

Collaborative advocacy for Diverse communities: Advocating for a change in the classification scheme to enable acquisition and lending of Films in Languages Other than English for our diverse communities



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For the past three years the State Library of NSW and the Public Libraries Victoria Network Multicultural Services and Programs group worked collaboratively to extend advocacy nationally in efforts to alter the impact of existing classification legislation from the *Classification (Publications, Films and Computer Games) Act 1995* and any subsequent amendments that apply. The Australian Classification Board administers the legislation with enforcement covered by a Classification Enforcement Act for each state and territoryⁱ. The classification of DVD's is broadly applied without consideration of impact on diversity needs or ability of small suppliers to financially adhere to legislative requirements. The unintended consequence of the legislation requirements proves discriminatory as it inadvertently inhibits ability of public libraries to acquire and provide access to films in Languages Other Than English for the diverse and under-represented communities they serve. Additionally, acquisition of unclassified films in languages other than English places suppliers at risk of prosecution due to non-compliance with classification requirements. It also places libraries at risk in that the definition around the word 'sell' in the legislation has been challenged and extended to 'lend'ing. The State Library of NSW sought legal advice around this word specifically and able to instate protections for existing collections in 2016.

Australia has a significant history of censorship practice and at times, has been known to be the strictest in the world as outlined in an exhibition held at Melbourne University a few years agoⁱⁱ. The Australian Constitution grants the Commonwealth Government the power to create laws concerning telecommunications, broadcasting and imported material but not locally produced material, which is under the jurisdiction of State Governments. This leads to varied censorship provisions across States and Territoriesⁱⁱⁱ. The first Commonwealth Film Censorship Board, established in 1917 under a Customs Act, had powers to examine

imported films and videotapes, register and classify for public consumption and classify imported television programs on behalf of the Australian Broadcasting Tribunal. However, productions by commercial television stations were self-classified and not under the same censorship process^{iv}. By 1990 the Attorney General referred the existing censorship legislation for review to the Australian Law Reform Commission resulting in the draft legislation *Classification (Publications, Films and Computer Games ACT 1995* being introduced^v. This has continued to have revisions and amendments since inception and is where the advocacy for films in Languages other than English by the State Library of NSW and the Public Libraries Victoria Network Multicultural Services and Programs Group situates itself in regards to censorship history and impact on diverse and under-represented communities. The efforts of the State Library of NSW and the Public Libraries Victoria Network Multicultural Services and Programs Group focussed censorship reform as a process moving towards greater equity.

Core ethics and values of the Library Information Services profession are underpinned by principles of social justice^{vi}. Embedding social justice in Library Information Services education has received strong currency in recent years and this may lead to more practitioners engaging in meaningful ways to better serve diverse and often under-represented communities in the library sector^{vii}.

Our professional standards point to the delivery of services, resources and programs underpinned by better inclusion of diverse communities and supportive of improved equity of access to information by all communities. This is evidenced in international standards as expressed by the International Federation of Library Associations (IFLA) in the IFLA Guidelines for Public Libraries^{viii} and in particular in the IFLA/UNESCO Public Libraries Manifesto which states “The services of the public library are provided on the basis of equality of access for all, regardless of age, race, sex, religion, nationality, language or social status. Specific services and materials must be provided for those users who cannot, for whatever reason, use the regular services and materials, for example linguistic minorities, people with disabilities or people in hospital or prison.”^{ix}

A commitment to equity in access is evident in national standards as expressed by the Australian Library and Information Association recent guidelines published that include the IFLA/UNESCO Public Library Manifesto and clearly identify the commitment in the guidelines section *Strategic Community Focus* starting on page 21.^x Ultimately, underpinning services

by Public Libraries is the Universal Declaration of Human Rights in particular Article 27 (1) “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.”^{xi}

The ability to acquire and make accessible films in Languages Other Than English in public libraries presents many complexities and key elements of the advocacy effort focussed on addressing each of these complexities to ensure mutual benefits of all parties were honoured including libraries, suppliers and communities. Hugh Rundle posted a blog post in 2017 highlighting the complexities at play and posed interesting solutions that can be considered including self-regulation and classification based on equivalence in relation to other countries’ assessments.^{xii}

