophisticated understanding of how regulatory frameworks impact sex workers' daily lives. This is informed by our member organisations, outreach trends, direct engagement with individual sex workers and groups, and our own lived experiences. We draw upon all of this expertise in our submission below.

Scarlet Alliance welcomes this review and the suggested policy modernisation to reduce stigma against affected communities. However, we are concerned that framing this review as 'harmonisation' and a 'practical renewal, not a redesign,' fails to recognise major structural flaws in the Classification Scheme and its interaction with other regulations and laws. A review that fails to address differing state and territory bans and restrictions on the sale and purchase of restricted materials cannot be described as 'harmonisation.' Further, 'harmonisation' with Australia's eSafety framework cannot occur until the Digital Duty of Care is released and implemented.

In an increasingly global, platform-driven media environment, the Classification Scheme must remain fit for purpose, provide overarching guidance for all media, be useful for self-assessment, uphold adults' choice in what material they produce and distribute, and ensure adequate safeguards for parents to make decisions about what media their children consume. This is a significant task, and requires a comprehensive review of the Scheme beyond what is proposed in these recommendations.

Yours sincerely,

Mish Pony  
Chief Executive Officer

## Background

Scarlet Alliance welcomes this review as an essential update to the thinking, practices and guidelines behind classification in Australia, to keep pace with the global, platform-driven media environment. However, framing this review as a 'practical renewal, not a redesign' fails to address fundamental flaws in the Classification Scheme.

The Scheme's underlying premise is that:

*adults should be able to read, hear, see and play what they want; minors should be protected from material likely to harm or disturb them; [and that] everyone should be protected from exposure to unsolicited material that they find offensive.<sup>1</sup>*

However, in practice, both the Classification Scheme and the statutory frameworks it intersects with (including the *Online Safety Act 2021* (Cth)) significantly undermine these principles.

### Adult content - flaws in the Classification Scheme

The principle that 'adults should be able to read, hear, see and play what they want' is not reflected in the way that the Classification Scheme treats adult sexual content:

- While the Classification Scheme applies nationally, there remains a confusing and patchwork approach to adult sexual content across each state and territory.
- While it is generally lawful to **create, view and possess** X18+ films, their distribution is only lawful in the ACT and some parts of the Northern Territory.
- The Film Guidelines explicitly prohibit a wide range of sex acts from being depicted in X18+ films, including 'body piercing, application of substances such as candle wax, 'golden showers', bondage, spanking or fisting.'<sup>2</sup> Depictions of 'adult persons who look like they are under 18 years' are also prohibited, even when performers have been verified as being over the age of 18.<sup>3</sup> Films containing this material will be refused classification. Depictions of female ejaculation have also been refused classification due to conflation with 'golden showers'.<sup>4</sup>
- Although it is generally lawful to **create, view and possess** refused classification (RC) content of this kind,<sup>5</sup> it is unlawful to distribute it anywhere in Australia or host it on an internet site in Australia.
- The Scheme categorises adult sexual content in publications (e.g. magazines) differently from video content. Adult content publications are classified as either Restricted Category 1 or Restricted Category 2, which correspond roughly to the R18+ and X18+ film ratings. Each state and territory has different rules relating to the sale and purchase of these publications, with both categories permitted for sale across Australia, except for in Queensland and some parts of the NT.

In practice, this has led to Australian pornography studios registering businesses and distributing content from offshore, and Australian independent adult content creators relying on overseas platforms such as OnlyFans and Pornhub to distribute content.

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<sup>1</sup> [National Classification Code 2005](#), s 1.

<sup>2</sup> [Guidelines for the Classification of Films 2012](#), X 18+ - RESTRICTED.

<sup>3</sup> Ibid; See also Ruth B, 'Has Australia Really Banned Small Breasts?', *Crikey* (29 January 2010) <https://www.crikey.com.au/2010/01/29/has-australia-really-banned-small-breasts/>.

<sup>4</sup> Bella Counihan, 'Weird Politics of Small boobs and Bodily Fluids', *The Sydney Morning Herald* (29 January 2010) <https://www.smh.com.au/politics/federal/weird-politics-of-small-boobs-and-bodily-fluids-20100129-n278.html>.

<sup>5</sup> The 'RC' classification is broad, and some content is unlawful to possess. However, possession of consensual fetish content (also known as 'class 1C' content in the eSafety framework) is lawful to possess/view in all Australian jurisdictions except Western Australia and some parts of the Northern Territory: Australian Law Reform Commission, *National Classification Scheme Review* (Discussion Paper 77, September 2011) 164-5 <https://www.alrc.gov.au/publication/national-classification-scheme-review-dp-77/10-refused-classification-category/rc-relevance-to-this-review-and-overview-of-the-concept/>.



The Film Guidelines criteria for the X18+ rating have been criticised for pathologising commonly practised sex acts within BDSM and LGBTQI+ communities, erasing representation of non-normative bodies, and inhibiting depictions of consent negotiation and safer sex practices.<sup>6</sup> In 2012, the Australian Law Reform Commission recommended that the government ‘review current prohibitions in relation to the depiction of sexual fetishes’, noting that ‘it is not clear why [the Classifications Scheme] refers to the particular fetishes that it does’.<sup>7</sup> The 2020 *Review of Australian Classification Regulation Report* (the Stevens Review) echoed this, recommending that X18+ prohibitions refocus on harm, and that bans on depicting lawful fetishes be removed.<sup>8</sup>

## Interaction with the *Online Safety Act*

The *Online Safety Act 2021* (Cth) and its associated industry self-regulatory Codes and Standards (the eSafety framework) applies to online material (including video, still images, text and user-generated content). It largely replicates the Classification Scheme’s categories, and further undermines the principle that adults should be able to choose what lawful material they access online.

Despite consistent engagement throughout the development of the eSafety framework, the eSafety Commissioner has shown no interest in the impact on sex workers’ lawful incomes and digital access more broadly.<sup>9</sup>

In March 2026, tech platform Aylo (owner of Pornhub, RedTube and YouPorn) began blocking Australian IP addresses in response to eSafety’s age verification requirements.<sup>10</sup> While the framework itself does not constitute a ban on lawful adult content, its *practical effect* has been to undermine adults’ choice to access material, and sex workers’ ability to distribute it.

As most sexual content (for both educational and entertainment purposes) now exists online, the eSafety framework has essentially superseded the Classifications Scheme.<sup>11</sup> The eSafety framework requires tech platforms to both assess whether content would likely be age-restricted under the Classification Scheme, *and* implement age-assurance technologies to prevent young people from accessing restricted content.

Given the volume of content in online spaces, self-regulation by online industry is both inevitable and desirable. However, this approach generates risks that the eSafety framework has not taken steps to mitigate:

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<sup>6</sup> Zahra Stardust, ‘Fisting Is Not Permitted’: Criminal Intimacies, Queer Sexualities and Feminist Porn in the Australian Legal Context’ (2014) 1(3) *Porn Studies* 242 <https://doi.org/10.1080/23268743.2014.928463>;

Ryan Thorneycroft, ‘If Not a Fist, Then What About a Stump? Ableism and Heteronormativity Within Australia’s Porn Regulations’ (2020) 7(2) *Porn Studies* 152 <https://doi.org/10.1080/23268743.2020.1713872>.

<sup>7</sup> Australian Law Reform Commission, *Classification: Content Regulation and Convergent Media* (Report No 118, February 2012) 276 <https://www.alrc.gov.au/publication/classification-content-regulation-and-convergent-media-alrc-report-118/11-the-scope-of-prohibited-content/reforming-the-scope-of-prohibited-content/>.

<sup>8</sup> Neville Stevens, *Review of Australian Classification Regulation* (Report, 31 May 2020) 93-4

<https://www.infrastructure.gov.au/department/media/publications/review-australian-classification-regulation-stevens-review>.