As part of the collaborative advocacy effort the proposed amendments to the classification scheme put forth include:

1. Public Libraries being granted an exemption under the classification scheme to be considered as ‘Cultural Institutions’. This will enable provision of access to unclassified films by the public and is based on a precedent established in October 2015 whereby Cultural Institutions were granted exemptions to screen unclassified films in Languages other than English to the public as part of film festivals.^{xiii}
2. An assurance the legislation will extend to future services via a removal of impediments that require legislation to be renegotiated each time a new format comes into play. It is content not ‘container’. eg. Use feature films instead of DVD’s as the descriptor
3. Protections for suppliers of unclassified films in languages other than English to public libraries as an acknowledgment of the economic adversity the current legislation imposes. This will enable the acquisition of materials to continue and uphold the trusted relationships with small suppliers that have developed over time.

The ability to acquire and lend films in Languages other than English as a classification issue has existed for numerous years with challenges to content resulting in difficulties around ensuring access to films for our communities who speak languages other than English and have a preference for films in their chosen language. An example is the challenge in 2008 in SA questioning whether it was appropriate to situate children’s DVD’s in language other than English with Adult DVD’s in languages other than English. (Cite). In this instance, accommodations around separation of children’s DVD’s to a different location and improvement in labelling produced a solution enabling access to films for communities.

Whenever a challenge occurs this causes discussion and consternation amongst libraries and staff concerned. We work towards consistent procedures and want to ensure adherence to legal requirements and ethical standards in provision of equitable access for our communities.

Following is an outline of the various challenges addressed and the steps taken in negotiation towards a successful permanent outcome of benefit to all public libraries in Australia.

Timeline of events in the advocacy effort

Late 2015

Notification from some suppliers received by public libraries stating that they are unable to supply non-classified DVD's in languages other than English due to Australian Classification Board legislation. Suppliers included Global Language Books and CAVAL. Some smaller suppliers were not aware of the legislative requirements. There are exemptions to this and this usually covers documentaries and such as listed on the Australian Classification Board website.

PLVN Multicultural Group contacted the Australian Classification Board to organise an information session to clarify the situation and position of Public Libraries.

An exemption granted to Cultural institutions by the Australian Classification Board enabling the screening of Non-Classified films during film festivals. This exemption had key words around descriptors of Cultural Institutions proving a crucial consideration for our advocacy pursuits. An insight into the possibility of where public libraries may be situated within the existing legislation was explored, including avenues to pursue and evidence of a precedent enabling changes that lead to improved outcomes for communities.

February 2016

State Library of NSW sought legal advice to ensure libraries are protected. During this time purchasing of non-classified DVD's in languages other than English ceased in NSW.

April 2016

Legal advice provided to State Library of NSW. Focus placed on the definition of the word 'sell'. This set a precedent enabling existing collections to remain and not be withdrawn from libraries. This advice protected libraries in NSW but not other states and Territories due the nature of different legislative requirements from State to State.

April to June 2016

Some libraries in Victoria ceased purchasing non-classified DVD's in languages other than English and it became an increasingly urgent priority at discussions of the Public Libraries Victoria Network Multicultural Services and Program group.

Discussions continued with the Australian Classification Board and scheduling a Skype session for the August meeting was organised.

The Public Libraries Victoria Network Multicultural Services and Program group agreed that the issue needed to escalate and assistance from the Public Libraries Victoria Network Executive. A summary was provided to the executive member and Executive secretary to be raised at the executive level.

July 2016

Summary of the issue presented at the annual Public Libraries Victoria Network reporting meeting including all groups and the Executive. Executive agreed to take the matter up and a member was scheduled to attend the August meeting with the Skype session to be held with the Australian Classification Board.

Public Libraries Victoria Network agreed that we would be seeking an exemption for Public Libraries as Cultural Institutions to enable the purchasing of non-classified, feature films in Languages other the English.