<sup>9</sup> See Scarlet Alliance, Submission 17 to the Senate Standing Committee on Environment and Communications, *Internet Search Engine Services Online Safety Code Inquiry* (22 September 2025)

[https://www.apf.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/OnlineSafetyCode48P/Submissions](https://www.apf.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/OnlineSafetyCode48P/Submissions).

<sup>10</sup> David Swan, ‘Porn Laws Push Users to Illegal Sites, Onlyfans Creators Warn’, *The Sydney Morning Herald* (11 March 2026)

<https://www.smh.com.au/technology/porn-laws-push-users-to-illegal-sites-on-onlyfans-creators-warn-20260310-p5o8zt.html>.

<sup>11</sup> No commercial X18+ films have been submitted to the Classification Board since 2015-16: Stephens (n 8) 43.



- Decisions about content are usually made by automated systems. These systems are susceptible to algorithmic bias,<sup>12</sup> with limited opportunities to review whether content is correctly classified.
- The eSafety framework mandates that platforms must have avenues for users to report content for removal/restriction, but does not mandate that platforms have appeals processes for content that has been incorrectly removed or restricted.
- Similarly, there are significant penalties if platforms fail to remove content, but no consequences for over-removal. This encourages platforms to err on the side of removing or restricting content, leading to a chilling effect on the digital participation of porn performers/producers, sex workers, sex educators, LGBTIQ+ people and advocates, harm reduction workers, and peer-led community organisations whose work and voices are being erased from the digital public square.<sup>13</sup>

While the *Online Safety Act Statutory Review* recommended that definitions relating to restricted internet content should be decoupled from the Classification Scheme,<sup>14</sup> the government has not announced any intention to implement this recommendation. Further, the eSafety framework is the newest and least-tried aspect of content assessment in Australia. It has been widely predicted to fail, and will likely be superseded by the Digital Duty of Care in the near future.

As such, the Classification Scheme, particularly the Film Guidelines,<sup>15</sup> remains a key interpretative tool for classifying and restricting access to material online. Updates to the Scheme must not create anomalies or conflicting interpretations in the already fraught landscape for assessing and restricting access to online content.

## Proposed Reforms

<sup>12</sup> See Louise Matsakis, 'Tumblr's Porn-Detecting AI Has One Job—and It's Bad at It', *Wired* (3 December 2018)

<https://www.wired.com/story/tumblr-porn-ai-adult-content/>;

Chanté Joseph, 'Instagram's Murky Shadow Bans Just Serve to Censor Marginalised Communities', *The Guardian* (9 November 2019)

<https://www.theguardian.com/commentisfree/2019/nov/08/instagram-shadow-bansmarginalised-communities-queer-plus-sized-bodies-sexually-suggestive>;

Gianluca Mauro and Hilke Schellmann, 'There Is No Standard: Investigation Finds AI Algorithms Objectify Women's Bodies', *The Guardian* (8 February 2023) <https://www.theguardian.com/technology/2023/feb/08/biased-ai-algorithms-racywomen-bodies>.

<sup>13</sup> Pepe Borrás Pérez, 'Facebook Doesn't Like Sexual Health or Sexual Pleasure: Big Tech's Ambiguous Content Moderation Policies and Their Impact on the Sexual and Reproductive Health of the Youth' (2021) 33(4) *International Journal of Sexual Health* 550

<https://doi.org/10.1080/19317611.2021.2005732>;

André Belchior Gomes and Aysel Sultan, 'Problematizing Content Moderation by Social Media Platforms and Its Impact on Digital Harm Reduction' (2024) 21(1) *Harm Reduction Journal* 194 <https://doi.org/10.1186/s12954-024-01104-9>;

Caroline Are, 'Dysfunctional Appeals and Failures of Algorithmic Justice in Instagram and TikTok Content Moderation' (2025) 28(11) *Information, Communication & Society* 1997 <https://doi.org/10.1080/1369118X.2024.2396621>;