Public Libraries Victoria Network Multicultural Services and Programs Convenors agreed to contact State Library of NSW to seek advice and a possible collaboration in the advocacy effort. It was mentioned that this advocacy was to be requested as an ALIA prioritised advocacy.

August 2016 Libraries Victoria Network Multicultural Services and Programs Group. Executive member put together a series of questions for the Australian Classification Board.

Australian Classification Board cancels the Skype session and sends a series of diverting counter questions.

August 17, 2016 – Public Libraries Victoria Network Multicultural Services and Programs Meeting

An update of the situation was a major discussion point at this meeting. Attendees reached consensus that there is a need for the Public Libraries Victoria Network to seek legal protection for existing non-classified DVD's in languages other than English in Victoria's Public libraries, whilst the advocacy continues.

Most libraries ceased purchasing and more suppliers become aware of the issue and legislation. Some smaller suppliers were unaware.

August to September 2016

The Public Library Victoria Network Multicultural Services and Programs Group contacted Oriana Acevedo from the State Library of NSW in the spirit of information sharing and collaboration in the advocacy efforts.

The legal document was shared, a commitment made to align with the Public Libraries Victoria Network to continue the advocacy and seek ALIA's assistance to prioritise the issue and calling other key representatives from States and Territories to join the effort.

NSW still not purchasing non-classified DVD's in languages other than English and a teleconference with Public Libraries Victoria Network Executive was suggested to take place in October.

October 2016

The information from this initial contact with the State Library of NSW was shared with the Public Libraries Victoria Network Executive. A detailed letter was drafted to the President of the Public Libraries Victoria Network including the research and information around the legislation with exemptions being sought. A request was made to take the next step and seek legal protections for Victoria's Public libraries, similar to the NSW example.

November to February 2017

State Library of NSW contacted representatives from all States and Territories and enlisted support in the collaborative advocacy effort. Contact was made with a new person at the Australian Classification Board acting in Director's role and this time we were presented with an approach that appeared interested in working towards a solution. The stages took on a consultative approach with the initial interactions.

This was reported back to the Public Libraries Victoria Network Multicultural Services and Programs group and we were starting to feel certain that we might reach a positive outcome.

March – August 2017

An Anonymous survey was created and distributed electronically via survey monkey to all Public Libraries in Australia. This survey gathered quantitative and qualitative data on the impact of the issue, whether ceasing purchasing impacted on supply and lending statistics, how it affected local communities and so forth. This survey was open for three months and formed a significant part of the consultative information provided to the Australian Classification Board.

Conversations via email and teleconference continued with the Australian Classification Board who advised they were going to develop an instrument towards the enablement of a change to the legislation. This involves consultation and questions answered to ensure the best outcome. At this stage there is no guarantee that the legislation would be altered

During this period, fielding responses from public libraries around what were the key important elements that needed an urgent resolution were sought. Languages and communities affected were discussed, impact on suppliers and protections for suppliers formed key elements of conversations. An ability to purchase as well as provide access and a consideration around future-proofing the legislation to ensure it covers film as the definition and not the format.

August 2017

Teleconference held with Australian Classification Board with representatives from all States, Public Libraries Victoria Network Multicultural Services and Program group convenor, Oriana from State Library of NSW and Laurence McDonnell, Blacktown Library Manager,

representing the Working Group on Multicultural Library Services NSW. At this meeting the process of the creation of an instrument was discussed and all relevant issues were included in the conversation. Survey of Public Libraries shared at the meeting.

March 2018

The communication received was positive and appeared that the instrument to effect change was going through the correct process. We were hopeful a change would be in place by the end of July. There were no guarantees that it would be approved at any stage.

The Classification branch advice recommended a practical approach including staff representing libraries, during the selection of films in LOTE, should attend online training to ensure they understand the Australian Classification ratings system. If in the future there were changes in classification guidelines staff selecting for libraries would have to update their training. Furthermore, new staff taking on this responsibility for selection would also need to attend training.

It was understood by the Classification Branch that librarians wrote selection profiles that were provided to suppliers. In many case these suppliers are native speakers and they import LOTE DVD's on demand. In such situations, it was agreed that suppliers would also take an online training program, with a minimal charge for the training.