Lisa Garwood-Cross et al, 'Sex Education Against the Algorithm: The Algorithmically Enforced Deplatforming of YouTube Sex Edutainment' (2025) 34(8) *Journal of Gender Studies* 1 <https://doi.org/10.1080/09589236.2024.2374752>;

Giselle Woodley, Kath Albury and Zahra Stardust, 'Sexual Health Info Online Is Crucial for Teens. Australia's New Tech Codes May Threaten Their Access' *The Conversation* (29 May 2025) <https://doi.org/10.64628/AA.jnkqj7hm4>;

Kathleen Chau, UNESCO, 'Algorithms and Access: How Content Moderation Shapes Digital Sexuality Education' (Paper presented at the 27th Congress of the World Association for Sexual Health, Brisbane, Australia, 16–19 June 2025)

<https://airdrive.eventsair.com/eventsairaueprod/production-ashm-public/240b5438f4414d9e9a54a7834112c133>;

Jackie Rotman et al, *The Digital Gag: Suppression of Sexual and Reproductive Health on Meta, TikTok, Amazon, and Google* (Center for Intimacy Justice, 2025) <https://docsend.com/view/emzyirq6hfatmx2a>.

<sup>14</sup> Delia Rickard, *Report of the Statutory Review of the Online Safety Act 2021* (Commonwealth of Australia, October 2024) 122

<https://www.infrastructure.gov.au/department/media/publications/report-statutory-review-online-safety-act-2021>.

<sup>15</sup> Assessment of restricted material online (including user-generated or non-professional still images) is based on the X18+ and R18+ categories in the Film Guidelines: see *Consolidated Industry Codes of Practice for the Online Industry (Class 1C and 2 Material) Head Terms* 'class 2 material' and 'publication' 9-10 <https://www.esafety.gov.au/industry/codes/register-online-industry-codes-standards>.



### C03 - Improved reliance on evidence over morality

Scarlet Alliance is generally supportive of updating the Guidelines to more clearly define terms and thresholds to balance community concern alongside any established evidence-based research of actual harms.

However, we note that:

- classifying content that includes fictional or simulated depictions of non-consensual sex acts and sexual violence solely based on 'impact' (without consideration of literary, artistic or educational merit or 'general character') must not unduly restrict portrayals of consensual BDSM activity, consent negotiation, or gender-based and sexual violence.
- classifying depictions of sex and sexuality more generally must allow for the age-appropriate portrayal of diverse sexualities, gender identities and relationships across a wide range of ratings and media types.

We are also opposed to the introduction of any 'impact' test into the X18+ category. The category is defined by content type (certain unsimulated sexual activity), not harm assessment, and introducing an impact test risks inconsistent and subjective outcomes. This material is restricted to adults and does not require consideration of impact.

### C05 - Update MA15+ classification to MA16+

Scarlet Alliance does not support redefining the restricted category of MA15+ to MA16+. This redefinition:

- Does not assist with delineating differences between the non-restricted PG and M categories, both of which continue to use 15 as an age benchmark.
- Aligns with highly controversial legislative initiatives that are being critiqued as having low compliance, being unsupported by evidence and being ineffective in reducing harms to young people.<sup>16</sup>
- Potentially furthers isolation and restriction of access to education, information and support for young people from LGBTQI+, rural and other marginalised communities.<sup>17</sup>

Any changes to age restriction of material for young people must be undertaken in consultation with organisations representing young people's rights.

### C06 - Publications to adopt the rest of the classification system

Scarlet Alliance strongly opposes redefining Category 1 Restricted and Category 2 Restricted publications to R18+ and X18+. The Publications Guidelines are the longest-standing and most developed classification tool in Australia. By contrast, the Film Guidelines were developed in a heightened political environment, and are the most controversial, least evidence-based and most criticised aspect of the classification system.

While it is true that the publications categories do roughly correspond to the film categories, there are two significant differences:

#### Sale and purchase rules

Currently, Category 2 Restricted publications may be sold in all jurisdictions except Queensland. However, X18+ films may only be sold in the ACT and some areas of the NT. Any relabelling of Category 2 to X18+ will need to make clear that 'X18+ publications' will be permitted to be sold and purchased subject to the current rules for Category 2 Restricted publications.

#### Permitted content

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<sup>16</sup> Samantha Floreani, 'Australia's Teen social Media Ban Is a Flop. But There's No Joy In "I Told You So"', *The Guardian* (2 April 2026) <https://www.theguardian.com/commentisfree/2026/apr/01/australia-teen-social-media-ban-criticism>.

<sup>17</sup> See Olivia Henry, 'Expert Reaction: Social Media Ban for Under-16s Is About To Come Into Effect', *Scimex* (5 December 2025) <https://www.scimex.org/newsfeed/expert-reaction-social-media-ban-for-under-16s-is-about-to-come-into-effect>.



Category 1 publications are analogous to R18+ in that they may depict 'simulated or obscured sexual activity'. However, Category 1 may also depict masturbation, mild fetishes, non-sexualised, non-gratuitous violence and 'realistic depictions of obvious sexual excitement.' Similarly, Category 2 publications may depict 'actual sexual activity', congruent with the X18+ film rating, but may also depict stronger (non-violent) fetishes. Without clarification, renaming the publications categories with Film Guidelines categories risks significantly restricting permissible content and distribution of adult publications across Australia.

### **C07 - Clarify definitions**

Scarlet Alliance is supportive of developing clear and well-informed definitions and instructions to increase objective and consistent decision-making.

### **C08 - Reconsideration of sexual content**

Scarlet Alliance notes that depictions of non-heteronormative sexual content are normally assessed as being higher impact, and that depictions involving fetish or kink-related acts are typically assessed through a moral lens rather than an evidence-based, harm-informed framework. These anomalies should be addressed in the updated Guidelines.

Scarlet Alliance believes that the X18+ category should permit depiction of any lawful, consensual activity between adults over the age of 18. The current Guidelines include two prohibitions that are inconsistent with this principle.

The Guidelines state the following about the X18+ category:

*No depiction of violence, sexual violence, sexualised violence or coercion is allowed in the category. It does not allow sexually assaultive language. Nor does it allow consensual depictions which purposefully demean anyone involved in that activity for the enjoyment of viewers.*

These prohibitions import a subjective moral judgment about the value or acceptability of particular sexual dynamics, rather than assessing harm. Lawful activity between adults, including consensual acts that some people may define as 'violence' (e.g. spanking, slapping, choking), or power exchange or degradation, should not be excluded from X18+ on the basis that some viewers may find it distasteful.

The Guidelines also state that 'fetishes such as body piercing, application of substances such as candle wax, "golden showers", bondage, spanking or fisting are not permitted.'

As the Australian Law Reform Commission noted in 2012, it is not clear why the Guidelines refer to these particular fetishes, and the Stevens Review likewise recommended their removal.<sup>18</sup> These are lawful activities commonly practised within BDSM and LGBTQI+ communities. Their prohibition pathologises non-normative sexuality and erases representation of these communities from legally distributable content.

We also agree that sexual content should be rated consistently regardless of the artistic style or identities of those involved, except where it involves actual (rather than depictions of) illegal and non-consensual acts. We note, however, that depictions and discussion of non-consensual scenarios play an important role in consent education, particularly for young people. Updates to the Guidelines should ensure that age-appropriate material addressing consent negotiation remains accessible across a range of media.

### **C09 - Classification Advisory Council**

Community sentiment, even when accurately measured, should not be the sole basis for regulatory decisions. Community attitudes can be shaped by stigma, discrimination and prejudice, and history demonstrates the danger of uncritically deferring to prevailing 'community standards.' Such standards have previously justified discrimination against LGBTQI+ people, restrictions on women's participation in public life, and the prohibition of contraception and sexuality education content. In each case, the prevailing sentiment reflected

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<sup>18</sup> Australian Law Reform Commission (n 7) 274; Stephens (n 8) 93-4.



stigma that we now recognise as unjust. Regulatory frameworks that defer uncritically to community standards risk entrenching discrimination against marginalised groups and lawful activities that face social stigma.