And other measure considered was to add a note to the DVD catalogue records saying something along the lines of '*This material has not been classified in Australia*' libraries agreed that adding a note to the catalogue was not an issue, as Library Management Systems enable the grouping of existing DVD records and the adding notes on a universal change.

July 16, 2018

The final outcome of the Classification Branch's advice is disappointing. The Office of General Counsel came to the conclusion that the cultural exemption proposed by the Classification branch exceeded the Director's discretion and power.

Subsequently, the Classification branch has obtained approval from the Hon. Mitch Fifield, Minister for Communications and the Arts, to change the legislation in order to do a major reform of the Classification Act. In the next couple of months, a Public Discussion Paper will

be released for comment and it is expected that libraries will continue lobbying through their State organisations and be ready to make submissions on behalf of their cultural and linguistic diverse communities.

Future

Collaborative efforts make us stronger and better able to leverage our advocacy efforts in support of social justice aims.

With the discussion paper on the review of the existing legislation to be released in the next two months by the Minister for Communications, it is important that Libraries maintain a strong contribution in advocacy to ensure inclusion of the proposed changes to legislation.

Will the Public Libraries Victoria Network Executive be at the table to ensure this?

Will ALIA contribute to this important area of advocacy for our diverse communities and public libraries?

ⁱ Commonwealth of Australia (2011-2015) Australian Classification [website] accessed June 19th, 2018 from <http://www.classification.gov.au/Pages/Home.aspx>

ⁱⁱ Jaehrling, S, & University of Melbourne. Faculty of Arts & Baillieu Library. Special Collections & University of Melbourne. Custom Book Centre (2010). *Banned books in Australia : a Baillieu Library exhibition, the University of Melbourne, 7 June - 27 August 2010* (2nd expanded ed)

ⁱⁱⁱ Jackson, K. (2001) *Censorship and Classification in Australia*, E-Brief issued 19th October, 2001. Accessed 19th June, 2018 from https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Publications_Archive/archive/censorshipebrief

^{iv} Jackson, K. (2001) op.cit.

^v Classification (Publications, Films and Computer Games) ACT 1995, Commonwealth Consolidated Acts accessed 19th June, 2018 from http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/cfacga1995489/

^{vi} Felitis, C., Hamiel, M., Jardine, F. & Shilton, K. (April, 2015), *The Virtuous Circle Revisited: Injecting Diversity, Inclusion, Rights, Justice, and Equity into LIS from Education to Advocacy*, in **The Library Quarterly: Information, Community, Policy**, Vol. 85, No. 2, Special Issue: Diversity and Library Information Science Education pp. 150-171, Published by: The University of Chicago Press accessed from <http://terpconnect.umd.edu/~kshilton/pdf/JaegeretalLibraryQuarterly.pdf>

viii Koontz, C. and Gubbin, B, (Editors) 2010, IFLA Public Library Service Guidelines, IFLA Publication Series 147, accessed from <https://www.degruyter.com/view/product/43971>

ix International Federation of Library Associations (1994) IFLA/UNESCO Public Library Manifesto, updated September 2016, accessed from <https://www.ifla.org/publications/ifaunesco-public-library-manifesto-1994>

x ALIA and I & J Management Services, (2016) Guidelines, standards and outcome measures for Australian public libraries: July 2016, accessed from <https://read.alia.org.au/guidelines-standards-and-outcome-measures-australian-public-libraries-july-2016>

xi UN General Assembly. (1948). "Universal declaration of human rights" (217 [III] A). Paris. accessed from <http://www.un.org/en/universal-declaration-human-rights/>

xii Rundle, H. (2017), That's classified: the hypocrisy and discrimination of Australia's censorship regime, published July 10th, 2017. Accessed from <https://www.hughrundle.net/2017/07/10/thats-classified/>

xiii Australian Classification Board (2015) 11 September 2015: New classification exemption arrangements for festivals and special events. Accessed July 18th 2018 from <http://www.classification.gov.au/News/Pages/2015-news/11-September-2015-New-classification-exemption-arrangements-for-festivals-and-special-events.aspx>