Scarlet Alliance does not support the establishment of a Council for the purpose of general public community input into classification, and we are concerned by the lack of detail in recommendation C09. The discussion paper provides no information on how a Classification Advisory Council would be constituted, including the appointment process, decision-making powers, terms of membership, or who would be eligible for appointment. These are not minor implementation details; they determine whether such a body would genuinely represent diverse community perspectives or reproduce existing biases.

If a Classification Advisory Council is established, it is essential that membership reflects a wide range of community perspectives, including representation from recognised peak body organisations of sex workers, people who use drugs, the adult entertainment and products industry, and LGBTQI+ people.

### **C19 - Classification website - addition of extra community information**

We have similar concerns about including a 'summarised dashboard of community input' on the classifications website. For example, in Australia's complaint-based advertising self-regulatory framework, we have observed advocacy groups using dedicated campaigns and mobilised supporter networks to generate complaint volumes that significantly distort the appearance of community concern, particularly compared to the volume of complaints generated by individual community members.<sup>19</sup> Care must be taken to ensure that 'community input' on the classifications website includes a diverse range of voices.

In particular, we would not support representation or inclusion of material from eSafety within classification community advice mechanisms. eSafety is a well-resourced and appointed regulatory body, not a community organisation, and is not qualified or appointed to provide input into classification decision-making. Further, eSafety has a partisan position on adult content, stating that the majority of adult content consumed in Australia is 'mainstream pornography' and is associated with 'attitudes and behaviours which can contribute to gender-based violence', that pornography is associated with 'harmful...risky or unsafe sexual behaviours' and that pornography may be responsible for 'normalising depictions of sexual violence and degrading sexual scripts about women.'<sup>20</sup> These claims were not reflected in an Australian-based academic review of international pornography research.<sup>21</sup>

### **C20 - Element icons**

Scarlet Alliance has concerns about the practicality of introducing element icons to communicate content warnings to consumers. While in theory replacing letters and numbers with icons may improve the accessibility and understandability of ratings, in practice, iconography can generate stigma towards affected communities. It tends to only communicate a binary message: this content 'good'; this content 'bad'.

Scarlet Alliance supports the idea of improved accessibility and simplicity within Australia's Classification Scheme. However, we believe that reconsideration of sexual content (C08) must be urgently implemented and evaluated prior to other significant changes, such as icon creation.

If element icons are created, Scarlet Alliance asserts that organisations representing affected communities, including sex workers (Scarlet Alliance), people who use drugs (AIVL), adult entertainment and products

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<sup>19</sup> See, e.g. Collective Shout, *Honey Birdette* (Webpage, 2025). [https://www.collectiveshout.org/honey\\_birdette](https://www.collectiveshout.org/honey_birdette). We note that in the period 2024-2025, Ad Standards' Community Panel published over 40 decisions related to lingerie retailer Honey Birdette, the highest number of decisions in relation to a single retailer.

<sup>20</sup> eSafety Commissioner, *Roadmap for Age Verification and Complementary Measures to Prevent and Mitigate Harms to Children from Online Pornography* (Report, March 2023) 24 <https://www.esafety.gov.au/about-us/consultation-cooperation/age-verification#roadmap-background-report-and-response>.

<sup>21</sup> Alan McKee et al, *What Do We Know About the Effects of Pornography After Fifty Years of Academic Research?* (Routledge, 2022) <https://doi.org/10.4324/9781003232032>.



(EROS) and other peak bodies (e.g. Relationships Australia and Health Equity Matters), must lead the development of element icons. Without this involvement, such a project could result in increased stigma, undoing attempts to reduce stigma via content reconsideration.

